



Report to:	Strategy and Resources Committee	Date:	6 November 2017
Report title:	Constitutional Review Report		
Report from:	Jessica Crowe, Monitoring Officer		
Ward/Areas affected:	Borough Wide		
Chair of Committee/Lead Member:	Councillor Ruth Dombey, Leader of the Council Councillor Simon Wales, Deputy Leader of the Council		
Author(s)/Contact Number(s):	Fiona Bywaters, Head of Committee and Management Support (Interim), 020 8770 5122		
Corporate Plan Priorities:	<ul style="list-style-type: none"> • An Open Council • A Fair Council • A Smart Council 		
Open/Exempt:	Open		
Signed:		Date:	24 October 2017

1. Summary

- 1.1 To consider updates to the Council's Constitution.

2. Recommendations

The Strategy and Resources Committee is recommended to:

- 2.1 Recommend to Council that the Council Procedure Rules are amended as set out in paragraphs 4.1-4.6.
- 2.2 Recommend to Council that the Committee Procedure Rules are amended as set out in paragraph 4.7.
- 2.3 Recommend to Council that the Summary and Explanation of the Constitution be updated in relation to Local Committees as set out in paragraph 4.9.
- 2.4 Recommend to Council that the function of the Local Committees is amended as set out in paragraph 4.10.
- 2.5 Recommend to Council that the procedure rules for dealing with matters at Local Committee meetings are amended as set out in paragraphs 4.11 to 4.12.



- 2.6 Recommend to Council that the membership of the planning committee is amended with regards to Local Committee Vice Chairs as set out in paragraph 4.14.
- 2.7 Recommend to Council that the Code of Conduct, as contained in section 5 of the Constitution, be amended as set out in paragraph 4.15.
- 2.8 Recommend to Council that the quorum requirements for Standards Committee be amended as set out in paragraph 4.16.
- 2.9 Recommend to Council that the planning committee scheme of delegation be amended as set out in paragraph 4.17.

3. Background

- 3.1 The purpose of periodically reviewing the Council's Constitution 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.

4. Issues

Council Procedure Rules

- 4.1 Following consultation with the group leaders, through the Constitutional Working Group, it is suggested that the amendments set out in the subsequent paragraphs are recommended to Council.

Scope of Questions

- 4.2 It is recommended that the procedure rules be amended to provided a clearer approach to questions which may be rejected:

~~“Questions under 8.6 and 8.7 shall be relevant to some matter in relation to which the Council has functions, or which affects the Borough, or the inhabitants of the Borough, or some of them. Where the question relates to a business or commercial interest, the person asking the question shall declare the nature and scope of the interest when they ask the question at the meeting, and this shall be recorded in the Minutes. If the Chief Executive or Assistant Director, Chief Executive's Directorate (Customers, Commissioning and Governance) consider any question to be vexatious, irrelevant, improper, defamatory, frivolous or offensive, or repeat a previous question answered within the previous 12 months, he or she will return it to the person who submitted it explaining why it has not been accepted~~

The Mayor, in consultation with the monitoring officer, may reject a question if it:

- is a request from employees of the authority or trade unions representing staff employed by the authority who have an alternative means of expressing their views



- is not about a matter for which the council has powers or duties or which affects Sutton
- is defamatory, frivolous or offensive
- is substantially the same as a question which has been put at a meeting of the council in the past six months
- requires the disclosure of confidential or exempt information
- concerns a planning or licensing application
- raises a grievance for which there are other established processes for resolution, relates to an investigation by (whether completed or not), or ruling of, the standards committee or sub-committee insofar as the question relates to the behaviour or conduct of an individual member or members
- Contains more than 2 sub questions.

No question under 8.6 or 8.7 shall be delivered earlier than three weeks before the date of the next Full Council meeting.”

Answering questions and supplementary questions

- 4.3 It is recommended that procedure rule 8.14 is amended as follows, to ensure a clear expectation that lead members answer questions and assist Council in its function of holding the administration to account. In addition it is also recommended that people asking public questions are able to make a short introductory speech before asking their supplemental question. This is as an acknowledgement that for many people, asking a question at Council can be their first experience of council meetings and they should therefore be able to speak without being pressured to ask a question.

“Every question shall be taken as read. They will be answered without discussion, ~~but the person to whom the question has been put may decline to answer it.~~ The Member asking a question may ask one relevant, supplementary question to the original question, which will be put and answered without discussion. A second supplementary question relevant to the original question asked under paragraphs 8.1, 8.6 or 8.7 may be asked by any Member, except the member who raised the question. The same rights apply to Sutton Residents and Business Owners, except where questions on a similar subject have been grouped together. In those cases, the Sutton Residents or Business Owners will be asked to determine which one of them will ask one supplementary question. The Mayor will allow residents and business ratepayers to make a short introductory statement, of no more than two minutes, before their supplemental question”

Procedure for debating motions

- 4.4 It is recommended that procedure rule 11.21 is amended as follows to ensure consistency with practice at meetings and advice given by the Monitoring Officer that all amendments must be voted on at Council.



- (i) the Mayor will ask the member who submitted the motion to move its adoption;
- (ii) the motion will be seconded by another member who may reserve his/her right (if necessary) to speak later;
- (iii) the Chair of the committee or a nominee will move the receipt of the committee's recommendation on the motion;
- (iv) the meeting will debate the committee recommendation on the motion together with any amendments that have been submitted and moved and seconded;
- (v) at the end of the debate on each amendment or the committee recommendation, and before the speech of the committee Chair, the mover of the original motion will have the right of reply;
- (vi) the Chair of the committee will make a final speech before a vote on the amendment or committee recommendation is taken by the meeting;
- (vii) a vote on the amendment or committee recommendation will then be taken.
- (viii) a vote will be taken on each amendment which has been moved and seconded. Following the votes on amendments a vote will be taken on the original or substantive motion. ~~following the vote on the amendment or the committee recommendation, a vote will only be taken on the motion if necessary, because the previous vote has not determined the matter.~~

Time limit for speeches at Full Council

- 4.5 It is recommended that procedure rule 13.1 is amended as follows to ensure the procedures are consistent with convention agreed by the political groups and to include the practice agreed for the budget debate so standing orders do not have to be suspended at the budget meeting.

~~"A member shall direct his speech to the question under discussion. Except with the consent of Full Council, no speech by the proposer, the person exercising a right of reply or any other member speaking during the debate shall exceed 5 minutes. Members who have spoken, or intend to speak, in the debate for up to 5 minutes in a debate may, in addition, may make a one 1-minute intervention speech during the debate, subject to this being necessary and relevant to their previous speech.~~

The convention agreed by the political groups is that four members of the administration group and three members of the main opposition group may speak for up to 5 minutes. Other members may speak for up to two minutes. ~~Other Members may make two 1 minute interventions or one 2 minute intervention.~~ No discussion may be taken on any item in a report of a committee that does not contain a recommendation to the Full Council.

An exception is the annual budget report where any Councillor may speak for up to five minutes each on this item and one Councillor from each party group may speak for up to



15 minutes each.”

Broadcasting and Recording of meetings

- 4.6 In order to ensure that the Council procedure rules are consistent with government regulations on the broadcasting and recording of meetings it is advised that a new procedure rule, as set out below, is recommended to Council:

“The council allows and welcomes any recording, photographing or filming of the proceedings of a council meeting or use of social media by any member of the public, media or councillor. Reasonable provision for facilities to so do shall be provided. The chair will make an announcement at the beginning of the meeting where appropriate.

In order to facilitate the recording of meetings, members of the public or media are encouraged to contact committeeservices@sutton.gov.uk in advance of the meeting.

The Mayor has the discretion to terminate or suspend the recording or photograph or filming if, in the opinion of the Mayor, continuing to do so would prejudice the proceedings of the meeting.

The circumstances in which termination or suspension might occur could include:

- a) Public disturbance or suspension of the meeting (including any oral reporting or oral commentary as the meeting takes place)
- b) Exclusion of public and press being moved and supported
- c) The Mayor, on advice of the monitoring officer, considering that continued recording/photograph/filming/webcasting might infringe the rights of any individual
- d) The Mayor, on advice of the monitoring officer, considering that a defamatory statement has been made.”

Committee Procedure Rules

- 4.7 It has been recommended that Part 4, paragraph 23.2 of the constitution be amended to allow planning committee to meet for longer for complex applications:

“At meetings of the Planning Committee, after two and a quarter hours after the meeting has started, the Chair, after consultation with the Chief Executive or his/her representative, will inform the meeting of a priority order of outstanding items. No new matters shall start to be debated three hours after the meeting has started, though discussion may continue for a further fifteen minutes, subject to the Chair being of the view that the item being debated can be completed that evening. Any other matters still outstanding three hours after the meeting started, and only those matters, shall without motion be adjourned for consideration at the next meeting of the Committee. In exceptional circumstances, the Head of Planning in consultation with the Chair can determine in advance of a meeting that the usual time limit does not apply. Ten clear days notice will be given to the committee that the usual time limit will not apply.”

Local Committees

- 4.8 Following consultation with the Local Committee Chairs and Vice Chairs, through their biannual meeting, it is suggested that the amendments set out in the subsequent paragraphs are recommended to Council.

Clarification of Community Representative Role

- 4.9 It is recommended that the introduction of the Constitution (Section 1, Paragraph 23), which briefly refers to local committees, be amended in order to clarify the role of the community representative.

“These committees, which are decision making, have responsibility for the delivery of a range of services within their own geographical area. Service delivery must meet the Council’s policies and keep within allocated budgets. They comprise all ward councillors for each particular area and are held in public. The committees may appoint representatives from any formally constituted locally-based groups (such as tenants/residents’ associations and Park Friends groups) as non-voting, advisory members. Community representatives are not able to vote on committee decisions, but have a formally agreed place at the committee meeting and can represent the views of their respective groups to the committee.”

Functions of the Local Committee

- 4.10 In order for the Articles of the Constitution to accurately outline the functions of the local committees, it is recommended that a number of functions presently outlined be removed and added to under Section 2, Article 10, Paragraph 10.4.

“The function of the committees is:

1. To engage local residents and stakeholders in discussions about issues that affect their locality.
2. ~~To consider and make proposals on issues within their geographical area.~~
3. ~~To have responsibility for implementing the Council’s policies within their area.~~
4. To ~~monitor~~ scrutinise the performance of local services ~~within their area~~, with the exception of licensing and ~~development control~~ planning matters.
5. To consider representations from groups or individuals.
6. ~~To implement Action Plans and Business Plans within their area.~~
7. To allocate the public realm capital and revenue budgets and Local Transport Fund as agreed by the Strategy and Resources Committee and Full Council
8. To agree the allocation of Section 106 monies (local element).



- ~~9. To have responsibility for a range of functions as delegated by the Strategy and Resources Committee.~~
10. To promote, subject to sufficient local support, a neighbourhood forum for the purpose of requiring the local planning authority to make a local development order under the Localism Act 2011.
11. To consult with the public on the scoping of Supplementary Planning Documents at the pre-application stage.
12. To make recommendations to the Strategy and Resources Committee, or other appropriate council committee, on services in their area.
- ~~13. To be consulted on any issues relating to the performance provision of services within their remit.~~
- ~~14. To have responsibility for agreeing to the disposal of small pieces of land (without development potential) on the recommendation of the Strategy and Resources Committee.~~
15. To appoint formally constituted, locally based community groups as community representatives on the Local Committee.
16. To participate fully in consultations regarding local services, and to be a formal consultee in the annual LIP funding allocation.
17. To provide a means for engaging local residents in the commissioning cycle.
18. To approve or reject traffic management schemes associated with all forms of parking controls (except Controlled Parking Zones) which are contentious, and where objections cannot be resolved by negotiation.
19. To receive regular updates and discuss community safety concerns.

Business at Local Committee Meetings

- 4.11 In order for the rules of procedure to accurately outline how matters are dealt with at local committees, it is recommended that a number of amendments be made to proceedings under Section 4, Part 4A of the Constitution, from Paragraph 29.5.

“Local residents are welcome to attend and speak at Local Committee meetings and may also request the right to raise issues or speak about any item on the agenda, at the discretion of the Chair. Only Councillors may vote on any decisions taken in the meeting.”

~~The meetings will be divided into two parts, the timing of which is to be at the discretion of the Chair. The first part of each meeting will be an informal session, where local residents and other stakeholders may instigate, and/or participate in, discussions about matters affecting the locality.~~

~~The second part of the meeting will be more formal, to enable the Committee to make decisions about items that are on the agenda. Local residents may also request the right~~

~~to speak about any item that is on the agenda for this part of the meeting, at the discretion of the Chair.”~~

Public Questions at Local Committee Meetings

- 4.12 In order to formalise a procedure for public questions received in advance of a local committee meetings, the following mechanism is recommended for insertion in the procedure rules, at the end of “Business at Local Committee Meetings” (Paragraph 29):

“Public Questions

Where formally written questions are received by the Locality Lead Officer at least 5 working days in advance of the Local Committee meeting they are to be heard at. officers will endeavour to return a written response by that meeting. Formal written questions received after this deadline may be heard at the meeting but will not receive a written response until afterwards. No more than 2 formal written questions may be taken from any one individual or group per meeting.

Where a written response has been returned prior to the meeting, the individual or group questioner may ask one supplementary question per formal written question at the meeting itself. The supplementary question must be relevant to the original question.”

- 4.13 The mechanism will not prevent the asking of verbal questions on the evening of the local committee (at the discretion of the Chair).

Membership of the Planning Committee

- 4.14 It is recommended that the following paragraph be removed from the procedure rules specific to meetings of the planning committee (Paragraph 30.3, Section 4, Part 4B):

~~“Local Committee Vice Chairs will be members of Planning Committee.”~~

Update to the Nolan Principles

- 4.15 Section 5 of the Constitution incorporates a Code of Conduct applicable to all members of the council and co-opted members of council committees. Within it are seven principles of public life, ‘the Nolan Principles,’ which require updating to reflect their latest version, as agreed by the national Committee on Standards in Public Life. It is recommended that Part 1 - General Provisions, Introduction and interpretation, Paragraph 1 be deleted as a whole and replaced with the following text:

“(1) This Code applies to you as a member of the Authority.

(2) In exercising the office of councillor you must comply with the following general principles prescribed by the Secretary of State for Communities and Local Government:-

(a) Selflessness – Members should act solely in terms of the public interest.

(b) Integrity – Members must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their

work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

(c) Objectivity – Members must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

(d) Accountability – Members are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

(e) Openness – Members should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

(f) Honesty – Members should be truthful.

(g) Leadership – Members should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

(3) It is your responsibility to comply with the provisions of this Code.

(4) In this Code:

"meeting" means any meeting of:

(a) the Authority;

(b) any of the Authority's committees, sub-committees, joint committees, joint sub-committees, or area committees; or any joint committee, joint sub-committee or board on which you represent the Authority.

"member" includes a co-opted member and an appointed member."

Standards Committee: Quorum

4.16 It is recommended that the quorum of the Standards Committee be updated to allow for either one independent person or one independent member to meet quorum, alongside 3 Councillors.

Standards Committee	5 Councillors, 3 Independent Members and 1 Independent Person		3 Councillors + 1 Independent Person or 1 Independent Member
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Scheme of Delegation: Planning Committee

4.17 A minor amendment is proposed to the introduction of the planning committee scheme of delegation to reflect current officer responsibilities (Section 2, Article 8, Paragraph 8.8).

“Strategic Director of Environment, Housing and Regeneration and ~~Assistant Director, EHR Directorate (Commercial and Enterprise)~~ Assistant Director, EHR Directorate (Housing and Regeneration).”

5. Options Considered

5.1 It is for Council to agree the Constitution and to decide whether the procedure rules should be amended as suggested in this report. These changes are being proposed to ensure clarity and robustness of procedures.

6. Impacts and Implications

Financial

6.1 There are no financial implications arising from this report.

Legal

6.2 The decision to amend the Constitution is reserved to Council. There are no legal implications arising from the proposed changes.

7. Appendices and Background Documents

Appendix letter	Title
	None

Background documents
None

Audit Trail		
Version	Final	Date: 24 October 2017
Consultation with other officers		
Finance	No	N/A
Legal	No	N/A
Equality Impact Assessment required?	No	N/A