



City of Westminster

# General Purposes Committee

<b>Date:</b>	<b>31 October 2018</b>
<b>Classification:</b>	<b>For General Release</b>
<b>Title:</b>	<b>Review of Constitution</b>
<b>Wards Affected:</b>	<b>None</b>
<b>Financial Summary:</b>	<b>There are no financial implications arising from this report</b>
<b>Report of:</b>	<b>Head of Committee and Governance Services</b>

## 1. Executive Summary

- 1.1 A review has been undertaken of the Council's Constitution. The main aim has been to make the format of it more easier to follow by bringing relevant parts together which are currently in separate sections of the Constitution. The revised index is shown in the attached Appendix D.
- 1.2 The Committee is also asked to consider minor proposed changes to the call-in provisions, Standing Order 9 (Questions) and Standing Order 11 (Council Debates), as detailed in the body of the report.

## 2. Recommendations

- 2.1 That the Council be asked to approve the changes to Standing Order 11 and the removal of Standing Order 43 as set out in paragraph 3.4 of this report.
- 2.2 That the Committee recommend the Council that the revised Standing Order 9 for Council Questions, as set out in paragraph 3.5 below to full Council for adoption, subject to a further review in 12 months.
- 2.3 That the Council be asked to adopt the revised format of the Constitution and to authorise officers to make the adjustments described in this report and that the Director of Law be authorised to make further minor drafting updates and to publish to the Constitution.
- 2.4 That the arrangements for approving various parts of the Council's Constitution, set out in Appendix E, be endorsed.

### **3. Background Information**

- 3.1 As detailed in this report, Officers have undertaken a thorough review of the Council's Constitution. Whilst reviews have been carried out on an annual basis to ensure that as currently structured the Constitution is up-to-date no fundamental review has been carried out since it was introduced in 2001.
- 3.2 This review has sought to reformat the Constitution so that it is easier to use. This has been achieved by bringing together relevant sections which currently overlap. One significant change is that there would no longer be a single set of Council Standing Orders as the various sections have now been transferred to the relevant section of the Constitution. For example, the Standing Orders relating to full Council meetings are now included in that part of the Constitution which covers full Council meetings and a similar change has been made to those Standing Orders which specifically relate to Committee/Sub-Committee meetings.
- 3.3 Except as set out no changes to the procedures arise from this review. Set out in Appendix E is a summary of how the various parts of the Constitution may be updated. Following this review further reviews will be carried out each year in addition to regular periodic updating. Any other changes will be the subject of a report to the General Purposes Committee and then full Council. A revised index is attached as Appendix D, which sets out the format of the revised Constitution. The full revised format can be viewed by contacting Tristan Fieldsend, 020 7641 2341; [tfieldsend@westminster.gov.uk](mailto:tfieldsend@westminster.gov.uk)

### **3.4 Council Meeting Procedures**

Following the City Council elections a review of the Council's Standing Orders has been carried out to identify any changes required.

- (i) Standing Order 11 sets out how the time available for debates at full Council meetings is allocated. This is allocated broadly in line with the proportionality by which the Majority Party and the Minority Party holds seats on the Council. The proposed changes reflect this minor adjustment of time allocations. Standing Orders also provide that the Lord Mayor may have regard to the proportionality of seats held by the political parties on the Council when calling speakers.

### **3.5 Council Meetings – Questions**

- (i) During the last 12 months the Council has been varying the way in which Council questions are asked at full Council meetings. The formal arrangements, set out in Standing Order 9 (a) currently require that the Head of Committee and Governance Services conduct a draw of those Members entitled to ask a question. A draw is made for each ordinary Council meeting with Members who have asked a question being placed in the draw after those Members entitled to do so have not.

- (ii) The trial has involved the Lord Mayor, as Chairman, asking after the Leader of the Opposition has asked his/her 3 questions that other Members entitled to do so indicate by a show of hands if they wish to ask a question. On behalf of the Lord Mayor, the Chief Executive and the Director of Law have made a note of these and the Lord Mayor, who may have regard to the proportionality of the Groups then calls Members in turn. Following consultation, the Chief Whip of the Majority Group has indicated a preference for this revised system. A proposed revised Standing Order 9 is therefore attached as Appendix A, which provides for the system outlined in this paragraph. It can be reviewed further upon request.
- (iii) The Chief Whip of the Minority Party has indicated a willingness to continue with the system outlined in paragraph 3.5 (ii) above, subject to a further review in say 12 months. He has also requested that Members be reminded of the procedure for asking written Council questions, as set out in Standing Order 9 (c). A reminder will be included in the WIB quarterly. A small change is also included to reflect that the written questions and replies will be published on the Council's website.

### **3.6 Co-opted Members**

The provisions of Standing Order 43 replicate the statutory attendance requirements for Members for co-opted Members, namely that co-opted Members attend a qualifying meeting at least once every 6 months. This will only apply currently to the Policy and Scrutiny Committee with responsibility for Education as that is the only Committee to which co-opted Members are appointed. Given that education matters are not considered at each P&S meeting it is very easy for 6 months to pass without it being possible for co-opted Members to attend a relevant meeting. The statutory provisions are not required to be imposed on co-opted Members and it is therefore considered reasonable to remove the attendance requirement imposed by Standing Order 43 for co-opted Members. Their attendance will be monitored to ensure that it is adequate.

### **3.7 Call-In Procedures**

- (i) The changes outlined in Appendix C are submitted to the Committee for consideration for submission to full Council on 7 November 2018 for approval.
- (ii) The changes to Policy and Scrutiny Procedure Rules can be summarised as follows:
  - 15(a) Task Groups – In order to avoid delay in the work of Task Groups and in view of their informal nature it is proposed to allow for these to commence subject to their establishment being confirmed at the next meeting of the relevant committee.

16(c) At present, meetings called to consider a call-in are required to be held within 10 working days of the call-in being triggered. In some circumstances this can prove difficult eg time of year, or additional information or a programmed meeting is due which makes more practicable to delay for a short period in order to avoid a special meeting.

- (iii) An additional requirement reflected in paragraph 16(c) requires that the Members seeking a call-in indicate their reasons for doing so in order to assist the decision maker in the preparation of the response.
- (iv) 16(d)(f) Again, some element of leeway is added to the 10 working day provision.
- (v) 16(i)(iii) It is rare for any doubt to occur about the applications of the call-in provisions. However, in cases of doubt provision has been added 16(i)(ii) for the Chief Executive to determine if these apply.

In cases of doubt the Chief Executive will generally err on the side of applying the call-in provisions.

16(i) It is rare for the call-in provisions to be dis-applied on grounds of urgency. In the report to the Westminster Scrutiny on 22 March 2018 it was reported that this had happened on only 3 occasions in the last 4 years. However, it is proposed to amend these provisions so that rather than consult the Leader the Chief Executive be required to consult the Chairman of the relevant Policy and Scrutiny Committee before exempting the call-in provisions on grounds of urgency.

3.8 As the call-in provisions are monitored by the Westminster Scrutiny Commission it is proposed to report on these changes and on the use of the call-in provisions annually. The changes proposed, as outlined, are of a minor tidying nature. All of the Westminster Scrutiny Commission members have been consulted and no adverse comments to the proposals have been received.

.9 A section outlining the Outside Bodies to whom the Council either makes appointments or nominates to has been added. This section explains the appointment process to outside bodies and the role of Members on these. The indemnity details for both Members and Officers are also included. The list of bodies is subject to change but will be regularly reviewed by the Head of Committee and Governance Services.

3.10 Appendix E sets out how the various chapters/sections are approved. Whilst generally any changes to the body of Constitution will be submitted to the full Council for approval via the General Purposes Committee, the approval of the other part will be via the process set out in Appendix E.

#### **4. Legal Implications**

- 4.1 The Local Government Act 2000 requires the Council to have a Constitution and to keep it up-to-date.

#### **5. Financial Implications**

- 5.1 There are no specific financial implications arising from this report.

**If you have any queries about this Report or wish to inspect any of the Background Papers please contact Mick Steward: 7641 3134**

**Email: [msteward@westminster.gov.uk](mailto:msteward@westminster.gov.uk)**

#### **BACKGROUND PAPERS**

- None

## **List of Appendices**

Appendix A – Proposed Revised Standing Order 9

Appendix B – Proposed Revised Standing Order 11

Appendix C – Proposed changes to the call-in procedures

Appendix D – Proposed Index setting out structure for revised Council Constitution

Appendix E – List setting out details of who and how changes to various part of Constitution are approved.

## Questions (Standing Order 9)

### (a) Oral Questions

- (1) At each ordinary Council meeting following the full Council all Members (except the Lord Mayor, the person presiding, Cabinet Members and the Leader of the Opposition) shall be asked ~~(following the procedure set out in (2) below)~~ to indicate if they wished to ask a question. The Lord Mayor (Chairman) shall then call Members in turn ~~and in doing so may have having~~ regard to the proportionality of the political groups on the Council.
- (2) The Leader of the Opposition is entitled to ask three questions during a question time. ~~The order in which other Members are listed to ask one question each shall be determined by the Chief Executive in accordance with (1) above in time to allow the order of questions to be circulated with the agenda.~~
- (3) A question shall be directed to a Cabinet Member or a Committee Chairman on any matter within their terms of reference. The questioner must identify the Member to whom the question is addressed before asking it.
- (4) Only one single question may be asked at a time and shall be put briefly.
- (5) The Chairman may disallow any question that in his opinion is not relevant to the functions or powers of the Council, or is wholly or in part frivolous or derogatory to the dignity of the Council, or is not put with reasonable brevity or comprises more than one part.
- (6) Where any question has, in the Chairman's opinion been incorrectly addressed to a particular Cabinet Member or Committee Chairman, he may redirect the question to the appropriate Member.
- (7) The reply shall be given orally by the Cabinet Member or the Committee Chairman (or his nominee). If a question affects more than one Member a combined reply, by agreement between the relevant Members, may be given by one of them or a nominee.
- (8) Question time shall be 45 minutes and then the Chairman will end question time and any member speaking at the time will sit down. The Chairman may allow an extension of time to permit a reply to be made to the last question called or put.
- (9) After a reply a maximum of one related single point supplementary question may be asked. The Member who asked the original question has the right to ask the supplementary question in preference to any other Member.
- (10) Questions may not be asked at Annual or Extraordinary meetings of the Council.
- (11) Questions and Replies shall be recorded by the Chief Executive and placed on the Council's website no later than 28 days following the date of the Council meeting.

(b) Urgent Questions

With the permission of the Chairman, any member may ask a Cabinet Member or a Committee Chairman a question relating to urgent business which may be answered by the respondent either orally or in writing. A copy of any such questions shall be delivered to the Chief Executive not later than four hours before the start of the meeting.

(c) Written Questions

(1) Any member may between any two ordinary meetings of the Council submit not more than three questions for written answer by a Cabinet Member or Committee Chairman. Such question(s) shall be submitted to the Chief Executive who shall circulate fortnightly to all members of the Council a list of questions submitted under this paragraph, together with the replies. Every question shall, subject to (2) below, receive a reply within three weeks of the date of its receipt by the Chief Executive and such replies shall be published on the Council's website.

(2) The Cabinet Member or the Committee Chairman (or his nominee) may decline to answer a question if assembling the necessary information would, in his opinion, involve excessive cost.

(3) Urgent and Written Questions may be edited by the Chief Executive if necessary, either to put them in proper form and/or to secure reasonable brevity. A question which in the opinion of the Chief Executive comprises of more than one part shall be referred back to the Member who submitted it for direction as to which part he requires to be answered. The Chief Executive may disallow or edit any such question which in his opinion is not relevant to the functions or powers of the Council, or is wholly or in part frivolous or derogatory to the dignity of the Council, or where any question has been incorrectly addressed to a particular member, redirect the question to the appropriate member.

**11. Agenda Items for Debate and Decision**

1. All reports of the Cabinet, Committees or from Officers shall where practicable be sent to each member with the notice convening the meeting of the Council at which they will be considered. The Chief Executive will also have circulated to all councillors a Future Policy Plan to assist members in selecting items for debate.
2. The Cabinet, Cabinet Committees, individual Cabinet Members and relevant Committees shall, if making a recommendation for a decision, submit a written report including such a recommendation to the Council.
3. A nominated representative of each of the two largest political groups on the Council shall, no later than 10am on the sixth day before the Council Meeting (usually the preceding Thursday) notify the Chief Executive of the Group's choice and preferred order of items for debate from amongst the Cabinet and Committee Reports, Future Policy Plan and any Notices of Motion under Standing Order 13.
4. The Chief Executive shall draw up two lists identifying the items selected by the groups and the order selected.



5. The Chief Executive shall circulate these lists to all Councillors by no later than the fifth day prior to the Council Meeting (usually the preceding Friday) together with a Briefing Note on each item selected for debate from the Future Policy Plan prepared by the appropriate Chief Officer.
6. A Cabinet Member or a Committee Chairman (or nominee) may correct errors in any paragraph in any part of a report or recommendation, or with the consent of the Council withdraw any report or recommendation.
7. Up to the first one hour fifteen minutes shall be allocated to the agenda items selected for debate by the Majority Party and up to thirty five minutes on items selected by the Minority Group. In the event that there is less than 1 hour 50 minutes available prior to 10pm the Chairman will reduce the debating time proportionately.
8. When reached in accordance with the preferred priority order of debate, each paragraph with a recommendation will be deemed to have been moved and seconded. The Cabinet Member or the Committee Chairman (or nominee) may speak first and may nominate another Member to exercise his right of reply to the debate.
9. Any item containing a recommendation may, subject to Standing Order 12(3) and (4), be the subject of comment or a motion to amend the recommendation or of a motion that the recommendation be referred back to the Cabinet or a Committee. No other motion affecting such an item shall be moved.
10. A member moving that a recommendation be referred back to the Cabinet or a Committee or moving an amendment to a recommendation shall not have the right of reply. Such right shall be available only to the member moving the reception of the report or his nominee and upon the exercise of that right the debate on the reference back or the amendment then under discussion shall be closed.
11. Any member may comment in respect of any issue selected for debate that does not include a recommendation, including any issue from the Future Policy Plan, but neither a motion nor an amendment to it shall be permitted.
12. Subject to (13) (14) and (15) below, after the first 1 hour 15 minutes of debate on Majority Party items have expired, the Chairman shall call the relevant Cabinet Member or Committee Chairman (or nominee) to respond to the debate on the paragraph then under debate. Debate will then continue on the Minority Group item(s). The same procedure shall be adopted after the next 25 minutes of debate on Minority Party items. The Chairman will terminate the meeting under Standing Order 19 on the conclusion of Minority Party business.
13. If the Majority Group and the Minority Group both select the same item for debate and the relevant Cabinet Member or Committee Chairman has been called to respond on that item during the time allocated to the Majority Group, then the debate on that item shall thereafter be regarded as concluded and the item will not be called again during the time allocated to the Minority Group. In the event that the last item being debated in the time allocated to the Majority Group is also the first item selected by the Minority Group then the debate will be allowed to continue into the time allocated to the Minority Group and the relevant Cabinet Member or Committee Chairman will be called to respond at the conclusion of the debate on that item or after 30 minutes of the Minority

Group time as appropriate, rather than after 1 hour 10 minutes of Majority Group time or any adjustment made by the Chairman.

14. If a Cabinet Member or a Committee Chairman or his nominee is making the first speech on an item selected for debate when 1 hour 10 minutes has elapsed then the Chairman may treat that speech as the last speech.
15. Any matter formally referred to the Council for debate by a Policy and Scrutiny Committee shall have priority for debate and the time spent shall be deducted in the relevant proportions from the time allocated to Majority/Minority Group business.
16. On the conclusion of other items on the agenda (if any) the Chairman shall then call, in the order appearing on the agenda the remaining paragraphs not yet debated in any report which include recommendations and when called the recommendations in any paragraph shall be deemed to have been moved and seconded.
17. The appropriate Executive Director is required to have regard to the views of Members expressed during debate when preparing reports for consideration by the Cabinet/Cabinet Members on topics listed in the future Policy Plan.

**~~Standing Order 14 (3)~~**

~~All speeches shall be no longer than five minutes unless the Council specifically consents to an extension of time, or the Chairman extends the time because of interruption or intervention. The speaker nominated to open a debate on an item of business selected for debate in accordance with Standing Order 11 (3)~~

## Policy and Scrutiny Procedure Rules including Councillor Call for Action

### Policy and Scrutiny Procedure Rules

#### 1. What will be the number and arrangements for Overview (Policy) and Scrutiny Committees?

The Council will have the Policy and Scrutiny Committees set out in Article 6. Such Committees may appoint **Sub-Committees** or Task Groups on **either a formal or informal basis**. Policy and Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

The Westminster Scrutiny Commission is responsible for overseeing and co-ordinating the activities of Policy and Scrutiny Committees generally and resolving any disputes between them.

#### 2. Who may sit on Policy and Scrutiny Committees?

All Councillors except members of the Cabinet may be Members of a Policy and Scrutiny Committee, **Sub-Committee** or a Task Group. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

#### 3. Education representatives

Each relevant Policy and Scrutiny Committee or Task Group dealing with education matters shall include in its membership the following voting representatives:

- (a) 1 Church of England diocese representative;
- (b) 1 Roman Catholic diocese representative ; and
- (c) 2 parent governor representatives .

A relevant Policy and Scrutiny Committee/Task Group in this paragraph is an Policy and Scrutiny Committee, Sub-Committee or Task Group of a local education authority, where the Committee or Task Group functions relate wholly or in part to any education functions which are the responsibility of the authority's executive. If the Policy and Scrutiny Committee/Task Group deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak with the permission of the Chairman.

The Council has agreed to include additionally in the membership of the Children, Environment and Leisure Policy and Scrutiny, Committee two Headteachers of Westminster maintained schools as non-voting co-opted Members.

#### 4. Meetings of the Policy and Scrutiny Committees (including the Westminster Scrutiny Commission)

Each Policy and Scrutiny Committee shall be responsible for deciding how many times it meets during the year. Extraordinary meetings may be called from time to time as and when appropriate. A Policy and Scrutiny Committee meeting may be called by the Chairman of the relevant Policy and Scrutiny Committee in consultation with the Vice-Chairman (if any) and the Minority Party spokesperson on the

Committee and by any three members of the committee or by the proper officer if he/she considers it necessary or appropriate.

**5. Quorum**

The quorum for a Policy and Scrutiny Committee shall be 3 voting Members of the Committee as set out in the Council Procedure Rules in Part 4 of this Constitution.

**6. Who Chairs Policy and Scrutiny Committee Meetings?**

Chairmen of Policy and Scrutiny Committees will be drawn from among the Councillors sitting on the Committee, and subject to this requirement the Committee may appoint such a person as it considers appropriate as Chairman. The Leader of the Council shall be entitled to nominate a member of the Committee as its Chairman for approval by the Committee/Sub-Committee.

**7. Work Programme**

- (i) The Policy and Scrutiny Committees/Task Groups will be responsible for implementing their own work programme and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.
- (ii) Each Policy and Scrutiny Committee shall at its June/July Meeting each year receive a report submitted jointly by the relevant Chief Officers and Cabinet Members setting out those areas which it would like the respective Policy and Scrutiny Committee to scrutinise. The Policy and Scrutiny Committee shall then decide which, if any, of these shall be included in the Committee's Work Programme.
- (iii) The Westminster Scrutiny Commission has responsibility for the allocation of tasks not included in a Committee's terms of reference to the most appropriate Policy and Scrutiny Committee. In the event of the allocation of the task being urgent and requiring allocation before the next meeting of the Commission the Head of Legal and Democratic Services shall allocate the task in consultation with the Chairman or Vice-Chairman (if any) of the Commission.

**8. Rights of Members to request the inclusion of agenda items**

- (a) Any member of a Policy and Scrutiny committee or sub-committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee. On receipt of such a request the proper officer will inform the Chairman of the relevant Policy and Scrutiny Committees or Sub-Committee and ensure that it is included on the agenda for the next practicable meeting.
- (b) Having had regard to any guidance issued by the Secretary of State, any member shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee. On receipt of such a request the proper officer will inform the Chairman of the relevant

Policy and Scrutiny Committee or Sub-Committee on the agenda for discussion at the next practicable meeting.

- (c) The Chief Executive will not include any matters on the relevant agenda where they have been excluded by any Orders made by the Secretary of State.
- (d) The relevant Committee may, when considering whether or not to exercise its powers in relation to a request received under (b) above, have regard to any representations made by the member as to why it would be appropriate for the committee to exercise any of its powers and any actions which the member has taken under the Council's Neighbourhoods programme.
- (e) Where the relevant Committee decides not to exercise any of its powers in relation to any request made under (b) above, it will notify the member of its decision, and the reasons for it.
- (f) Where the relevant Committee makes a report or recommendations to the authority it shall provide a copy of the report or recommendations to the member who referred the matter in question and any other responsible authorities and co-operating persons and bodies as it thinks appropriate.
- (g) The protocol for the use of the Councillor Call for Action is attached at appendix A to this article.

## **9. Policy Review and Development**

- (a) The role of the Policy and Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Policy and Scrutiny Committee or may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) Policy and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## **10. Reports from Policy and Scrutiny Committee**

- (a) Once it has formed recommendations on proposals for development or concluded a scrutiny, the Policy and Scrutiny committee will prepare a formal report and submit it to the proper officer for consideration by the Cabinet or relevant Cabinet Member (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the

recommendation would require a departure from or a change to the agreed budget and policy framework).

- (b) The Council or Cabinet or relevant Cabinet Member, as appropriate, shall consider the report of the Policy and Scrutiny Committee at the earliest practicable opportunity.

#### 11. **Making sure that Policy and Scrutiny Reports are considered by the Executive**

In the event that a request from a Policy and Scrutiny Committee is not included on the agenda for a Cabinet or Cabinet Committee meeting or considered by the relevant Cabinet Member within 3 months of its submission to the Proper Officer, the Chairman of the relevant Policy and Scrutiny Committee may require the report to be submitted to full Council.

#### 12. **Rights of Policy and Scrutiny Committee Members to Documents**

- (a) In addition to their rights as Councillors, members of Policy and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Policy and Scrutiny Committee as appropriate depending on the particular matter under consideration.

#### 13. **Members and Officers Giving Account**

- (a) Any Policy and Scrutiny Committee, Sub-Committee or task group may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions, ie executive decisions and decisions of non-executive committees. The power to scrutinise non-executive decisions should normally, in line with Government guidance, be exercised as part of wider policy reviews and Policy and Scrutiny Committees should not normally scrutinise individual decisions made by non-executive committees, particularly decisions in respect of development control, licensing, registration, consents and other permissions. As well as reviewing documentation, in fulfilling the scrutiny role, Policy and Scrutiny Committee may require any member of the Cabinet, the head of paid service and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - i) any particular decision or series of decisions;
  - ii) the extent to which the actions taken implement Council policy; and/or
  - iii) their performance.

and it is the duty of those persons to attend if so required.

- (b) Where any Member or officer is required to attend a Policy and Scrutiny Committee under this provision, the Chairman of that committee will inform the proper officer. The proper officer shall inform the member or officer in writing giving at least 10 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Policy and Scrutiny Committee shall in consultation with the Member or officer arrange an alternative date for attendance.

#### 14. **Attendance by Others**

A Policy and Scrutiny Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

#### 15. **Task Groups**

- (a) Each Policy and Scrutiny Committee will have the ability to establish Task Groups to scrutinise issues within their terms of reference. The Constitution and terms of reference of any Task Group, shall be determined by the relevant Policy and Scrutiny Committee. It will be possible to establish single member scrutiny where appropriate but otherwise the Minority Party will be entitled to a seat on all Task Groups but proportionality generally will not apply. Task Groups, which in the opinion of the relevant Committee Chairman, need to be established as a matter of urgency and therefore cannot wait until the next programmed meeting may be established by the Chairman who must consult all members of the Committee before doing so. The establishment of the Task Group shall be confirmed at the next meeting.
- (b) Task Groups will operate on an informal basis and will not be subject to the formal requirements relating to meetings in respect of the issue of agendas, minutes and notice of meetings etc. However, meetings will at the discretion of the Task Group usually, be open to members of the public except where the normal rules on confidentiality apply.
- (c) Every Task Group will report on a regular basis to the parent Committee in the case of a prolonged or ongoing scrutiny. In other cases a formal report should be submitted for consideration by the Parent Committee once the investigations have been completed.
- (d) It will be possible to establish joint Task Groups comprising Members from more than one Policy and Scrutiny Committees in order to deal with cross-cutting issues.

- (e) A Policy and Scrutiny Committee may hold a special meeting or establish a formal Sub-Committee to conduct a scrutiny or any other of its business should it consider this desirable.

## 16. Call-in

- (a) When a decision is made by the Cabinet, an individual Member of the Cabinet or a Committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. All the Members of the relevant Policy and Scrutiny Committee(s) and all relevant Ward Members will be sent copies of the report, at the time of issue and a record of such decisions within the same timescale by electronic means by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will (save where an exception under (h) below applies specify that the decision will come into force, and may then be implemented at 5pm on the 5th working day after the publication of the decision, unless (c) below applies. (Where an exception under (h) below applies the decision will come into force as soon as it is made).
- (c) During that period (if applicable), the proper officer shall call-in a decision for scrutiny by the Committee if so requested by any 3 Members of the Committee entitled to vote on the subject matter of the decision and/or, in relation to a decision affecting a single ward by all 3 members of that ward and shall then notify the decision-taker of the call-in. He/she shall summons a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chairman of the Committee, and in any case the meeting is to be held, if possible, within 10 working days of the decision to call-in or as soon as reasonably practicable thereafter as determined by the Proper Officer in consultation with the Committee Chairman. Where call-in is requested by all three members of a ward, those Members will be invited to the relevant meeting. In circumstances where one of the Ward Members is the decision taker or otherwise unable to act the ward call-in can be activated by the remaining two Ward Members. If at any time after the call-in has been triggered but prior to the Committee meeting taking place one of the Members withdraws their call-in request and therefore only 2 or 1 Members remain questing the call-in no further action in relation to the call-in shall take place. Members requesting the call-in shall be asked to give reasons in order to assist the decision maker in preparing for the response.
- (d) If, having considered the decision, the Policy and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or, if in the opinion of the Chief Executive the matter is contrary to the Budget and Policy framework, refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 10 working days, or as soon as possible thereafter amending the decision or not, adopting a final decision.
- (e) If following an objection to the decision, the Policy and Scrutiny committee does not meet in the period set out in paragraph (c) above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the overview and scrutiny meeting, or



- the expiry of that further 5 working day period, whichever is the earlier.
- (f) If the matter is referred to the full Council the Proper Officer shall include it on the agenda of the next possible meeting. If the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider within 10 working days of the Council request or as soon as practicable. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request or as soon as possible thereafter as determined by the Proper Officer in consultation with the Leader.

If the Council does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting.

### Exceptions

- (h) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:
- (i) that a Policy and Scrutiny committee may refer back or to the Council ~~only one decision in any three month period;~~
  - (ii) only decisions involving expenditure or reductions in service or the sale of assets over the value of £100,000 may be called in, the Proper Officer may apply the call-in provisions in cases of doubt.
  - (iii) a majority of the Members of an Policy and Scrutiny Committee are needed for a decision to be referred back to the decision maker or to full Council;
  - (iv) the call in procedure may not be used where the decision is in accordance with the recommendations of the relevant Policy and Scrutiny Committee.
  - (v) in the case of Ward Member call-in (referred to in (c) above), a maximum of four such call-ins a year per ward will be permitted.
  - (vi) decisions made by the London Council's Leaders Committee, the London Council's Transport and Environment Committee and the London Councils Grants Committee shall not be capable of call-in in accordance with these provisions.

## Call-in and Urgency

- (i) The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chief Executive, in consultation with the Chairman of the relevant Policy and Scrutiny Committee(s) must agree to the decision proposed being treated as a matter of urgency. In the absence of the Chief Executive, ~~a Deputy Chief Executive's consent shall be required.~~ In the absence of both, the Monitoring Officers consent shall be required or in their absence a Deputy Monitoring Officer. Decisions taken as a matter of urgency must be reported to the Westminster Scrutiny Commission, together with the reasons for urgency, on an annual basis.
- (j) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Westminster Scrutiny Commission with proposals for review if necessary.

## 17. Procedure at Policy and Scrutiny Committee Meetings

- (a) Policy and Scrutiny Committees and Sub-Committees shall consider the following business:
- i) minutes of the last meeting;
  - ii) declarations of interest
  - iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
  - iv) responses of the Cabinet or Cabinet Members to reports of the overview and scrutiny committee; and
  - v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Policy and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
- i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

- (c) Following any investigation or review, the Committee/Sub-Committee shall prepare a report for submission to the Cabinet, Cabinet Member, Committee or full Council as appropriate and shall make its report and findings public save where this would involve the disclosure of exempt or confidential information within the meaning of the Local Government Act 1972.

## **18. Matters within the Remit of More than One Policy and Scrutiny Committee**

### **INVITATION OF CHAIR OF OTHER COMMITTEE TO PARTICIPATE**

- (a) Where a Policy and Scrutiny Committee wishes to conduct a review or scrutinise a matter which also falls (whether in whole or in part) within the remit of another Policy and Scrutiny Committee, then the Committee conducting the review shall invite the Chairman of the other Committee (or his/her nominee) to attend its meetings when the matter is being reviewed.
- (b) Where a matter for consideration by a Policy and Scrutiny Committee/Task Group also falls within the remit of one or more other Policy and Scrutiny/Task Group, the decision as to which Policy and Scrutiny/Task Group will consider it will be resolved by the Westminster Scrutiny Commission.

## **19. Resources**

The allocation of resources, within the Policy and Scrutiny research/consultancy budget shall be within the responsibility of the Westminster Scrutiny Commission. From time to time it may be necessary to authorise the release of funds urgently between meetings of the Commission. In these circumstances the release of these funds shall be authorised by the Chief Executive in consultation with the Chairman or Vice-Chairman (if any) of the Commission.

## **20. Suspension of Procedural Requirements**

A procedural requirement of these rules may be suspended to the extent that the Monitoring Officer advises is strictly necessary to meet a legal requirement.

**Westminster City Council**

**Constitution, Chapter 1 – The Constitution**

1. Summary and Explanation
2. The Constitution
3. Members of the Council, including List of Members
4. Constitutional Rights of Residents - Summary
5. Decision Making and Allocation of Functions between the Council, the Executive and Joint Arrangements
6. Governance, including Finance, Contracts and Legal Matters
7. Officers

**Constitution, Chapter 2 – The Full Council**

1. The Full Council
2. Responsibility for Council functions
3. Council Meeting Procedure Rules

**Constitution, Chapter 3 – The Leader and the Cabinet (the Executive)**

1. The Leader and the Cabinet – including who they are
2. Leader and Cabinet Procedure Rules
3. Budget and Policy Framework Procedure Rules
4. Functions which Leader has retained and those which have been allocated to the Cabinet, a Cabinet Committee or to an Individual Cabinet Member
5. Local Choice Functions

## **Constitution, Chapter 4 – Policy and Scrutiny**

1. Introduction to the Policy and Scrutiny Process and the Committees
2. The Rules Relating to Policy and Scrutiny, including Councillor Call for Action and Call-in
3. The Terms of Reference of each of the Council's Policy and Scrutiny Committees – see also Chapter 5 - Committees

## **Constitution, Chapter 5 – Committees**

1. The Committees and Sub-Committees of the Council, including Panels and their Memberships
2. Committee and Sub-Committee Procedure Rules
3. Planning (Major Applications) Committee and Planning Applications Sub-Committees
4. Licensing Committees and Licensing Sub-Committees
5. The Terms of Reference (Functions) Delegated to Committees and Sub-Committees

## **Chapter 6 – Scheme of Delegations to Officers**

1. Functions delegated to officers
2. Functions allocated to officers
3. Scheme of Delegations to officers

## **Chapter 7 – Ethical Governance and Members Rules**

1. Ethical Governance
2. Ethical Governance – Members Code of Conduct
3. Procedure for Making a Complaint against a Councillor – on website
4. Officer Code of Conduct
5. Protocol for Member and Officer Relations
6. Politically restricted posts

## **Chapter 8 – Access to Information Procedure Rules**

1. Access to Information Procedure Rules

## **Chapter 9 – Rules, Codes and Protocols**

1. Introduction to other rules, codes and protocols
2. Finance, Contracts and legal matters
3. Contract Procedure Rules
4. Finance Procedure Rules
5. Indemnities for Members and Officers
6. Protocol for audio recording of Council, Committee and Sub-Committee meetings
7. Code of Governance

## **Chapter 10 – Officer Employment Procedure Rules**

1. Officer Employment Procedure Rules

## **Chapter 11 – Members' Allowances**

1. Members' Allowances Scheme

## **Chapter 12 – Partnership Arrangements**

1. Partnership Manual
2. Outside Bodies

## APPENDIX E

### How the Constitution can be updated

1. Minor textual changes to any part of the Constitution, which does not result in any material change (by the Head of Committee and Governance Services).
2. Changes required by legislation/regulations or any other enactment.
3. Changes to the financial regulations (by the Cabinet member for Finance, Regeneration and Corporate Services upon consideration of a report by the City Treasurer).
4. Procurement Code (by the Cabinet Member for Finance, Regeneration and Corporate Services upon consideration of a report by the Director of Corporate Services unless the change is required by legislation).
5. Members Code of Conduct (full Council upon recommendation of the Standards Committee).
6. Planning Applications Sub-Committees Procedures (subject to being approved by the Planning and City Development Committee, these will be included at \_\_\_\_\_ of the Constitution).
7. Licensing Applications Sub-Committees Procedures (subject to being approved by the Licensing Committee) are set out at \_\_\_\_\_ of the Constitution.