

## APPENDIX 1

<b>Area of Review</b>	<b>Proposal and Rationale</b>	<b>Sections of the Constitution to be revised</b>
1) Articles establishing Committees and the Function Scheme	<p>The first part of the proposal is to remove Articles 6 (Scrutiny), 7 (The Standards Committee and the Audit and Corporate Governance Scrutiny Committee) and 8 (Planning and Licensing Committees) and to move the provisions relating to the establishment of the committees and their composition to the Functions Scheme.</p> <p>The rationale for this is to bring together two separate parts of what form the committees' terms of reference so they can be found in one place. This will make it easier for officers, Members or the public when consulting the Constitution to find the all the provisions that relate to a Committee in the same place.</p> <p>The second part of the proposal is to restructure the format of the functions scheme. There are no alterations made to the allocation of functions within this proposal, however the list of Council and Local Choice Functions is presented in a different format so as to be less repetitive and reduce the number of pages it covers. This will make the section easier to follow.</p> <p>The format of the functions of the Committees terms of reference have also been amended to remove the table format that is currently used.</p> <p>For Planning Committee, the functions are split between what must go to Committee and what can be determined by Officers. The Licensing functions will be divided up in the same way. The second column is not used for the other committees so can be removed to make the document easier to read.</p>	<p>Articles 6, 7 and 8 are at pages 18-21 of the current version.</p> <p>The Functions Scheme is at pages 32-60 of the current version.</p>
2) Audit and Corporate Governance Scrutiny Committee	Reviewed and no amendments suggested.	The terms of reference are currently split between Articles 6 and 7 and the

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Terms of Reference		Functions Scheme on pages 48-49 of the current version.
3) Recording of Executive Decisions to reflect Key Decision Limits	<p>The proposal is to align the threshold for the reporting of Officer Decisions with the thresholds for Key Decisions. There are statutory requirements for local authorities to publish records of officer decisions in order to promote transparency. The regulations state that officer decisions must be recorded in circumstances that 'materially affect the [Council's] financial position.' The Access Procedure Rules currently state that the threshold above which decisions need to be recorded and published is £50,000.</p> <p>The regulations regarding Key Decisions state that a key decision is one which is likely to incur expenditure or make savings which are 'significant having regard to the Council's budget for that service or function'.</p> <p>It is considered that these two definitions should be interpreted as the same threshold, and therefore it is proposed that the requirements to record and publish Officer Decisions will only be triggered where the following thresholds are met or exceeded:</p> <p>Revenue - £100,000 Capital - £250,000</p> <p>This will provide a simpler set of rules for Officers to follow, rather than having different thresholds for different procedures and processes.</p> <p>Records will still be maintained of decisions below these levels as required.</p>	Paragraph 13.1 of the Access to Information Rules in Part 4 of the Constitution (On page 125 of the current version)
4) Threshold for consideration of	The proposal is to align the threshold for the requirement for tenders to be submitted to Cabinet with the thresholds for Key Decisions. Currently the threshold for tenders	Executive Function (Zt) within Part 3 The Functions Scheme

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tenders by Cabinet	<p>to be determined by Cabinet is £50,000. This was set at the same time as the Key Decision threshold.</p> <p>There is no legal basis on which to determine the level of tenders that must be determined by Cabinet, however the level of key decisions is considered to be the appropriate level. As tenders will relate to revenue expenditure, the threshold would be £100,000.</p>	<p>(On page 44 of the current version)</p> <p>The Contract Procedure Rules would also need to be amended to reflect this change.</p>
5) Councillors' Conduct – Speaking at Meetings	<p>It is proposed that the procedure rules for Councillors when they speak at Council meetings be revised to require Councillors to state their name before speaking and also to use the microphones.</p> <p>Requiring Councillors to state their names before speaking would assist the public and all Members in following the meeting. It is also important for Members to use the microphones to ensure that they can be heard by all participants and observers in the meeting.</p> <p>The requirement for Members to stand could also be considered as discriminatory against Members with a disability or mobility problems, who may struggle to stand, particularly if they need to stand and sit down at regular intervals during a meeting.</p> <p>It is proposed that the relevant Council Procedure Rule, rule 21.1, be amended as follows:</p> <p style="padding-left: 40px;">When a Councillor speaks at Council, <b>firstly they should announce their name and Ward or Cabinet Portfolio (if more appropriate)</b>, and he/she must address the meeting through the Chairman <del>and stand and address the Chairman</del> <b>using the microphones. Whilst there is no requirement,</b></p>	<p>Part 4 – Council Procedure Rules – Rule 21.1 (Page 96 of the current version)</p>

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	<b>Councillors are permitted to stand to address the Council should they wish to do so.</b>	
6) Section 151 Officer Delegation Additions	<p>Amendments to the delegation scheme are suggested so as to ensure that the Section 151 Officer has some authority over expenditure from the Transformation Fund and so that the use of earmarked reserves are restricted to authorisation by the Section 151 Officer. This in practice would be as simple as adding the S151 as a signatory on Delegated Decisions of this nature.</p> <p>The changes to the constitution are proposed to be:</p> <p><u>1 – Addition of a further restriction to delegations to Heads of Service (page 63) as follows:</u></p> <p><b>(5) Delegated powers may only be exercised within approved budgets, unless a virement is permitted by the Financial Regulations. The use of the Invest to Save Reserve (NEDDC) or the Transformation Reserve (BDC) can only be authorised by the Section 151 Officer.</b></p> <p><u>2 – Amendment to general powers delegated (page 65):</u></p> <p>9.14 To acquire, dispose of, grant and obtain rights in land and premises on such terms and conditions as considered appropriate <b>where expenditure is within approved budgets.</b></p> <p>9.15 To acquire, dispose of, grant and obtain rights in vehicles and other equipment and property <b>where expenditure is within approved budgets.</b></p>	Scheme of Delegation for Officers (page 61-79)

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	<p><u>3 – To add a new delegation for the Section 151 (page 72):</u></p> <p><b>12.10 To authorise the use of earmarked reserves (Invest to Save Reserve – NEDDC or Transformation Reserve – BDC).</b></p> <p><u>4 – Addition of a further requirement within the Virement rules within the Budget and Policy Framework and as SERCOP no longer exists a) has been rewritten (page 136):</u></p> <p>a) <b>In order to comply with the CIPFA Code of Practice, the Council shall have budget heads based on its current organisational structure for both the General Fund and Housing Revenue Account.</b></p> <p>(b) Steps taken by the Cabinet, a Senior Officer or under joint arrangements (if any) discharging Executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However the Cabinet, or a Senior Officer shall be entitled to vire across budget heads where each individual virement does not exceed £50,000 in total and the aggregated total virement must not exceed £150,000 in any one year. Beyond that limit approval for any virement across budget heads shall require the approval of the Council.</p> <p><b>No officer may vire funds from the Invest to Save Reserve, authorisation of which is restricted to the Section 151 Officer.</b></p> <p><u>5 – Additions of a further requirement within the Virement rules within the Finance Rules (page 151)</u></p>	

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	<p>8.7     <u>Virements</u></p> <p>Once the budget has been approved, Cabinet or budget managers shall be entitled to vire across budget heads with the exception of salary related budgets. Virements from salary related budgets can only be utilised for the use of agency and consultancy work. The Accountancy Section shall be entitled to vire budgets for housekeeping purposes.</p> <p><b>No officer may vire funds from the Invest to Save Reserve, authorisation of which is restricted to the Section 151 Officer.</b></p> <p><u>6. - Section 151 officers delegations (page 72):</u></p> <p>12.11 – To determine that the Council voluntarily repay 141 Right to Buy receipts during periods when social housing schemes cannot be identified on which the receipts could be utilised, provided no interest is payable on repayment.</p>	
<p>7) Licensing Committee Terms of Reference and Composition</p>	<p>Different authorities have responded to the need for specific Licensing Act and Gambling Act governance arrangements in a variety of ways. But a common approach has been to simply establish two committees, covering the different legal strands of responsibility.</p> <p>It is proposed that Council be asked to do this by establishing a ‘General Licensing Committee’, which would deal with taxi and scrap metal licensing etc. and a ‘Licensing and Gambling Acts Committee’, with responsibility for licensed premises and club / gaming machine permits etc.</p>	<p>Functions Scheme - (page 33-60)</p>

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	<p>The existing Licensing Committee has fifteen Members. It is proposed that the two new committees consist of 14 Members each. The membership would be politically proportionate to the Council as a whole.</p> <p>It is important to ensure that the different aspects of licensing continue to be dealt with holistically under the new governance arrangements. For this reason it is recommended that both committees have the same membership, so that their Members can continue to oversee all aspects of the licensing function.</p> <p>In practice, the committees would meet two or three times a year on the same date. The General Licensing Committee would take place first, followed immediately by the Licensing and Gambling Acts Committee. Consequently, it would continue to feel like a single meeting.</p> <p>The functions of the new committees would have to be incorporated into the Council's constitution. It is suggested that the functions of the General Licensing Committee be:</p> <ul style="list-style-type: none"><li>(a) To consider all licensing matters not covered by the Licensing Act 2003 and the Gambling Act 2005, including Private Hire and Hackney Carriage Drivers, Vehicles and Operators;</li><li>(b) To make any minor changes and updates to the Council's Hackney Carriage and Private Hire Vehicles, Drivers and Operators Policy following adoption by Council;</li><li>(c) To make any minor changes and updates to other relevant licensing policies as required</li></ul>	

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	<p>It is also suggested that the functions of the Licensing and Gambling Acts Committee be:</p> <ul style="list-style-type: none"><li>(a) To consider all licensing matters related to the Licensing Act 2003 and the Gambling Act 2005;</li><li>(b) To make any minor changes and updates to the Statements of Policy under both the Licensing Act 2003 and the Gambling Act 2005 that are required following the adoptions by Council of both statements;</li><li>(c) To recommend to Council to resolve whether to issue a Casino Licence</li></ul> <p><b>The Sub-Committee Arrangements</b></p> <p>Both of the new committees would have their own sub-committees, which would discharge specific responsibilities of the parent committees. Under this approach, the membership of the two sub-committees would be determined at Annual Council. Five Members would be appointed to serve on one of the sub-committees and five on the other.</p> <p>The General Licensing Sub-Committee (which is likely to face an ongoing high volume of taxi licensing work) will meet monthly – as the current Licensing Sub-Committee (Taxis) generally does. These meetings would be included in the Council’s schedule of meetings. The Licensing and Gambling Acts Sub-Committee, by contrast, would have a far more limited workload and therefore meet less frequently. Its meetings would be organised as and when required.</p> <p>The Council’s quorum rules would apply to the meetings of both sub-committees. This means that only three of the five Members would have to attend for it to be quorate. This should help to reduce the pressure on Members – often at very short notice – to attend sub-committee meetings to ensure that they can take place.</p>	



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	<p>Again, The functions of the sub-committees would have to be incorporated into the Council's constitution. It is suggested that the functions of a General Licensing Sub Committee be:</p> <ul style="list-style-type: none"><li>(a) To consider all hackney carriage and private hire licensing issues which are referred to it;</li><li>(b) To consider matters concerning the discharge by the Council of its licensing function under the Local Government (Miscellaneous Provisions) Act 1982 (as amended);</li><li>(c) To consider scrap metal sites and operators licences.</li></ul> <p>The suggested functions of a Licensing and Gambling Acts Sub-Committee should be:</p> <ul style="list-style-type: none"><li>(a) To consider matters concerning the discharge by the Council of its licensing functions under the Licensing Act 2003;</li><li>(b) To consider matters concerning the discharge by the Council of its licensing functions under the Gambling Act 2005</li></ul>	
8) The Revised Members Code of Conduct	<p>The Member Code of Conduct was adopted by the Council in 2012 following the introduction of the Localism Act but hasn't been formally reviewed since. The Monitoring Officer has therefore carried out a review and arising from that review this report recommends some changes to the Council's Member Code of Conduct.</p> <p>In summary the key changes are</p> <ul style="list-style-type: none"><li>(a) General Conduct - additions to the general conduct expected of members to ensure that this addresses issues around equality, safeguarding and conduct when speaking public or to the media, as a councillor. This</li></ul>	Councillor Code of Conduct - (page 182-195)

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	<p>section also addresses the requirement to adhere to the Councils Social Media Guidance for Councillors.</p> <ul style="list-style-type: none"><li data-bbox="622 379 1724 491">(b) Training - a section has been added to set out the requirement to attend essential training and has within the Code as an appendix is a list of training and frequency of attendance.</li><li data-bbox="622 528 1724 639">(c) Predetermination or bias - an explanation as to what constitutes predetermination or bias and what a member is required to do if they have concerns.</li><li data-bbox="622 676 1724 788">(d) Member Interests - with a greater and clearer explanation as to what constitutes a Disclosable Pecuniary Interest (DPI), with a note contained in an appendix to aid members as opposed to within the Code itself.</li></ul>	
9) Social Media Guidance for Councillors	<p>Social media increases access to audiences and improves accessibility of communication. It is a powerful and effective method for Councillors to interact with residents, however guidelines are needed.</p> <p>The draft social media guidance for Councillors can be summarised as follows:-</p> <ul style="list-style-type: none"><li data-bbox="622 1082 1724 1225">(a) The guidance is designed to encourage the use of social media sensibly and responsibly and to ensure that use does not adversely affect the Council or its business, nor be damaging to the Councils reputation and credibility or otherwise violate any council policies.</li><li data-bbox="622 1262 1724 1374">(b) The guidance is to advise Councillors with particular regard to issues such as standards, libel, copyright, data protection, bias and pre-determination as well as encouraging good manners online.</li></ul>	

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	<p>(c) The guidance makes explicit reference to how aspects of the Code of Conduct for Members will apply to online activity in the same way as they do to any other councillor's use. This is important especially where an individual has a social media account and they comment both as a councillor and as an individual.</p>	
<p>10) Proper Officer Provisions</p>	<p>During review of this area of the Constitution it was found that a number of the regulations specified under Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 relating to proper officer provisions were not titled correctly and that several of the regulations that have 'proper officer' provisions were not included within the list detailed at pages 73-79.</p>	<p>Pages 73 – 79 Part 3 – Functions Scheme Proper officer Provisions</p>
<p>11) Terms of Reference for JEC and JAC</p>	<p>The changes proposed suggest for the JEC and the JAC become one Committee entitled the Joint Employment and Appeals Committee (JEAC). The JEAC would sit as an 8 member Committee to deal with appointments of SAMT members.</p> <p>The rational for the change is that, in the current arrangements, any appeal against a decision by the JEC would be made to the JAC. The JAC's membership also comprises both Council Leaders and Deputies and the Leader of the principal opposition in each Council. An appeal cannot be heard by the same Members that heard the original disciplinary or capability case so revised arrangements are required.</p> <p>Further, amendment to the Scheme of Delegation to officers is also proposed to enable dismissal decisions regarding members of SAMT to be made by the Chief Executive Officer, or the Strategic Directors in his absence. The would amend paragraph 10.28 (ii) as follows:</p>	<p>Pages 25 – 27 Article 10 – The Chief Executive Officer and Other Staff</p> <p>Pages 56-57 Part 3 – Functions Scheme 5.10 and 5.11</p> <p>Page 69 Part 3 – Functions Scheme Delegation Scheme 10.28</p>

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	<p style="text-align: center;"><i>To determine all staffing matters including but not limited to:</i></p> <p style="text-align: center;">...</p> <p style="text-align: center;"><i>(ii) the appointment, dismissal, suspension, or discipline of staff, save that in relation to the Chief Executive Officer, Strategic Directors and Heads of Service, this does not include the appointment and, <b>in the case of statutory officers</b>, their dismissal.</i></p> <p>This has the effect of removing the power to dismiss statutory officers only from the delegation, leaving all other dismissal decisions within the scope of the power.</p>	
12) Delegation of decisions to write off debts for rent arrears	Currently the delegation scheme allows for the Head of Finance and Resources and Section 151 Officer to write off rent arrears in appropriate circumstances up to the value of £2500. It is proposed that the level be increased to £3500.	Paragraph 12.6 of the Scheme of Delegation to Officers (Page 71 of the current version)
13) Protocol on Planning	<p>The functions of the Planning Committee state that applications submitted by officers or Members must be determined by the Planning Committee and not under officer delegation. The Protocol on Planning attached to the Code of Conduct is not as clear and states that the Planning Manager will consider whether the application should be dealt with by Committee.</p> <p>It is proposed that the Protocol be amended to reflect the functions scheme. The following sentence would be removed:</p> <p><i>12.2 The Planning manager will consider whether such applications are determined at the appropriate Committee Meeting and not under delegated powers.</i></p>	Section 12 of the Protocol on Planning (Page 203 of the current version).

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	<p>The following sentence would be added in its place:</p> <p><i>12.2 Any applications submitted by a Member or any officer of the authority, whether for himself/herself or on behalf of any other person, will be determined by Planning Committee and not under any delegated powers.</i></p>	