

Report for: Standards Committee – 29 June 2021

Title: Proposed Amendments to the Constitution (Executive Functions)

Report

authorised by: Mark Stevens - Assistant Director Direct Services

Ward(s) affected: Not applicable

Report for Key/

Non-Key Decision: Non-Key Decision

1. Describe the issue under consideration

1.1 The Council Constitution governs the organisation of Council decision-making. It is kept under review and, when necessary, amendments are proposed to Standards Committee for consideration and recommendation on to Full Council, in accordance with Article 14.03 (Changes to the Constitution).

1.2 This report takes forward minor deletions to Part Three, Section C Responsibility for functions: The Executive: The Leader, the Cabinet & Cabinet Bodies - Matters reserved to the Executive - namely - paragraph 2.1 – sub section on Highways - a) Approval of traffic calming works where more than 10 objections have been received; and (c) *Approval of any permanent traffic regulation order subject to valid objection* and adds this responsibility to the Officer Scheme of Delegation for Environment and Neighbourhoods.

2. Cabinet Member Introduction

Not applicable.

3. Recommendations

The Standards Committee is asked:

3.1 To approve the deletions to the Constitution set out at Appendix 1.

3.2 To recommend that these changes to the Constitution are adopted by Full Council at its meeting on 19th of July 2021.

4. Reasons for decision

4.1 To ensure that the Constitution is updated and allows decision-making to be taken forward more efficiently and effectively.

5. Alternative options considered.

To not agree the changes to the Council Constitution and/ or defer consideration. This option is not recommended as it would be contrary to the request made by officers.

6. Background information

- 6.1 Direct Services had been seeking delegated authority from Cabinet in recent Cabinet parking and highways-related reports to allow officers to take forward delegated decisions on traffic orders. However, it was ascertained that, as these were Executive Leader, Cabinet and Cabinet Member responsibilities set out at Section C Part three of the Constitution, these decisions could not be delegated.
- 6.2 Advice provided included that the Constitution has been referring to inaccurate terminology with the use of the wording of 'traffic regulation order' and this should read 'traffic order' as set out in Road Traffic Regulation Act 1984. Traffic regulation orders apply outside of Greater London but 'traffic management orders' (as an alternative to 'traffic orders') apply within Greater London. Traffic management orders or traffic orders are by-laws which define parking and some moving traffic rules and regulations. They can designate lengths of kerbside space for a specific use i.e. waiting and loading restrictions or parking bays.
- 6.3 Permanent traffic orders may be made by the Council under s.6 of the 1984 Act.
- 6.4 The Council is required to consult with certain bodies and give public notice before making such a permanent traffic order (s.24(1)(c) and sch.9 of the 1984 Act, regs.6-7 of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996/2489).
- 6.5 Objections must be made in accordance with the requirements set out in within a specified period of at least 21 days and (reg.8 of the 1996 Regulations):
- be made in writing;
 - state the grounds on which it is made;
 - be sent to the address specified in the notice of proposals.
- 6.6 Where an authority is making the objection following consultation, its objection must in addition state whether or not it is alleged that the order would have any direct effect on traffic on any road, other than a trunk road, in the area of the authority making the objection (reg.8 of the 1996 Regulations).
- 6.7 Therefore, Legal Services, following counsel advice consider a 'valid objection' referred to in the Constitution (Part Three Section C Section 1 para.2.1 – a) and c) would most likely be an objection made in accordance with the 1996 Regulations as outlined above.
- 6.8 These are operational everyday decisions and contrast with the required policy and strategic decision-making role of the Cabinet as set out in paragraph 2.1. Also, in most cases, these are not key decisions as they would affect one ward.

It is proposed that this responsibility is removed from Executive functions and added to the Officer Scheme of Delegation for Environment and Neighbourhoods with some safeguards in place. This would be as follows:

- Small traffic management schemes that are costed below £100k are taken by officer delegated decision in consultation with the Cabinet Member with the relevant portfolio. These would be deemed officer delegated decisions that are published on the Council's website and available for public view.
- Medium to large traffic management schemes that raise objections – these would be schemes that do not generate wider interest, don't affect multiple wards, but could raise more than 10 objections. These would be taken forward as non-key decisions by the Cabinet Member with responsibility for the relevant portfolio. The report and decision notice would be published 5 clear working days before the decision is taken and the Cabinet Member would make the decision through an individual signing. The decision would be published on the website and there would be no call-in as it is not a key decision.
- Large traffic management schemes that will have an impact on multiple wards and will have a significant public interest would be taken forward by Cabinet. This would allow consideration of deputations. The decisions would be subject to call-in.

6.9 There have been individual discussions with the Cabinet Member for Customer Service, Welfare and the Public Realm (with responsibility for schemes related to highways and parking matters), and Cabinet Member for Environment, Transport and the Climate Emergency and Deputy Leader of the Council (with responsibility for schemes related to transport matters) and they agree with these changes and consideration by Cabinet Members and the Director of Environment and Neighbourhoods and/or the Assistant Director Direct Services.

7. Contribution to strategic outcomes

The Council's Constitution supports the governance of the Council and its decision-making thereby assisting the Council to meet its strategic outcomes.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance and Procurement

8.1 There are no financial implications arising from this report.

Legal

8.2 The proposed changes to the Council Constitution were taken forward with Legal Service assistance.

Equality

8.3 There are no equality matters in this report.

9. Use of Appendices

9.1 Appendix 1 – Part Three, Section C Responsibility for functions: The Executive: The Leader, the Cabinet & Cabinet Bodies - Matters reserved to the Executive

10. Local Government (Access to Information) Act 1985

The Council Constitution can be found at: <http://www.haringey.gov.uk/local-democracy/about-Council/Council-constitution>.