

Annual Council *on* **21 May 2007**

Report Title: **Review of the Council's Constitution**

Report of: **The Chief Executive and the Acting Head of Legal Services and Monitoring Officer**

Wards affected: **All**

Report for: **Decision by full Council**

1. Purpose

1.1 To report to Members on the Review of the Council's Constitution and to recommend that Members adopt the revised Council Constitution in "modular form".

2. Recommendations

2.1 That Members resolve to:

(i) re-arrange the Council's Constitution so that it is in the "modular format" set out in Appendix 1 to this report.

(ii) adopt the Council Reshaping Schedule set out in Appendix 2 to this report as a part of the Constitution until the existing Scheme of Delegation to Officers is revised and adopted after the forthcoming Review.

(ii) adopt the documents contained in the lever arch files entitled "Revised Council Constitution May 2007", already made available to Members, as the Constitution of Haringey Council under section 37 of the Local Government Act 2000 with effect after 21 May 2007.

Report authorised by:

Ita O'Donovan
Chief Executive

John Suddaby
Acting Head of Legal Services and Monitoring Officer

Contact officer: Terence Mitchison – Senior Project Lawyer, Corporate
Telephone: 020 8489 5936 terence.mitchison@haringey.gov

3. Acting Director of Finance Comments

3.1 There are no specific financial implications

4. Acting Head of Legal Services Comments

4.1 The legal and constitutional implications are set out in the main report

5. Executive summary and reasons for change

5.1 This report sets out recommendations for the revision of several key Parts of the Council's Constitution in the light of the recommendations of the Constitution Review Working Group. The revisions proposed aim to combine best practice nationally with logical improvements. The substantive changes are relatively limited overall and are explained in outline in the report. Members are recommended to approve and adopt the revised Constitution in the "modular format" which is more usual among other Councils.

6. Access to information:

Local Government (Access to Information) Act 1985

The following background papers were used in the preparation of this report and can be inspected at the Alexandra House, 10 Station Road, Wood Green, London N22 7TR by contacting Terence Mitchison on 020 8489 5936:

The Council's Constitution.

7. Background

7.1 The Constitution Review Working Group (CRWG) comprises the Leader and Deputy Leader, the Chair of Overview and Scrutiny, the Chair of the General Purposes Committee, the Leader of the Opposition and Opposition Chief Whip, the Chief Executive, the Monitoring Officer, the Assistant Chief Executive People, Organisation & Development and the Head of Local Democracy & Member Services.

7.2 The CRWG has been assisted in its task by Rockpools an external consultant with substantial experience nationally of advising Council's on their Constitutions, governance arrangements and best practice.

7.3 The remit of the CRWG has been to:

- (i) improve the efficiency and effectiveness of decision-making
- (ii) streamline the number and length of meetings
- (iii) clarify Member and officer roles
- (iv) ensure best practice is followed

- (v) create a governance structure for partnership working
- (vi) ensure the Constitution is legally sound
- (vii) reduce the length of the Constitution by keeping only essential components and transferring more peripheral matters to protocols or appendices, and
- (viii) make the Constitution more user-friendly and accessible.

8. Progress of the Review

- 8.1 The CRWG has been working for 6 months. There have been several meetings in January, February and March to consider in detail the draft revisions to key Parts of the Constitution suggested by Rockpools.
- 8.2 The proposals were reported to meetings of both the political groups in April. As a result of the views then expressed by Members, a limited number of further changes have been incorporated into the text now being recommended.
- 8.3 An important recommendation of the CRWG is to re-arrange the Constitution into the “modular format”. This was the basic format of the original model Constitution prepared by the ODPM (predecessor of today’s DCLG). It was recommended to, and adopted by, the great majority of Councils when the new “executive arrangements” were first introduced under the Local Government Act 2000. Haringey Council’s first Constitution under the Act was adopted in the modular format in 2002.
- 8.4 In 2004 a previous Constitution Review decided to re-arrange the Constitution into “topic headings”. This has since been criticised as confusing. In order to improve accessibility and user-friendliness, the CRWG are recommending that the revised Constitution should revert to its original “modular” format.
- 8.5 The revised “modular” format is shown as Appendix 1 to this report. The larger left hand column shows the list of contents as they will be arranged in the new revised and re-arranged Constitution. The right hand column sets out the corresponding “Part” in the old Constitution for comparison. Unless stated otherwise, references in this report to Parts of the Constitution are references to that Part as it appears in the new Constitution.
- 8.6 Complete sets of the new re-arranged Constitution have been placed in lever arch files entitled “Revised Council Constitution May 2007”. Copies of the new Constitution have been placed in the Members’ Room for inspection and to give Members the opportunity to question officers in advance. Copies will be available in the Council Chamber at the Annual Council meeting. Because of the size of the complete Constitution, it was not thought practicable to distribute the full document with the Council agenda papers.
- 8.7 The new Constitution contains (i) Parts that are recommended for revision now (ii) Parts that will be reviewed in the near future and (iii) Parts that are not being recommended for change at all. This is explained in more detail below.
- 8.8 The Constitution is a very lengthy document and in order to make reasonable progress it was agreed that certain Parts of it should be incorporated into the revised Constitution without detailed consideration. These are Parts that have

either been individually amended recently or that are considered satisfactory as they stand. They are:

- (i) Part 4.H – Call-In Procedure Rules. Reviewed and amended in 2005-06.
- (ii) Part 4.I – Finance Procedure Rules. Reviewed and amended in 2006.
- (iii) Part 4.J – Contract Procedure Rules. Recently amended in January 2007.
- (iv) Part 4.K – Officer Employment Procedure Rules. These are mainly statutory.
- (v) Part 5.A – The Members’ Code of Conduct. The Code has been subject to a recent national consultation and review. There is a separate report about this on the agenda for this Annual Council meeting.
- (vi) Part 5.B – Protocol on Member/Officer Relations. No changes needed.
- (vii) Part 5.D – Protocol for Decision-Making. No changes needed.
- (viii) Part 6 – Scheme of Members’ Allowances for 2007/08. Already agreed by full Council on 19 March 2007.

8.9 The Council’s Constitution has progressively grown in length and should be edited down to a more reasonable size to make it easier to use. Several Parts are not required to be included in the Constitution and are not relevant to the whole Council. It has been agreed that they should be procedural protocols of the relevant Committee/body or included within the Ethical Governance provisions on the Council’s website. These Parts to be excluded from the new Constitution are listed below with the Part No. and heading they had in the old Constitution:

- (i) C.4 – Members Code of Conduct for Planning Applications Sub-Committee (PASC)
- (ii) C.5 – Code of Conduct for PASC Members’ Site Visits
- (iii) C.6 – Protocol for Hearing Representations at PASC
- (iv) C.8 – Protocol on the Attendance of Statutory Non-Councillor Members
- (v) C.9 – Local Licensing Procedure Rules for Hearings
- (vi) E.6 – List of Non-Executive Functions (reflects national legislation)
- (vii) K.3 – Officer’s Code of Conduct
- (viii) K.4 – Monitoring Officer Protocol

8.10 The Scheme of Delegation to Officers will be the subject of detailed consideration by the CRWG in the near future to ensure that it properly meets the Council’s needs and to explore whether it could be reduced to a more reasonable size. The Local Choice Functions (Part 3.A) will be reviewed as part of this process.

8.11 The remaining Parts of the Constitution have been subject to detailed consideration in the Review. Some Parts have been re-drafted to make them clearer or to bring them into line with best practice. Where there have been substantive changes these are set out in the new Constitution in text which is both in bold and in italics. All the changes are described in this report under headings for each Part or section of the Constitution.

9. Part 1 – Summary and Explanation

9.1 This is simply a descriptive introduction to the Constitution to make it more accessible to the public. The only substantive change from the old Part A.1 is the paragraph on the Haringey Strategic Partnership (in the middle of page 3 in the new Part 1) which is assuming greater importance in the co-ordination of public services in the Borough.

10. Part 2 - The Articles

- 10.1 The Articles explain the key provisions of the Constitution and they are now to be consolidated near the beginning of the document rather than being scattered in several different places as in the old Constitution.
- 10.2 The changes will be:
- (i) In Article 2 (Members of the Council) – There are new references to Members’ roles as Council representatives on Outside Bodies (Art 2.03 (a)(vii) on page 2) and a clarification of a Committee’s rights to decide to disclose information within its remit which was previously described as “exempt” after Members have considered the advice of the Monitoring Officer (Art 2.03 (b)(ii) on page 3):
 - (ii) In Article 4 (The Full Council) – The Best Value Performance Plan will cease to be a legal requirement so this is deleted from the list of “Overarching Strategies” in Art 4.01 (a) on page 7. The Statement of Licensing Policy and the Statement of Gambling Policy are statutory requirements that have been added to the list of “Major Service Plans” in Art 4.01 (a). The new reference to a resolution not to issue casino premises licences, in Art 4.02 (u) on page 9, is explained in the separate report to this Annual Council meeting on the Gambling Act 2005.
 - (iii) In Article 7 (The Cabinet) – There is an amendment to provide that Cabinet Member portfolios are agreed by Annual Council each year and not fixed in the Constitution (Art 7.04 on page 15).
 - (iv) In Article 8 (Regulatory and other Committees) – In Article 8.03 on page 17 there is a reference to the fact that the old Part E.6 has been omitted from the Constitution. This is because it simply repeats the effect of legislation and is not necessary.
 - (v) In Article 9 (Standards Committee) - Article 9.02 (c) (i) on page 18 now states that the Chair of the Standards Committee is to be selected by the Committee from among the independent members. Though not yet stated in the Article, it is proposed that from May 2008 onwards there will be a majority of independent members on the Committee.
 - (vi) In Article 9 (Standards Committee) – The Committee will have an expanded list of functions in Art 9.03 which will include granting dispensations to Members with prejudicial interests to attend meetings where the Regulations permit (sub-paragraph (f) on page 18) and hearing complaints against co-opted members falling outside the jurisdiction of the Standards Board (sub-paragraph (j) on page 19). Although the functions of the Committee have been re-drafted there are no other substantive changes.
 - (vii) In Article 10 (Area Assemblies) – The former Art 10.03 in the old Part E.5 has been deleted (see page 20 of the new Part 2). This prevented a Member of an Area Assembly speaking or voting at a scrutiny meeting concerning any business of that Area Assembly without an express

dispensation. This rule is now too broad in the light of the revised Members' Code of Conduct.

- (viii) In Article 12 (Officers) – The revised Management Structure to reflect the Council Reshaping at the beginning of 2007 is set out at pages 27 - 28. The statutory officers (Chief Executive, Monitoring Officer and Chief Finance Officer) are no longer tied to specific senior officer posts (Art 12.01 (c) on page 28). This will permit greater flexibility in appointing the statutory officers. The respective functions of the Monitoring Officer and the Head of Local Democracy & Member Services in relation to access to information are clarified in Art 12.03 (g) on page 29.
- (ix) In Article 13 (Decision-Making) – This introduces a new reference to the principles of decision making i.e. due consultation, proportionality, respect for human rights, openness and clarity of aims (Art 13.02 on page 31).
- (x) In Article 15 (Review and Revision of the Constitution) – There is a new provision in Art 15.03 (a) on page 34 that future changes to the Constitution, including the Scheme of Members' Allowances, are to be considered by an informal Member Group convened by the Leader. This Member Group is likely to be similar in its composition to the Members on the Constitution Review Working Group. It will take over this function from the General Purposes Committee but the decision to formally adopt any amendments to the Constitution must still be taken by all Members at full Council on the recommendation of the Member Group and with the advice of the Monitoring Officer.

11 Part 3, Section A – Local Choice Functions

- 11.1 The Local Choice Functions are a list of functions, prescribed in Regulations, where each Council has a choice as to whether they are to be exercised by the executive side (Cabinet) or by the non-executive side (Council and Committees) or delegated to officers. They are in Part F.2 of the old Constitution. This part of the Constitution remains unchanged but will be reviewed together with the Scheme of Delegation to Officers.

12. Part 3, Section B – Budget & Policy Framework Schedule

- 12.1 This section is Part F.6 in the old Constitution and it mirrors Article 4.01 (a) on the Policy Framework in Part 2 of the new Constitution. The only changes are those already described above for Art 4.01 (a) in paragraph 10.2 (ii) of this report.

13. Part 3, Section C – Terms of Reference: Full Council and Non-Executive Bodies

- 13.1 These are in the old Constitution as Part E.7. The changes will be:
 - (i) The functions of the full Council will include the power to resolve not to issue any casino premises licences in the next three years (paragraph (u) on page

- 2). This is a consequence of the Gambling Act 2005 and is explained in the separate report on the implementation of that Act to this Annual Council.
- (ii) The General Purposes Committee (GPC) ceases to have the function of determining planning decisions referred from the Planning Applications Sub-Committee by at least 2 Planning Members (paragraph 1 (b) on page 3). This is a power that has rarely been exercised in recent years. It does not appear that any other London Borough gives power to confirm planning decisions to a Committee not regularly exercising planning functions.
 - (iii) GPC's licensing functions are amended to make it clear that GPC is only concerned with those non-executive functions outside the remit of the Licensing Committee and its Sub-Committees, for example, street trading (paragraph 1 (b) (i) on pages 3 to 4). The only exception is the power of GPC to make recommendations on the Statement of Licensing Policy to full Council; a function that must formally be exercised by a non-executive body but not the Licensing Committee.
 - (iv) In sub-paragraph (ii) on page 4 there is clarification that GPC's Health & Safety at Work functions relate to the regulation of other employers in the Borough not to the Council's own Health & Safety duties to its staff.
 - (v) In sub-paragraph (iii) on page 4 there is clarification that GPC has all the non-executive functions relating to Elections except the approval of pilot schemes for local elections which is reserved to the full Council.
 - (vi) In sub-paragraph (iv) on page 4 the current "overlap" in Pensions functions between GPC and the Pensions Panel is to be ended. GPC will keep only the role of the "Employing Authority" determining the Council's policies on retirement and deciding the entitlement of individual senior officers who retire early or are made redundant. The role of "Administering Authority" i.e. the monitoring and management of the Pensions fund will go to the new Pensions Committee (see sub-paragraph (xvi) on page 8 below)
 - (vii) In sub-paragraph (v) on page 4 the remit of GPC is clarified to exclude non-executive functions, under Paragraph I of the Regulations, which this Council has placed within the remit of full Council, for example, the power to make Contract Standing Orders.
 - (viii) In sub-sub-paragraph (B) on page 4 it is stated that GPC will continue to monitor the proper administration of the Council's financial affairs, except where this is within the remit of the Audit Committee. But the amendment makes clear that the appointment (or dismissal) of the Chief Finance (section 151) Officer is the task of an ad hoc Panel set up by GPC under the statutory Officer Employment Procedure Rules. The same point is made in sub-paragraph (D) lower down on page 4 in relation to all Chief and Deputy Chief Officers.
 - (ix) Following sub-sub-paragraph (C) on page 4 there is reference to the deletion of GPC's powers to appoint "proper officers" under local government legislation. The appointment of a proper officer would be an amendment to the Constitution that should stay with full Council.

- (x) In sub-sub-paragraph (E) on page 5 the powers of GPC to provide redress in cases of maladministration are extended to include benefits other than cash payments, as allowed for in the legislation.
- (xi) In paragraph (d) on page 5 there is reference to GPC's powers to make recommendations to full Council on the Council's functions but clarification that this does not include amendments to the Constitution and that the Council retains the right to make valid decisions even without a recommendation from GPC.
- (xii) The changes to the terms of reference of the Standards Committee on pages 6-7 have been described above in paragraph 10.2 (vi) of this report.
- (xiii) The terms of reference of the Remuneration Committee are not being changed but at the end, on page 8, there is a new reference to the membership of this Committee which is to include the Leader, Leader of the Opposition and the Chairs of General Purposes Committee (GPC) and Overview & Scrutiny Committee. There is also a short reference to the role of GPC in establishing Appointments Panels.
- (xiv) The Licensing Committee and its Sub-Committees will take on additional functions under the Gambling Act 2005 as shown on pages 8-9 and 16-18. These are explained in the separate report to this Annual Council meeting on the Gambling Act 2005.
- (xv) The Audit Committee's terms of reference on pages 9-12 have several amendments to bring them into line with CIPFA guidance and best practice. There are no significant change to the Committee's substantive functions.
- (xvi) The Planning Applications Sub-Committee will become a full Committee of the Council and be renamed "The Planning Committee". References to the Local Development Framework, which will progressively replace the Unitary Development Plan, have been added at paragraphs (d), (e) and (f) on pages 12 and 13.
- (xvii) The Pensions Panel will also become a full Committee of the Council and be renamed "The Pensions Committee" The Pensions Committee will be limited to the functions it already exercises in practice as the "Administering Authority" i.e. responsibility for the management of the Haringey Pension Fund and admitting other bodies associated with the Council to the Fund (pages 13-14).
- (xviii) The terms of reference of the Scrutiny Review Panels are brought into line with the procedure prescribed in Part 4.G. Provision is now made in paragraph 2.1 (c) on page 16 for the report of a Scrutiny Review Panel, once approved by Overview and Scrutiny Committee, to be referred to the Cabinet in the case of executive functions and to full Council in the case of non-executive functions.

14. Part 3, Section D – Terms of Reference of the Cabinet

14.1 These are in the old Constitution as Part H.4. The main changes will be:

- (i) To rename “The Executive” as “The Cabinet” and to apply this change to the individual Cabinet Members, Cabinet Committees and other matters as appropriate.
- (ii) To delete fixed Cabinet portfolios from the Constitution (paragraph 2.1 on page 1). They will be agreed and may, within legal limits, be varied at each Annual Council.
- (iii) To give the Cabinet a discretion, but not a duty, to appoint Assistant Cabinet Members (paragraph 3.1 on page 2).
- (iv) New provisions, under Section 2 on page 3, to clarify that Cabinet Committees can operate with immediate effect once set up by the Cabinet without requiring confirmation by the full Council. All decision-making Committees would continue in operation until expressly abolished by the Cabinet. All advisory or consultative Committees would cease to exist by the first Cabinet meeting in the next municipal year (usually in June) unless expressly renewed then.
- (v) All advisory and consultative Cabinet Committees would be removed from listing in the Constitution because they are subject to relatively frequent variation. The bodies themselves would continue to operate as proposed in (iv) above (see the bottom of page 4 and top of page 5).

15. Part 3, Section E - Scheme of Delegation to Officers – Introduction and Basic Rules

- 15.1 The Scheme of Delegation to Officers, which is Part F.7 in the old Constitution, has not yet been reviewed or amended. The first section of the Scheme sets out its general principles and rules of operation. It is appropriate to include this at the end of Part 3 of the Constitution which covers “Responsibility for Functions”. The detailed delegations to each Directorate are likely to be regularly varied and updated and so these will be more appropriately located in a separate Appendix at the end of the Constitution.

16. Part 4, Section A – Council Procedure Rules

- 16.1 These are in the old Constitution as Part E.8, Part 1. The changes will be:
- (i) Amending the order of business at the Annual Meeting to add apologies for absence, late or urgent business, declarations of Members’ interests, notification of the Deputy Mayor’s appointment, votes of thanks to the retiring Mayor/Deputy Mayor and communications from the Mayor (CSO 1.1 (iii) to (ix) on page 1). Also added to the order of business will be the appointment of the Audit and Licensing Committees, and the Chairs, Vice Chairs and substitute Members of all non-executive Committees (CSO 1.1 (xii) on page 2). The terms of reference of Committees and the Scheme of Delegation to Officers will be “confirmed” rather than “agreed” since changes would not usually be reported to Annual Council (CSO 1.1 (xii) & (xv)).
 - (ii) Amending the order of business at Ordinary Meetings to add apologies for absence, urgent statutory business and opposition business (CSO 2.1 (ii), (iii) & (xii) on pages 2 - 3).

- (iii) A new rule will be added against altering the order of the first 5 items of business at Ordinary Meetings of the Council (CSO 2.2 on page 3). The order of other business may be varied by the Mayor in consultation with the Leader or by a resolution at the meeting.
- (iv) There will be a quicker procedure for the Mayor to establish if a quorum is present. The bell will ring for 30 seconds rather than the meeting adjourning for 3 minutes (CSO 6 on page 4).
- (v) A small change will be made to the power of the Mayor to extend the ending of meetings at 10 p.m. This will now include an extension to allow for the time taken by deputations (CSO 7.1 on page 4).
- (vi) There will be a new provision to clarify how outstanding business is dealt with at 10 p.m. The item under discussion can be completed. The Mayor will put all outstanding reports forward for adoption and each item will be voted on without debate. Individual Member's motions would be referred to the relevant Committee or The Executive. Business not dealt with under these provisions would be considered at a time and date fixed by the Mayor (CSO 7.2 – on page 5).
- (vii) Questions may be put by members of the public to Council representatives on outside bodies. For open debates questions would be at the Mayor's discretion (CSO 8.1 on pages 5-6). A list of valid questions from the public will be circulated (CSO 8.3 on page 6). There would be a new provision for the Mayor to ask a question on behalf of an absent questioner (CSO 8.5 on page 6). The Mayor may decide to allow discussion to take place on any question but otherwise there will be no discussion (CSO 8.7 on page 7).
- (viii) Members will be able to question the Council's representative on an outside body (CSO 9.2 on page 7). The grounds for the Monitoring Officer to reject a question remain the same but if a Member's question is rejected the questioner will receive written reasons for this (CSO 9.4 on page 8).
- (ix) The number of questions to be asked and answered orally will be limited to 8, not 10 as before. Three minutes would be allocated to answer the main question and 2 minutes to answer any supplementaries (CSO 9.5 (a) on page 8). All other questions would be answered in writing as before and the overall time limit for oral questions and answers remains 30 minutes.
- (x) All questions and answers must be clearly recognisable as such and not a speech or a statement (CSO 9.5 (c)). The right of each Member to ask one question for written answer in addition to those for oral answer is clarified. There will be a new provision that all questions should be confined to one substantive topic (CSO 9.5 (d)). This is intended to discourage the practice of asking multi-part questions at Council.
- (xi) The second supplementary question will be specifically available to the other party from the original questioner but, if not taken up, the question reverts to the party of the original questioner (CSO 9.7 on page 9).

- (xii) No deputations would be allowed from political parties nor on the paper-head of a party (CSO 10.2 on page 9). The Mayor will consult the Leader in deciding whether to admit a Deputation and the Leader will have regard to the business on the agenda (CSO 10.3). The deputation leader must be notified in writing as soon as possible if the deputation is not being taken at full Council (CSO 10.4 on page 9).
- (xiii) Any Member may move that a Deputation be not received or be referred to another Council body (CSO 10.8 on page 10). The relevant Cabinet Member will have a right to respond to a Deputation or to provide a response at the next ordinary meeting which will be copied to the deputation leader (CSOs 10.10 and 10.11).
- (xiv) Petitions will be treated differently from Deputations i.e. all are to be received without debate and answers are to be provided at the next ordinary meeting (CSO 11.1 on page 10).
- (xv) There will be a new CSO allowing the Opposition to raise one item of business of its choice at each meeting provided this has been notified in writing to Member Services 6 clear days in advance (draft CSO 12 on page 11). Fifteen minutes will be allowed to deal with opposition business. An item of opposition business can be rejected by the Monitoring Officer on similar grounds to those applying to Council questions and in that event the Leader of the Opposition would receive written reasons for rejection.
- (xvi) There will be new rules for Motions on Notice. Written notice of every motion is to be available for inspection after receipt (CSO 13.1 on page 11). A motion on the Summons that is not moved is to be treated as withdrawn (CSO 13.4 on page 11). The Mayor, in consultation with the Chief Executive or the Monitoring Officer, will have power to rule out of order motions that breach Council Procedure Rules or risk defamation (CSO 13.5 on page 12).
- (xvii) There will be changes to the rules on the length of speeches. At any Council meeting the Leader, a Cabinet Member presenting a report, the mover of a motion and a Member replying to a motion may all speak for up to 5 minutes (CSO 15.6 (b) on page 14).
- (xviii) At Annual Council, the Budget Setting Meeting and the State of Borough Debate the Leader will have 15 minutes to deliver the main speech. The Leader of the Opposition will have 7 minutes to reply and the Leader 3 minutes to respond in turn. The old limits are 7 minutes for a proposer, 5 minutes for a seconder and otherwise 3 minutes (CSO 15.6 (c) on page 14).
- (xix) Any proposed amendment to a motion or recommendation to Council must be submitted by 10.00 a.m. on the day of the meeting. If such proposed amendments are received there will be a new requirement for the Head of Local Democracy & Member Services to notify Group Leaders by telephone or email as soon as possible and in any event before 2.00 p.m. (CSO 15.8 (b) on page 15).

- (xx) There will be new powers to hold Open Sessions with Partner Organisations as part of the State of the Borough debate. This may include holding workshops or other events before or during the debate (CSO 16.1 on page 18).
- (xxi) There will be a new provision that a Committee can recommend to full Council, that a Council decision taken in the last 6 months be rescinded or varied (CSO 17.3 on page 18).
- (xxii) The Chair of Standards Committee has the right to submit a written report on the Committee's proceedings to Council at least once a year. From now the Chair of the Overview and Scrutiny Committee will have the same right (CSO 20.4 on page 20).
- (xxiii) The requirement that Members comply with the Code of Conduct at all times will be expressly stated with provision for reminders from the Mayor when appropriate (CSO 23.1 on page 21).
- (xxiv) The rule that Members must stand to address the meeting continues but qualified by an exception for any Member physically unable to do so (CSO 23.2 on page 21).
- (xxv) The requirement that Members declare personal interests at the start of the meeting or once the interest becomes apparent will be expressly stated (CSO 25 on page 22). If the interest is prejudicial the member must withdraw from the Chamber for the relevant item unless the Member is present for a purpose permitted under the revised Code of Conduct or the Member has obtained a dispensation.
- (xxvi) There will be a new power for the Mayor to alter the date or time of a Council meeting when considered necessary in consultation with Leader and provided due notice can be given (CSO 27 on page 23).
- (xxvii) Notice of any interest in a Council contract shall be given by officers to the Monitoring Officer not the Chief Executive as before (CSO 28 on page 23).
- (xxviii) There will be a new provision for the Mayor to permit officers to give advice to the Council meeting when appropriate (CSO 29 on page 23).
- (xxix) There will be new provision to provide for open sessions and debates between Members and partner organisations on matters of common interest. Such meetings may be held outside Council premises but the Council's rules of debate would apply (CSO 30.1 on page 23). The State of the Borough debate may take the form of an Open Session (CSO 30.2).
- (xxx) There is a clarification to the rules on votes of no confidence in a Committee Chair to provide expressly that the Vice Chair will assume the role of Chair in the event of such a vote (CSO 31.5 on page 24).
- (xxxi) There is an addition to the Mayor's powers on the interpretation of Council Procedure Rules to make it clear that the Mayor should act on the advice of the Chief Executive or the Monitoring Officer and that the power only applies beyond challenge at the Council meeting (CSO 33 on page 24).

17 Part 4, Section B - Committee Procedure Rules

17.1 These are in the old Constitution as Part E.8, Part 2. The changes will be:

- (i) There will be a change to make it clear that these Procedure Rules apply to the Licensing Committee but not when the Licensing Committee (or its Sub-Committees) are conducting a hearing. The rules on Substitute Members will apply in all cases (Rules 6 and 11 on pages 1 - 2).
- (ii) There will be an extension and clarification of the rules on the election of a temporary Chair when the usual Chair and Deputy Chair are both absent. Each proposal to elect a temporary Chair is to be voted upon in turn. The Head of Local Democracy & Member Services or their representative at the meeting will have the power to interpret the rules. Until a temporary Chair is elected no business can be transacted (Rule 23 on page 4).
- (iii) Under the old Constitution the decisions of the Planning Applications Sub-Committee could be delayed pending confirmation or rejection by the General Purposes Committee. This rule (CSO 35 (c) in Part E.8 of the old Constitution) is to be deleted (see under Rule 28 (b) of the new Constitution on page 5).
- (iv) The Council Procedure Rules on Deputations and Petitions will apply to Committees and Sub-Committees with appropriate modifications. The matter addressed must fall within the Committee's terms of reference. (Rule 29.10 on page 6).
- (v) The rule that a Member can attend the public part of any meeting, even if not an appointed Member of that body, will continue (Rule 46 on page 8). There will be a new requirement in this Rule that a Member intending to attend or address a meeting in these circumstances should give advance written notice to the Chair preferably before-hand but in any event as soon as the Member arrives at the meeting. Members will not be required to fill in any form used by the public to request permission to speak.
- (vi) There would be a clearer statement that Members, other than those appointed to the relevant Panel, should not attend meetings affecting specific individuals such as Appointments and Appeals Panels (Rule 47 on page 8).

18. Part 4, Section C - Miscellaneous Standing Orders

18.1 These are in the old Constitution as Part E.8, Parts 3 and 4. The changes will be:

- (i) To the rules on Confidentiality of Reports and Members' Rights to Inspect Documents. In order to avoid duplication, the full categories of exempt and confidential information in Schedule 12A of the Local Government Act 1972 are not set out here nor are the rules about the rights of individual Members. Instead, reference is made to the Access to Information Rules in Part 4 of the Constitution where these matters are fully explained. This affects Rules 4(1) & (2) and Rule 5(1) all on page 3).

- (ii) To the Rule on Matters Affecting Named Individuals or Employees. If an issue arises concerning a named employee or former employee the meeting must first decide whether to exclude the press and public and the advice of the Monitoring Officer to be considered (Rule 9(1) on page 5).
- (iii) In the event of a Member wishing to criticise an individual officer at a meeting Members will now be required to follow the provisions of the Protocol on Member/Officer Relations (Rule 9(3)). This requires a complaint against an officer to be raised confidentially with the relevant Chief Officer. However, this does not prevent Members asking officers proper questions. More serious allegations of impropriety, fraud and crime are to be raised confidentially with the Chief Executive under the Whistleblowing Policy (Rule 9(4) on page 5).

19. Part 4, Section D - Access to Information Procedure Rules

19.1 These are in the old Constitution as Part D.2. The changes will be:

- (i) Adding two new introductory paragraphs explaining the scope of these rules and stating that they do not affect the additional statutory rights of the public, for example, under the Freedom of Information Act 2000 (paragraphs 1 and 2 on page 1).
- (ii) A re-statement of the rules on confidential and exempt information that incorporates the revised categories of “exempt” information which came into force in March 2006 (paragraph 10.4 on pages 3 and 4). The main substantive change then was the introduction of the “public interest test” when the Monitoring Officer decides whether information should be disclosed or not (see paragraph 10.4 under Part 2 at sub-paragraph (c) on page 4).
- (iii) Revised paragraphs that explain the application of these Access to Information Procedure Rules to the Cabinet and its decisions (paragraph 12 on page 5). Meetings of the Cabinet and its Committees will comply with the Rules whether or not the items of business are key decisions. The Rules do not apply in cases where the statutory urgency procedures are used or where the principal purpose of a meeting is for officers to brief Members.
- (iv) A new power for the Overview and Scrutiny Committee (OSC) to require a report by the Cabinet to full Council when OSC thinks that a key decision was not properly taken in accordance with the relevant rules (paragraphs 17.1 and 17.2 on pages 8 - 9).
- (v) A new provision for the Chair and Deputy Chair of OSC to have copies of all agendas and reports on matters relevant to current scrutiny reviews at the same time as these are sent to Cabinet Members. Other OSC Members can have such papers on request (paragraph 21.3 on page 11).

20. Part 4, Section E - Budget and Policy Framework Procedure Rules

20.1 These are in the old Constitution as Part F.3. The essential provisions are a legal requirement in every Council Constitution under the Local Authorities’ “Standing

Orders Regulations” 2001/3384. The changes will be:

- (i) A new simplified section on the process for developing the budget/policy framework each year (paragraphs 2.1 to 2.9 on pages 1 & 2). The essential procedures remain the same.
- (ii) A new paragraph explaining “virements” in accordance with Financial Regulations (paragraph 7 on page 6). Virement is the ability to meet increased expenditure or reduced income under one expenditure vote from savings or increased income under another expenditure vote.
- (iii) A new clarified paragraph on “In-Year Changes to the Policy Framework” (paragraph 8 on page 6).

21. Part 4, Section F - Cabinet Procedure Rules

21.1 These are in the old Constitution as Part H.2. The changes will be:

- (i) The Council’s Procedure Rules are to apply where the Cabinet Procedure Rules are silent unless this would be clearly inconsistent with Cabinet functions (paragraph 1.1 on page 1).
- (ii) The Cabinet Procedure Rules now state expressly that individual Cabinet Members can take “key decisions” when these are allocated to them in the Forward Plan (paragraph 1.3(a) on page 1). The Cabinet may delegate specific decisions to individual Cabinet Members or Cabinet Committees.
- (iii) There is a new “safety net” provision to ensure that a key decision, which would otherwise have gone to the Cabinet, can be taken when it is genuinely urgent and the Leader is not available. The Deputy Leader would be able exercise this power and, in her/his absence, the Chief Executive could do so in consultation with the relevant Cabinet Member. The power would be subject to the existing safeguards i.e. the consent of the Chair of Overview and Scrutiny Committee (paragraph 1.3 (b),(c) & (d) on page 2).
- (iv) Simplified rules for the location and timing of Cabinet meetings and for public/media access to meetings (paragraphs 1.7 and 1.8 on page 3). The Cabinet will meet at 7.30 p.m. in the Civic Centre.
- (v) There is clarification that the Cabinet will take the majority of decisions on “executive” functions although some may be allocated to individual Cabinet Members or Committees (paragraph 1.10 on page 3)
- (vi) Decisions delegated to a Cabinet Committee, an individual Cabinet Member or an officer are to be subject to the same rules that apply to the Cabinet as a whole (paragraph 1.10(b) on page 4).
- (vii) The existing rules permit any Member of the Council (not only Cabinet Members) and the Overview and Scrutiny Committee to place items on the next Cabinet agenda. There would be changes to remove the fixed limit on the

number of such items. Admitting these items to the agenda would depend on the amount of business already on it (paragraphs 2.4 (b) and (c) on page 5).

- (viii) The Chief Executive, in addition to the Monitoring Officer and Chief Finance Officer, may include an item for consideration on the Cabinet agenda and may convene a meeting (paragraph 2.4 (d) on page 5).
- (ix) To amend the rule about Substitutes at Cabinet meetings to reflect the role of assistant Cabinet Members who can speak with the Leader's permission but not vote. Otherwise non-Cabinet Members cannot act as substitutes (paragraph 2.5 (a) on page 6).
- (x) To amend the rule giving the Leader/Chair a casting vote in the event of an initial tied vote, by clarifying that the Leader can exercise the casting vote whether or not he/she had voted in the first instance (paragraph 2.6 (f) on page 6).

22. Part 4, Section G - Overview and Scrutiny Procedure Rules

22.1 These are in the old Constitution as Part I.2. The changes will be:

- (i) New powers for Overview and Scrutiny Committee (OSC) to monitor the effectiveness of both the Council's Forward Plan and its Call-In procedures (paragraphs 1.2 (vi) and (x) on pages 1 - 2).
- (ii) A new requirement for Members on OSC or a Scrutiny Review Panel to declare the existence and nature of the "party whip", if there is one, in relation to a matter under scrutiny (paragraph 17 on page 11).

23. Part 4, Section H – Call-In Procedure Rules

23.1 These are in the old Constitution as Part I.3. They were reviewed in 2005-06. They were not considered to need further Review in the recent process and they remain unchanged.

24. Part 4, Section I – Finance Procedure Rules

24.1 These are in the old Constitution as Part G.2. They were reviewed in 2006 as part of the ALMO arrangements. They were not considered to need further Review in the recent process and they remain unchanged except for the replacement of references to the Director of Finance by references to the "section 151 officer" i.e. the statutory Chief Finance Officer.

25. Part 4, Section J – Contract Procedure Rules

25.1 These are in the old Constitution as Part G.3 and are often known as Contract Standing Orders. They were subject to a comprehensive review and amendments adopted by full Council on 8 January 2007. They remain unchanged except for the amended definition of "key decision" described below in paragraph 29.3 of this report (paragraph 11.04 on page 12).

26. Part 4, Section K – Officer Employment Procedure Rules

26.1 These are in the old Constitution as Part K.2 and the essential terms are mandatory for all Councils under the Local Authorities' "Standing Orders Regulations" 2001/3384. They have not been reviewed and remain unchanged.

27. Part 5, Section A – Members' Code of Conduct

27.1 This is in the old Constitution as Part C.2. Following the national consultation and review, the Government has issued the revised Code of Conduct which all Councils will be required to adopt within 6 months from 3 May 2007. The revised Code is now set out in Part 5, Section A together with the other Council-wide Codes and Protocols. This is the subject of a separate report to this Annual Council meeting.

28. Part 5, Section B – Protocol for Member/Officer Relations

28.1 This is in the old Constitution as Part C.3. It was not considered to require review and it remains unchanged.

29. Part 5, Section C – Protocol for Key Decisions

29.1 This is in the old Constitution as Part F.4. There is a legal requirement to list all likely future key decisions in the Council's Forward Plan.

29.2 There is a two part statutory description of a key decision as one which is likely: (a) to result in expenditure or savings which are significant having regard to the Council's budget for the relevant Service or function, or (b) to be significant in terms of its effects on communities living or working in two or more Wards. It is open to each Council to give a more precise definition to the financial limits in (a) and/or the community impact criteria in (b).

29.3 In the old Constitution the financial limit for the award of contracts and expenditure was £3 million. This limit will now be reduced to £500,000 (paragraph 4 on page 1). This means that any expenditure or contract valued at £500,000 or above will be a "key decision". This limit is more in line with the financial limits for key decisions adopted by other London Boroughs.

29.4 The only exceptions will be for spot contracts to secure care services and contracts for the supply of energy to the Council. Contracts in these two categories usually require urgent decisions under delegated powers by officers and the details are insufficiently predictable for ready inclusion on the Forward Plan. There is already a requirement for all awards of spot contracts to be reported to the relevant Cabinet Member every month and to the Cabinet meeting every quarter. Any energy supply contract above this limit should be reported to the Cabinet every month under existing arrangements.

30. Part 5, Section D - Protocol for Decision-Making

30.1 This is in the old Constitution as Part F.5. It was not considered to require review and it remains unchanged.

31. Part 6 – Scheme of Members' Allowances

31.1 This is in the old Constitution as Part C.7. The Scheme was thoroughly reviewed and amended by full Council on 13 November 2006 after the report of the independent Panel on the remuneration of London Councillors. The Scheme for 2007/08 was made by full Council on 19 March 2007 with only minor amendments.

32. Appendix A – Cabinet Portfolios: Appendix B – Other Member Appointments

32.1 It is a requirement that the portfolios be included in the Council's Constitution together with the names of the Cabinet Members and the other Members appointed to Committees and Sub-Committees. Since these matters are liable to change every year, it is preferable to place the details in appendices at the end of the Constitution so that they can readily be replaced.

33. Appendix C – CEMB Structure Chart

33.1 This is a chart that helps describe the management structure of the Council's first tier officers. It is a requirement that the Constitution includes information about the officer management structure.

34. Appendix D – Senior Management Structure Schedule

34.1 The Senior Management Structure Schedule was at the end of Part K.5 in the old Constitution. It is referred to in the Scheme of Delegation to Officers and, as it is only 3 pages, it has been redrafted to reflect the Council Reshaping agreed by full Council on 13 November 2006.

35. Appendix E – Details of the Delegations to Officers

35.1 The Scheme of Delegation to Officers was in Part F.7 of the old Constitution. It was amended to reflect the Council "Reshaping" agreed by full Council on 13 November 2006. Because of the impending Review, and the very large scale of the task, it has not been practicable to re-draft the whole Scheme in detail before Annual Council. So the amendments required by the Reshaping have been put into effect through the much shorter 6 page Council Reshaping Schedule. This is set out at the start of Appendix E in the new Constitution and also at Appendix 2 to this report.

35.2 The Council Reshaping Schedule re-allocates the existing powers delegated to officers to the new Directorates and post holders in a general way without repeating them all in detail. The Schedule was first agreed at the beginning of January 2007 by the Chief Executive under powers delegated to her by full Council.

35.3 This Council Reshaping Schedule has now been amended to reflect the decision of full Council on 19 February 2007 to appoint the Head of Corporate Finance to be Acting Director of Finance and statutory Chief Finance (section 151) Officer.

35.4 The Council Reshaping Schedule will only be part of the Constitution temporarily until the review of the Scheme of Delegation has been completed. Until that time

the old Part F.7 has to be included in Appendix E to show the details of the Scheme.

36. Recommendations

36.1 That Members resolve to:

- (i) re-arrange the Council's Constitution so that it is in the "modular format" set out in Appendix 1 to this report.
- (ii) adopt the Council Reshaping Schedule set out in Appendix 2 to this report as a part of the Constitution until the existing Scheme of Delegation to Officers is revised and adopted after the forthcoming Review.
- (iii) adopt the documents contained in the lever arch files entitled "Revised Council Constitution May 2007", already made available to Members, as the Constitution of Haringey Council under section 37 of the Local Government Act 2000 with effect after 21 May 2007.

37. Equalities Implications

37.1 There are no specific equalities implications.

38. Appendices to this Report

- (i) Appendix 1 – Contents of the Council's new Constitution with a comparison of the corresponding parts in the old Constitution
- (ii) Appendix 2 – Council Reshaping Schedule