

Item No. 7.3	Classification: Open	Date: 30 November 2016	Meeting Name: Council Assembly
Report title:		Constitutional Changes 2016/2017 - Overview and Scrutiny Procedure Rules and Communication Protocol (guidance on using social media)	
Ward(s) or groups affected:		All	
From:		Constitutional Steering Panel	

That council assembly considers the recommendations of the constitutional steering panel in respect of the proposals set out in this report.

RECOMMENDATIONS

Overview and Scrutiny Procedure Rules

1. That the proposed changes to overview and scrutiny procedure rules be agreed (see Appendix 1).

Communication Protocol

2. That the proposed change to the communications protocol (see Appendix 2) to include a link to the Monitoring Officer's guidance on using social media set out in Appendix 3 be agreed.

Cabinet Procedure Rules

3. That the revised Cabinet Procedure Rules be recommended to council assembly for adoption (see paragraph 17 below).

Consequential changes

4. That the proper constitutional officer be authorised to make any necessary consequential changes to the constitution as a result of the above.

BACKGROUND INFORMATION

5. In accordance with Article 1.5 of the constitution, any changes to the constitution are considered by constitutional steering panel, which then recommends changes to council assembly. Changes to the constitution are generally agreed by council assembly, unless another body or individual is authorised to do so – see Article 1.5(b). Changes to the role and functions of ordinary committees and procedure rules are reserved to council assembly. The constitutional steering panel considered the proposals and agreed to recommend the changes contained within this report to council assembly.

Changes to the constitution are shown as follows:

- Additions (shown as underlined)
- Deletions (shown with a ~~strikethrough~~)

KEY ISSUES FOR CONSIDERATION

6. This report considers three constitutional changes:
 1. Overview and Scrutiny Procedure Rules
 2. Communication Protocol
 3. Cabinet Procedure Rules

Overview and scrutiny procedure rules

7. The overview and scrutiny procedure rules are being revised in order to provide clarification on some clauses within the rules and better reflect current circumstances.
8. A revised overview and scrutiny procedure rules is attached as Appendix 1. The appendix is recommended for approval. The key changes are summarised below:
 - 1) The conduct of all committees including overview and scrutiny committee is governed by committee procedure rules.
 - 2) Potential impact of proportionality on the composition of the committee depending on the number of sub-committee chairs and size of the overview and scrutiny committee.
 - 3) The role of scrutinising the crime and disorder function of the council can be undertaken by the committee or one of its sub-committees.
 - 4) It is recommended that the annual report of the committee is circulated to all councillors rather than a report to council assembly. This reflects a consistent approach with other committees and the move to less paper on council assembly agenda.
 - 5) Updated clause to reflect that councillor call for action no longer applies.
 - 6) A two month period for a cabinet member to consider and provide a written response to a committee/sub-committee report.
 - 7) Minor alteration which would allow an individual stand alone proposal to be called-in. Currently the procedure rules refer to a "decision" and this is interpreted as meaning the whole report. In the case of a report which contains a number of individual schemes for decision, currently the whole report would be subject to the call-in provisions. This change would allow more effective decision making.
 - 8) A revised clause to reflect a more reasonable timescale for a decision maker to reconsider their decision and take any necessary advice.
9. Appendix 1 includes more detailed comments on specific changes.

Communication protocol

10. Standards committee on 8 March 2016 agreed that officers look at the feasibility of providing guidance for members in social media and digital services. In view of the increasing use of social media, it was agreed that there was a need for clearer guidance on when a member, whilst using social media, is acting in their capacity as a member, as a campaigner or in their private capacity.
11. The council is increasingly moving towards digital services and councillors are ever more dependent on digital devices and social media. Both these factors potentially have an impact on the role of councillors and in particular the way in which they interact with constituents and also with officers within the council.

12. At the moment there is no specific guidance for members within the code of conduct regarding social media and digital technology.
13. The communication protocol has been amended at paragraph 23 of the communication protocol to include a link to the best practice guideline. The communication protocol is attached as Appendix 2.
14. The guideline for using social media is to help members engage with an audience and also avoid any potential pitfalls and risks of challenge. This is attached as Appendix 3.

Cabinet Procedure Rules

15. A rule change is suggested to clarify that where an executive officer decision does not fall within the definition of a key decision but there is sensitivity and/or a public interest (see cabinet procedure rule 4.2.1 (c) below) then the decision should be recorded and published only, and not be subject to scrutiny call-in period. The regulations governing the recording of this category of officer decisions do not require prior notice period before the decision is taken. The current officer guidance contained on the Source implies that if there is a public interest and it is non-key it should always be treated as if it is a key decision. This is not in the interest of efficient decision making because if a decision was intended to be key it would have been designated as such earlier in the decision making process and listed on the forward plan.

4.1 Who takes the decision

1. *Part 3 of the constitution states that any executive function that is not specially delegated by the leader of the council to the cabinet or an individual cabinet member is deemed to be delegated to the appropriate chief officer in the relevant department. The relevant chief officer as the senior officer in each department will maintain an internal scheme of management setting out individual delegations to officers.*

4.2 Business

1. *The following executive decisions are to be recorded in accordance with regulation 13(4) by officers:*
 - a) *Contract reports that are key decisions*
 - b) *Other key decisions taken by officers, including those decisions which should always be treated as key decisions as set out in the protocol on key decisions*
 - c) *Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.*

16. The change above would necessitate a constitutional change to cabinet procedure rule 4.5 – All other decisions.

4.5 All other decisions

All other decisions delegated to an individual officer in accordance with rule 4.2.1 a) and b) 4.4 and subject to recorded officer decision making in accordance with Regulation 13(4), will be subject to rule 21 of the overview and scrutiny procedure rules. The proper constitutional officer or his/her representative will circulate the decision to all members in accordance with the scrutiny call-in process (see paragraph 21 of the overview and scrutiny procedure rules). Non-key decisions recorded in accordance with rule 4.2 c) will be published on the council's website and are implementable with immediate effect. Such decisions will not be subject to call-in.

Community impact statement

17. The proposals in this report provide additional benefits to the public and the local community and enhance the council's commitment to diversity and fairness.

Resource implications

18. The financial implications within this report seek to have a positive impact on improving the outcomes and delivery of value for money.
19. The constitution is published on the council's website and is available for viewing online. Limited numbers of the constitution are produced in binder form with loose leaf pages and dividers. This means that any additional costs arising from the reproduction of small sections of the constitution are reduced compared to the reprinting of the whole constitution. It is anticipated that the cost can be contained within existing budgets.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Southwark Constitution	160 Tooley Street London SE1 5LX	Constitutional Team 020 7525 7228

APPENDICES

No.	Title
Appendix 1	Revised Overview and Scrutiny Procedure Rules
Appendix 2	Communication Protocol
Appendix 3	Monitoring officer guidance on using social media

AUDIT TRAIL

Lead Officer	Norman Coombe, Head of Corporate Team, Legal Chidilim Agada, Constitutional Manager (Acting)	
Report Author	Chidilim Agada, Constitutional Manager (Acting)	
Version	Final	
Dated	17 November 2016	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments sought	Comments included
Director of Law and Democracy	Yes	Yes (included in the body of the report)
Strategic Director of Finance and Governance	No	Not applicable
Date final report sent to Constitutional Team		17 November 2016