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| <b>Item No.</b>                    | <b>Classification:</b><br>Open | <b>Date:</b><br>14 July 2021  | <b>Meeting Name:</b><br>Council Assembly |
| <b>Report title:</b>               |                                | Constitutional Changes: <ul style="list-style-type: none"> <li>• Climate Emergency and Equality</li> <li>• Council assembly role and functions</li> </ul> |  |
| <b>Ward(s) or groups affected:</b> |                                | All   |  |
| <b>From:</b>                       |                                | Constitutional Steering Panel   |  |

## RECOMMENDATIONS

1. That council assembly agree the proposed changes to the constitution as outlined in paragraphs 11 to 14 and appendices 1 to 4 of this report.

## BACKGROUND INFORMATION

1. The COVID-19 pandemic and the clear impacts of the ongoing climate emergency reaffirm the importance of the commitments laid out in the Borough Plan for the Council to keep minimising environmental and socio-economic impacts on all of our residents, central to all of our decision making.
2. This report puts forward proposals to amend the constitution to reflect new and emerging policy. The proposed amendments will support commitments detailed in the Borough Plan and make specific reference to the following areas:
  - Climate emergency and environmental impact
  - Equality, including socio-economic disadvantage and health inequality impacts

### Climate emergency

3. The council declared a climate emergency in March 2019 and committed to doing everything it can to make the borough carbon neutral by 2030. The council is responsible for approximately 14% of carbon emissions in the borough directly, and has influence over other activities that also cause emissions. The council therefore has a central role in tackling the climate emergency.
4. The council makes formal decisions on a huge range of matters, but currently there is no requirement to consider the carbon impact of the decisions that are taken. This means that the decision maker is not routinely given advice on the climate change impact of a decision and therefore does not routinely consider this when making a decision.

5. Officers are proposing an amendment to the constitution to require all reports for decision to include information about the climate impact of that decision so that decision makers are able to consider it alongside other considerations when making a decision.

### **Equality, including socio-economic disadvantage and health inequalities**

6. The socio-economic duty in Section 1 of the Equality Act 2010 was designed to reduce inequalities of outcome because of socio-economic disadvantage, and to have the greatest impact on those groups who suffer socio-economic disadvantage. It sets out that an authority to which this section applies must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.

### **Council assembly – role and functions (Part 3A of the constitution)**

7. Council assembly agrees the policy framework of the council comprising a number of plans and strategies. Southwark council no longer has some of the plans and strategies currently listed in Part 3A. For example, there is no legal requirement to have a Children and Young People's Plan. The Borough Plan includes children and young people.

### **KEY ISSUES FOR CONSIDERATION**

8. The council makes formal decisions on a huge range of matters, but currently carbon or socio-economic impacts of the decisions are not routinely considered when decisions are taken. This means that the decision maker is not always analysing or being advised on the potential environmental or socio-economic impacts of a decision and therefore do not routinely consider these when making a decision.
9. To strengthen the council's existing commitments, including within our decision-making processes, the constitution can be updated with regards equality, including socio-economic disadvantage and health inequality impacts. Current statutory and policy commitments to the Public Sector Equality Duty 2011 (and as amended 2017) to promote equality and pay due regard to the Duty continues.
10. Given the impact these changes will have in terms of decision-making considerations and scrutiny of those decisions, as well as the council's operation, it is important that care be given to the wording, as it will affect the related advice given to officers in terms of report writing. The constitution however is a living document and the changes can be reviewed in the future, as the practical implications of them are assessed.
11. It is recommended that Article 1.3 of the constitution - principles of decision

making, be amended to require all reports for decision to include information about the climate change and equality (including socio-economic and health) impacts of that decision, so that decision makers are able to consider and balance them alongside other considerations when making a decision (Appendix 1).

12. It is recommended that the Introduction to the constitution be updated to include the council's commitment to climate change impact and equality (Appendix 2).
13. It is recommended that Cabinet's roles and responsibilities as set out in part 3B of the constitution be amended to update the current wording of the equality statement to adequately reflect the Equality Act 2010 and Public Sector Equality Duty 2011 (Appendix 3).
14. It is recommended that Part 3A of the constitution be amended to reflect the current plans and strategies that are agreed by council assembly (Appendix 4).

### **Policy implications**

15. If approved by council assembly, the constitutional change will be enforceable immediately. This will require advice to be issued to officers and for all decisions to consider carbon impact.

### **Community impact statement**

16. Climate change impacts the whole of Southwark, but does not impact everyone equally. Those on lower incomes and who are more vulnerable are disproportionately affected by the impacts of climate change. This change in decision making will mean that the council can consider the impact on these communities when making decisions which help tackle inequality in the borough.
17. The proposal in this report includes the Council's commitment to implement fully its responsibilities under the Equality Act 2010 and Public Sector Equality Duty 2011 (and as amended 2017) and Socio-Economic Duty as outlined in part one of the Equality Act 2010. Of particular note is the Council's responsibility to pay due regard to the Public Sector Equality Duty 2011 and Socio Economic Duty (part one of the Equality Act 2010) in all relevant areas in a proportionate way. This includes strategic decision making, all decision making, services, functions, policies and practices.
18. The proposal in this report provides additional benefits to the public and local community and enhance the council's commitment to equality, diversity and fairness.

### **Resource implications**

19. The council is not providing additional resource for this change to be

implemented. When implemented, the climate change team will need to provide advice to officers across the council on preparing reports. This work will be monitored and advice given to officers to enable report authors to provide advice without the need for a specialist team.

20. 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.

### **Legal implications**

21. Legal comments are incorporated within the report.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Director of Law and Governance**

22. Section 1 of the Localism Act 2011 gives a local authority the power to do anything that individuals generally may do. The proposals to amend the constitution to reflect new and emerging policy is within the scope of this general power.
23. The decision maker should consider the duty placed on the council by section 149 Equality Act 2010, to have due regard in the exercise of any council function to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between people with protected characteristics and those with none. The decision maker should note the policy implications and community impact statement [paragraphs 13 to 16] in the body of the report.
24. The socio-economic duty in Section 1 of the Equality Act 2010 detailed in paragraph 7 and paragraph 16 is not in force.

### **BACKGROUND DOCUMENTS**

| <b>Background Papers</b>   | <b>Held At</b>   | <b>Contact</b>  |
|--|--|---|
| Southwark Constitution:<br><a href="http://moderngov.southwark.gov.uk/ieListMeetings.aspx?CId=425&amp;Year=0">http://moderngov.southwark.gov.uk/ieListMeetings.aspx?CId=425&amp;Year=0</a> | Council Offices,<br>160 Tooley Street,<br>London SE1 2QH | Constitutional Team<br>Email:<br><a href="mailto:constitutional.team@southwark.gov.uk">constitutional.team@southwark.gov.uk</a> |

## APPENDICES

| Appendix   | Title  |
|------------|--|
| Appendix 1 | Article 1.3 of the constitution, with amendments   |
| Appendix 2 | Introduction to the constitution, with amendments  |
| Appendix 3 | Part 3B of the constitution – excerpt from Cabinet's roles and responsibilities, with amendments |
| Appendix 4 | Part 3A of the constitution – excerpt for Council assembly role and functions, with amendments   |

## AUDIT TRAIL

|   |   |  |
|---|---|--|
| <b>Lead Officer</b>   | Chidilim Agada, Head of Constitutional Services/Proper Constitutional Officer   |  |
| <b>Report Author</b>  | Chidilim Agada, Head of Constitutional Services<br>Chris Page, Climate Change Director<br>Suganya Naveenan, Equality and Inclusion Lead Officer |  |
| <b>Version</b>  | Final   |  |
| <b>Dated</b>  | 9 June 2021   |  |
| <b>Key Decision?</b>  | No  |  |
| <b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b> |   |  |
| <b>Officer Title</b>  | <b>Comments Sought</b>  | <b>Comments Included</b>                 |
| Director of Law and Governance  | Yes   | Yes (Included in the body of the report) |
| Strategic Director of Finance and Governance                            | No  | No                                       |
| Cabinet Members   | Yes   | Yes                                      |
| <b>Date final report sent to Constitutional Team</b>                    |   | 9 June 2021                              |