

LONDON BOROUGH OF CAMDEN	WARDS: All
REPORT TITLE: Changes to the Constitution	
REPORT OF: Borough Solicitor	
FOR SUBMISSION TO: Audit and Corporate Governance Committee Council	DATE: 20 th February 2025 3 rd March 2025
<p>SUMMARY OF REPORT:</p> <p>This report details proposed changes to the Constitution for comment and reference to Council for agreement.</p> <p>Local Government Act 1972 – Access to Information</p> <p>No documents that require listing were used in the preparation of this report. The current Constitution of the Council is available on our website at Browse - Constitution - Camden Council.</p> <p>Contact Officer: Andrew Maughan Borough Solicitor Town Hall Judd Street London WC1H 9JE 020 7974 5656 andrew.maughan@camden.gov.uk</p>	
<p>RECOMMENDATIONS:</p> <p>Audit and Corporate Governance Committee is asked</p> <ol style="list-style-type: none"> 1. To comment on the report and the proposals. 2. Recommend to Council that the proposals as detailed in the report or as amended are agreed. <p>Council is asked</p> <ol style="list-style-type: none"> 1. Agree the suggested amendments detailed within the report and reference from Audit and Corporate Governance. 2. Delegate authority to the Borough Solicitor to make all necessary amendments to the Constitution arising from this decision. 	

SIGNED:

A handwritten signature in blue ink, appearing to read "Andrew King".

Borough Solicitor

Date:

7th February 2025

1. Introduction

- 1.1 The report outlines possible changes to the Constitution. It seeks to explain the motivation for each suggested change and then the change itself as it will appear in the Constitution should it be agreed. The Borough Solicitor is charged with keeping the Constitution up to date and it is designed to be, and always has been, a document which develops over time. The changes proposed in this report are suggested by the Borough Solicitor in light of recent experiences in Council and elsewhere and are designed to ensure that meetings run as efficiently as possible and focus on matters over which the Council has some influence and levers. The proposed changes suggested by the Borough Solicitor were informally discussed with the cross party democratic review group prior to the publication of this report.

2. Proposed changes

2.1 Joint Chairs of Scrutiny Committee

Reason

The creation of the Joint Chairs of Scrutiny Committee was intended to foster greater co-operation between chairs of scrutiny committees with regard to both work programming and joint working. It is also the forum to which the Leader's Annual Report is presented. It is, as far as we are aware, a uniquely Camden invention and not something that is required by legislation or guidance. Officers are not convinced that it has worked as intended and it is becoming ever more difficult to arrange the meetings. Having taken soundings from the Chairs of the Scrutiny Committees, the majority are in favour of removing this from our arrangements. One chair was unsure, and one wanted to keep one of the meetings only. The others agreed that we should disband it. There was some interest in how in the future the Leader's report would be received and how it might be scrutinised. In relation to this the following routes are suggested:

- The Leader's Report will be published on the website and therefore subject to public scrutiny.
- Scrutiny Committee Chairs will be written to and asked whether they wish to take the Leader's report to a meeting of their Scrutiny Committee, which the Leader will attend if required. It is envisaged that each scrutiny committee will focus on the parts of the Leader's statement that relate to its terms of reference.
- The Leader will take the report to an appropriate Cabinet meeting for discussion and comment. All Members of the Council will be notified of the meeting at which the Leader's report is to be considered and invited to attend and listen to the discussion. In addition, the Leader has expressed his willingness to take questions from the floor, as well as to invite questions in writing in advance of the meeting which he will endeavour to address at the meeting or in writing later.

In terms of how the Leader's Report is presented, it is worth noting that this is a relatively recent introduction to our reporting cycle. Therefore, how it is presented, where and when will remain under review in order that it might obtain the maximum exposure whilst taking into consideration the existing and ongoing pressures on meeting time.

The Statutory Scrutiny Officer will also regularly check in with all Chairs of Scrutiny Committees with regard to any matters which may be cross cutting and as necessary assist in facilitating any meetings between Chairs that might be helpful.

For information there are no plans to change the annual reporting by Scrutiny Committee Chairs to the Council of their work during the year or the mechanism for other Cabinet Members to report annually to a Scrutiny Committee.

2.2 *Resulting Amendments to the Council Procedure Rules (Part 4(1) of the Constitution)*

The changes in 2.1 can be achieved simply by removing all reference to the Joint Chairs of Scrutiny Committee in the Constitution. The Cabinet rules give the Leader the discretion to bring whatever reports they think fit to Cabinet so no amendment or addition is required in respect of their annual report coming to Cabinet.

2.3 **Oral Questions at Council**

Reason

In the past, full and detailed questions to be asked at Council were submitted in writing in advance and detailed answers were then provided at the meeting. Members across a number of administrations had got into the habit of reading out in full very detailed questions, after which Cabinet Members read out lengthy replies often based on officer briefings. This practice at times appeared to lack any spontaneity and perhaps lacked any real element of a political exchange of views. Consequently, this was replaced several years ago with a system where Members must now provide advance notice of only the general subject area on which they intend to ask a question. This has arguably led to a richer exchange with a significant element of spontaneity and with some testing of the Cabinet Member's knowledge of the brief. However, it has also led at times to Cabinet Members needing to follow up in writing when asked a detailed question which is either only tangentially related to the subject of which advance notice was given or which requires such a detailed reply that no Cabinet Member could reasonably expect to have that knowledge to hand. It is therefore suggested that more information on the precise subject matter of the question is given in advance. This does not need to be exact but will identify the subject with a precision that allows adequate preparation by the Cabinet Member and will hopefully reduce the need for follow up. It will also assist in ensuring that the correct Cabinet Member is identified to answer the question.

For example

“Concerning repairs to Leaseholder Properties” – would be rejected

“Concerning repairs to lifts in Leaseholder Properties” – would be accepted

It is appreciated that there is a significant amount of judgement at play here and it will be impossible to get this balance right every time. To provide some degree of objectivity, it is suggested that the Borough Solicitor is the arbiter of what is an adequate level of detail, relying on the good will of members in seeking to find a balance. He will seek to err on the side of allowing questions, rejecting them only when in his judgement sensible preparation and therefore the chances of an answer having any real specificity is impossible. Such a rejection would only take place after a period of appropriate negotiation with the relevant group.

As now, when the questions are put the Mayor will ensure that what is put to the Cabinet Member is a question rather than simply a statement and that any supplementary question is on the same topic.

2.4 *Resulting Amendments to the Council Procedure Rules (Part 4(1) of the Constitution)*

Notice of ~~general~~ subject matter must be submitted in writing to the ~~Proper Officer~~ **Committee Services Manager** by 10am, two working days before the meeting **and they will confirm whether or not the question has been accepted or whether the Borough Solicitor requires it to be amended or withdrawn due to a lack of specificity.**

2.5 **Ensuring that Council business is concerning matters which either significantly impact the Borough or its residents or refer to matters over which the Council has control or influence**

Reason

The Council is often asked via the mechanism of deputation requests or petitions to opine on or discuss issues over which it has no control or influence and which do not relate to its functions. The result of a discussion on such a subject is often simply that Council notes the issue or, at best, undertakes to lobby government or a third party. In addition, at times it has been argued that the Council should consider a matter because it has, or probably has, residents who originate from the country or region about which it is suggested the Council engage in debate. The reality is that Camden probably, should one look carefully, has residents from the majority of countries in the world, even if for some it is one or two residents only. Where the Council can do little other than lobby, albeit from no more significant a position than any individual citizen, and given the pressures on Council's time, it is suggested that our rules are made clearer that such matters will not be entertained.

The use of the words 'significant' and 'significantly' will require some discretion and judgement to be applied. Each case will be judged on its own merits but

the combination of impact, numbers impacted and relevance to a council function will need to be considered, and it is suggested that sensible judgements can be made in that way. It should be noted that 'a significant number of people' does not mean the majority of people in the borough, but would be taken to mean more than a handful of people.

This does not mean that issues which do not meet the criteria to be the topic of a deputation or petition cannot be raised. They may still be raised via, for example, questions from members or Leaders' speeches should Members choose to do so.

2.6 Ensuring that access to our deputation and petition process is restricted to those for whom it was intended

Reason

Our deputation process and the ability to address the Council when presenting a petition – neither of which are rights in law but rather are something the Council has decided to afford – are designed to allow citizens to have direct access to politicians and give them a public platform on which to state their case. It has in the past however been used by, for example, those already declared to be standing for parliament or political office and/or actively seeking election to the Council, and on several occasions sitting Councillors have submitted deputation requests. There are also grey areas around those who are, for example, active in local politics or simply well-known activists of one sort or another who may wish to address the Council. Whilst the fact that a potential depute or petitioner is or is not a member of a political party is not something which is considered relevant, it is suggested that the Council may want to avoid the use of the Council's deputation and petition processes as a party-political platform for those actively seeking office. This would seem to strike the right balance between preventing this right being used for ulterior motives and being overly restrictive.

It is suggested that we mirror the below changes in the rules which cover deputations to committees.

It also feels strange and unnecessary to have as many as seven people in a deputation party and therefore it is suggested we reduce this to five.

Our Constitution currently does not allow deputations or petitions on the same subject again within three months. This may be considered too short a period and members may want to consider extending this. Council has an excessive workload within the time available to it and repeated deputations on the same subject are arguably not the best use of the Council's time.

2.7 *Resulting amendments to the Council Procedure Rules (Part 4(1) of the Constitution), to be mirrored in the Committee Procedure Rules*

27. DEPUTATIONS AND PETITIONS

- 27.1 Anyone likely to be **significantly** affected by a matter in which the authority has functions **and which significantly impacts the Borough** ~~affects that area of the authority, or some of it,~~ **and a significant number of** the inhabitants of that area, ~~or some of them~~ may ask that a deputation or a petition should be received by a meeting of the Council.
- 27.2 A deputation request should be made in writing to the ~~Chief Executive~~ **Committee Services** setting out the reason why the deputation should be received, by no later than 12noon, three working days before the meeting to which it relates. **Deputations from those who are either standing for political office, hold political office or have publicly declared that they intend to stand will not be accepted nor will they be allowed to be part of the deputation or petition party.**
- 27.3 The person making the deputation request shall indicate what the deputation is about, the number (no more than ~~seven~~ five), names and addresses of the persons **making up the deputation party** ~~who will form the deputation,~~ and the member of the ~~deputation~~ **party** who will address the Council....
- 27.9 No deputation or petition may appear before the Council again within the next **nine** months on the same or a similar subject.
- 2.8 *Resulting amendments to Committee Procedure Rules (Part 4(4) of the Constitution) and Scrutiny Procedure Rules (Part 4(3) of the Constitution)*

Chair to be consulted on deputation or petition

Upon receipt of the deputation request/request to present a petition, the Proper Officer shall consult the Chair of the body, who shall indicate whether the deputation or petition should be received. **Deputations and petitions will only be received on subjects/issues that significantly impact the Borough and a significant number of the inhabitants of the Borough and over which the authority has functions. Individuals who are either standing for political office, hold political office or have publicly declared that they intend to stand will not be allowed to address the committee or present the deputation/petition.**

16. MOTIONS ON NOTICE

16.3 Scope

Motions must be about matters over which the authority has functions, **and which significantly impact the Borough and a significant number of** the inhabitants of that area.

2.8 **Common Law Power to close a meeting to the public before the meeting begins**

Reason

As members will be aware, the Mayor has now on two occasions decided to close the galleries to the public before a Council meeting. There is common law power to do this see *Laporte v the Commissioner of Police of the Metropolis* [2014] EWHC 3574 (QB). On both of these occasions, the Mayor has made a formal decision to do this, giving reasons for the decision, and this has been published on our website. While this power has and will be used extremely sparingly, it is considered sensible to capture this power in the Council Procedure Rules for reasons of transparency.

2.9 *Resulting amendments to the Council Procedure Rules (Part 4(1) of the Constitution)*

5. TIME AND PLACE OF MEETINGS

5.1 Meetings of the Council will take place in the Council Chamber at the Town Hall, or at such other venue as the Proper Officer shall nominate unless otherwise specified in the summons. The time of meetings will be determined by the Proper Officer and notified in the summons

5.2 Meetings of the Council will be open to the public to observe unless they are either excluded during the meeting (25.2) or should the Mayor reasonably consider before the meeting that the meeting is highly likely to be severely disrupted and therefore decide to exclude the public from the meeting. Should they so decide, a record of the Mayor's decision will be produced and published on the Council's website.

2.10 **Taking Reports as Read**

Reason

As members will fully appreciate, there is significant pressure on time during Council meetings. There are also a number of reports on which there is usually no comment, such as procedural reports of the Borough Solicitor. There are also examples of this being the case with more significant reports (for example, the setting of the Council Tax base). These reports are introduced by either the relevant Chair or Cabinet Member, who is then also asked whether there were any closing remarks even when there have been no questions or comments from Members. Members may sometimes feel obliged to introduce the reports even if it is unlikely that there will be any questions or comments. It is worth noting that the fact there are no questions or comments does not mean the reports are not being treated with seriousness, and often such reports have already been thoroughly debated and discussed in committee or Cabinet. While the time savings will be relatively limited, we could indicate to all members by email three working days before the Council meeting (i.e. Wednesday before

a Monday meeting) which reports we are planning to treat as read. In those circumstances, subject to there having been no objection to the approach from any Member in response to the email, the Mayor would then introduce each such item in something like the following manner:

“Item 8 is XXXXXXXXXXXX. Can we take that report as read?...if there is indication of agreement to that.....Is that report agreed?”

Any member who does have a question or comment, or considers that the report should be debated, can let us know in response to the email three working days before the meeting or can indicate when the Mayor asks for agreement to it being taken as read that they wish to ask a question. In those circumstances the Mayor would invite the Committee Chair or Cabinet Member to briefly introduce the report and would then open up for comments before going to the relevant Committee Chair or Cabinet Member to sum up before the matter is put to the vote.

It will therefore still be necessary for Cabinet Members or Chairs to prepare to present and take questions in case this is called for at the meeting.

2.11 *Resulting amendments to the Council Procedure Rules (Part 4(1) of the Constitution)*

None required

2.12 **Banners in the Council Chamber**

While there is a prohibition in our Committee Procedure Rules on banners being brought into meeting rooms, there is nothing specifically in the Council Procedure Rules. It is suggested for the sake of consistency that this is corrected and that at the same time we tidy up the existing rule in the committee procedures in light of recent experience.

2.13 *Resulting amendments to the Constitution*

Rule 21(c)(ii) of the Committee Procedure Rules (Part 4(4) of the Constitution) to state:

“Members of the public are not permitted to bring any banner, placard, **sign, flag or similar article** into a meeting.”

The same rule to be added to the Council Procedure Rules (Part 4(1) of the Constitution)

2.14 **Written Questions**

The length and complexity of the written questions appears to have grown over the past few years. To be effective, questions should be direct and in the nature of an inquiry rather than in the nature of a statement. To assist it is suggested that the following might be usefully added to the rules.

2.15 *Resulting amendments to the Council Procedure Rules (Part 4(1) of the Constitution*

15.1 (c) Written questions will be no longer than one hundred words long and in the nature of an inquiry rather than a statement.

3. **Legal comments of the Borough Solicitor**

3.1. This is a report of the Borough Solicitor and there are no further legal comments.

4. **Finance comments of the Executive Director Corporate Services**

4.1. The Executive Director Corporate Services has been consulted and has no comments.

5. **Environmental Implications**

6.1 There are no environmental implications arising from this report.

ENDS