

<b>LONDON BOROUGH OF CAMDEN</b>		<b>WARDS:</b> All
<b>REPORT TITLE:</b>		
Minor constitutional changes to be included in the annual report to May Council		
<b>REPORT OF:</b> Borough Solicitor		
<b>FOR SUBMISSION TO:</b>		<b>DATE:</b>
Audit and Corporate Governance Committee		4 <sup>th</sup> April 2024
<b>SUMMARY OF REPORT:</b>		
<p>At every annual meeting of the Council, the Borough Solicitor submits a report to Council that seeks to:</p> <ul style="list-style-type: none"> <li>• Establish the committees for the next municipal year</li> <li>• Appoint members to them</li> <li>• Confirm the terms of the Constitution and delegations to officers</li> </ul> <p>The opportunity is also taken to make some minor updates to the Constitution. As the annual Council meeting is primarily ceremonial, it is important as far as possible that discussion at the meeting does not become overly political or the subject to any serious debate. To that end, any changes proposed at this meeting are designed to be nothing more than a tidying up and clarification. They do not therefore seek to make any significant changes in decision making or impact the rights and duties of Members.</p>		
<b>LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION</b>		
No documents that require listing were used in the production of this report.		
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<b>RECOMMENDATIONS:</b>		
<p>The Audit and Corporate Governance Committee is asked to note and comment on the suggested changes to the Constitution detailed within the report and the intention to include those changes in the annual report to Council in May.</p>		

Signed: 

Borough Solicitor

Date: 18 March 2024

## **1. Introduction**

- 1.1 At every annual meeting of the Council the Borough Solicitor reports to the Council concerning the Constitution. This report establishes the committees for the next municipal year, appoints members to them and confirms the terms of the Constitution and delegations to officers. These are all things that the Council must do on an annual basis.
- 1.2 The opportunity is also taken to make some minor amendments to the Constitution. Taking very minor changes to regular Council meetings can take up significant Council time and, as the annual report must in any event be submitted, it is seen as sensible to at this stage make any minor and non-urgent changes. It is important, as the annual Council meeting is primarily ceremonial, that the meeting does not become overly political or the subject to any serious debate. To help ensure this, any Constitutional changes are designed to be simply a tidying up and clarification. They do not therefore seek to make any significant changes in decision making or impact the rights and duties of Members.
- 1.3 It is hoped that by bringing them to this Committee in advance of their submission to Council, any concerns or issues can be dealt with by this Committee rather than at Council. This includes the option of not taking them to Council at all but rather coming back to this Committee at a date in the future.
- 1.4 The Audit and Corporate Governance Committee is therefore invited to comment on the proposed changes.

## **2. Proposed changes**

- 2.1 Borough Solicitor's Delegation.

### Current Wording

Article 15.03 of the Constitution sets out the Borough Solicitor's current delegation with regards to legal proceedings.

This states as follows:

#### 15.03 Legal proceedings

The Borough Solicitor is authorised to: -

Institute, defend or participate in any legal proceedings other than in the case of offences under the Health and Safety at Work Act 1974 (as amended) which are instituted by an authorised inspector;  
Impose a financial penalty as an alternative to instituting legal proceedings;  
and

When urgent, so any delay would be prejudicial to the interests of the Council, to make a decision to settle any legal proceedings, in consultation with the relevant Cabinet Member(s) and the Executive Director Corporate Services.

In any case where such action is necessary to give effect to decisions of the Council or in any case where the Borough Solicitor considers that such action is in the Council's best interests.

#### Proposed new wording

The Borough Solicitor is authorised to: -

1. Institute, defend or participate in any legal proceedings or impose a financial penalty as an alternative to legal proceedings in any case where such action is necessary to give effect to a decision of the Council or otherwise they consider such action to be in the Councils best interests
2. To authorise other officers to exercise the powers in 1 above in his name and also to note where officers have statutory power to so do in their own right to be recorded in his scheme HERE
3. When urgent, so any delay would be prejudicial to the interests of the Council, to make a decision to settle, stay or otherwise compromise any legal proceedings, in consultation with the relevant Cabinet Member(s) and the Executive Director Corporate Services.

#### Reasons for proposed change

There are a number of areas of legal activity within the Council which are undertaken not by the legal department but by other parts of the Council. The officers who undertake these areas of activity are experienced and such work being undertaken outside of the legal department is neither unusual nor surprising to the courts. This includes for example rent recovery cases and applications for certain warrants. In addition, some officers, Health and Safety being the most notable example, are by statute authorised to bring prosecutions in their name. The above change will mean that there is a clear audit trail for these matters via the Borough Solicitor. Except where separately authorised directly by statute all legal activity authority flows through him and is recorded in his scheme of delegation which is also on the web site but can be updated without the need for further decision by the Council. As the proceedings are in his name he can also if necessary intervene at any time should he consider that this is in the best interests of the Council.

## 2.2 Sealing of Council's Deeds

#### Current wording in the Constitution

15.05

Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Borough Solicitor. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be added to those documents which in the opinion of the Borough Solicitor should be sealed. The adding of the Common

Seal will be witnessed by the Borough Solicitor or some other person authorised by him/her

Proposed new wording

The Common Seal of the Council will be kept in a safe place in the custody of the Borough Solicitor.

A decision of the Council, or of any part of it, including made by an officer with delegated authority will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be added to those documents which in the opinion of the Borough Solicitor should be sealed. The adding of the Common Seal will be witnessed by the Borough Solicitor or some other person authorised by him/her.

The Common Seal of the Council may be affixed either by physical means or by such electronic means as the Borough Solicitor may from time to time authorise. The affixing of an electronic seal shall be of the same legal effect as affixing the Common Seal of the Council physically.

Reason for proposed change

Changes to the provisions covering sealing are proposed to keep up with advances in technology and to enable electronic sealing in the future. This is something the legal service is actively looking at.

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

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

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

There are no financial or resource implications stemming from this report.

**5. Environmental Implications**

There are no environmental implications arising from this report.

**Report ends**