

General Purposes Committee

Date:	22 February 2023
Classification:	For General Release
Title:	Constitutional changes
Report of:	Bi-borough Director of Law
Wards Involved:	All
Policy Context:	Fairer Council
Financial Summary:	There are no financial implications associated with this report.
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1. Executive Summary

- 1.1. This paper provides an outline of the various sections of the Constitution which Officers have been reviewing and subsequent recommendations for change. These include changes to Full Council Standing Orders to introduce public participation in Full Council meetings and amendments to the list of Outside Bodies. The report makes recommendations and sets out how public participation could be facilitated at Full Council and what format this should take. There are corresponding proposals to revise the Council's Petition Scheme, and this includes providing the lead petitioner the option to present their petition at Council when a threshold has been met. In addition, it is recommended that the list of officially recognised Outside Bodies to which the Council makes a corporate nomination be reduced to a much smaller, core group of bodies and to introduce clear criteria and process for accepting bodies on to this list in the future.
- 1.2. The Majority and Opposition Groups were consulted and invited to review and provide comments on the Officers' proposals and, where received, these have been incorporated into the Report. Any further feedback will be reported to the Committee in advance of or at the meeting. There were also consultations with various stakeholders which included a short survey

posted in the MyWestminster newsletter and an advertisement placed in the Charter for Community Participation community events.

2. Recommendations

2.1. That the General Purposes Committee recommends to Council for approval of:

- the introduction of a 30-minute public participation item at Full Council meetings in line with the headline proposals set out in section 4 of this report.
- the amendment of the petitions scheme to support public participation at meetings of Full Council as set out in section 4 of this report.
- a preferred option for changes to meeting timings in the Full Council standing orders from the outline options set out in section 4 of this report. This is deemed necessary to accommodate public participation.
- the removal of the future policy plan as a device for selecting debates (and the accompanying requirement for a briefing note to be produced) and its replacement with a requirement for the Group proposing a subject for debate to give a short descriptive paragraph to frame the debate.
- the delegation of authority to the Monitoring Officer to adopt such changes agreed by Full Council into the Constitution and to update and maintain supporting documents such as the Full Council Public Participation Protocol, including to make changes to public participation rules in consultation with Group Whips and Chair of the General Purposes Committee.
- the amendments to the scheme of Outside Bodies as set out at section 5 of this report.

3. Background

3.1. A review of the Constitution has been undertaken in line with both the policy ambitions of the new administration as well as in the interests of good housekeeping and to address issues identified by officers as outstanding anomalies or areas in need of rectification.

3.2. This paper brings together the most immediate issues and seeks approval for changes in key areas. Work will continue to maintain the Constitution and any further areas of proposal amendment will be brought back to the Committee for further consideration.

4. Full Council Standing Orders

4.1. The administration's initiative to transform how Westminster works included *'reform Council, scrutiny committee meetings and 'Open Forum public meetings to give residents more time and opportunities to question senior members of the Council and introduce time for questions from the public at*

full Council meetings and scrutiny committees'. Given the administration's commitment to introduce public speaking at Full Council meetings, officers have set out proposals on how this could be implemented and require feedback on the proposed format. There are also recommendations for the Outside Bodies to which the Council makes a corporate nomination to be reduced and reasons provided on why some organisations should be removed from the list.

4.2. Resident Participation in Full Council

4.2.1. To fully support and facilitate the administration's initiative on introducing resident participation in Full Council the following proposals and options on how the new scheme could be shaped are based on best practice reviews from other councils, initial steers from the administration on ambitions for these changes as well as an informal, cross-party meeting of the General Purposes Committee in December 2022. The proposals are also informed by findings from a small (non-representative) survey of Westminster residents (Appendix A).

4.3. Eligibility

4.3.1. To meaningfully deliver the ambition of the administration on public participation in Full Council, Officers recommend that residents should be permitted to ask either a question or present a petition at Council. Petitions should receive at least 100 signatures to be eligible to be presented at Full Council. This threshold will be kept under review by this Committee.

4.4. Timings

4.4.1. The suggested standard time to be allocated for resident participation is 30 minutes and that for practical reasons (i.e. in the interests of those members of the public attending the meeting) this should be at the start of the meeting as a separate item of business, immediately following the Lord Mayor's Communications, Minutes, any declaration of interests or urgent statements. Officers recommend a 2-minute limit for each question or petition presentation from the public, followed by an up to 2-minute response from the relevant Cabinet Member or Committee Chair, totalling 4-5 minutes per issue with a de facto cap of 5-7 issues per meeting. The Lord Mayor would retain discretion to manage each speaking slot within the meeting itself.

4.4.2. Should there be no or limited take up of public speaking by the registration deadline, time may be added (at the agreement of all Group Whips) on to Party Business or Councillor questions depending on which of the options outlined below is taken forward. Should it be removed or reduced, it is not considered practical to add time back

into Councillor Issues the week before the meeting and this should therefore remain fixed.

- 4.4.3. The main meeting would still run from 19:00-22:00, barring accepted procedural motions to extend it, and the time for the resident participation item would therefore need to be created by taking time from other agenda items. Consideration has been given to extending the standard time of the meeting beyond 22.00, but this did not receive support from either Group Whip, nor is it considered a necessary or practical step.
- 4.4.4. Table 1 (below) sets out the suggested timings for an Ordinary Council meeting where no other changes than introducing a 30 minutes public speaking item to be made. Members are asked to note that introducing resident participation and making no other changes mean that the meeting would run for 3hrs & 30 minutes, 30 minutes over the 3hrs preferred timeframe. Members are asked to comment on timings and suggest where the 30 minutes could be found to accommodate this change.

Table 1 - Full Council with current timings with 30 mins of public questions included

Item	Time
Appointment of Relief Chair	3 mins
Minutes	
Lord Mayor's Communications	
Councillor presented petitions and deputations (no debate)	
Declarations of Interest	
Statement on Urgent Matters	0 mins (as standard – adapt as necessary)
Resident Participation (question or petition based)	30 mins
Questions	45 mins
Councillor Issues	20 mins
Party Business (split proportionately)	110 mins
Other formal business	2 mins
Total	3hrs 30mins

- 4.4.5. Table 1 does not include any buffer time to cover the Lord Mayor speaking to introduce items and any overrun on speeches/questions. It is prudent to include such a buffer, otherwise meetings may frequently have to be extended. Thus, it is suggested that 35 minutes are saved from the above timings.
- 4.4.6. There are therefore a number of options to save 35 mins from the meeting. Three options have been explored and have been subject to

feedback from both Group Whips. These options, from which the Committee is invited to recommend a preferred approach are set out for consideration below as detailed in Tables 2, 3 and 4. In summary, the options represent a reduction or removal of Councillor Issues, a reduction in party business, a reduction in Councillor questions or a combination of some/all of these.

Table 2 Removal of Councillor Issues and reduction in party business

Item	Time	Change
Appointment of Relief Chair	3 mins	-
Minutes		
Lord Mayor's Communications		
Councillor presented petitions and deputations (no debate)		
Declarations of Interest		
Statement on Urgent Matters	0 mins (as standard – adapt as necessary)	-
Resident Participation (question or petition based)	30 mins	+30 mins
Questions	45 mins	-
Councillor issues - removed	-	-20 mins
Party Business (split proportionately)	95 mins	-15 mins
Other formal business	2 mins	-
Buffer	5 mins	+5 mins
Total	3hrs	-

Table 3 Reduction in party business and Councillor questions

Item	Time	Change
Appointment of Relief Chair	3 mins	-
Minutes		
Lord Mayor's Communications		
Councillor presented petitions and deputations (no debate)		
Declarations of Interest		
Statement on Urgent Matters	0 mins (as standard – adapt as necessary)	-
Resident Participation (question or petition based)	30 mins	+30 mins
Questions	30 mins	-15 mins
Councillor Issues	20 mins	-
Party Business (split proportionately)	90 mins	-20 mins
Other formal business	2 mins	-
Buffer	5 mins	+5 mins
Total	3hrs	-

Table 4 Reduction in Councillor Issues and party business

Item	Time	Change
Appointment of Relief Chair	3 mins	-
Minutes		
Lord Mayor's Communications		
Councillor presented petitions and deputations (no debate)		
Declarations of Interest		
Statement on Urgent Matters	0 mins (as standard – adapt as necessary)	-
Resident Participation (question or petition based)	30 mins	+30 mins
Questions	45 mins	-
Councillor Issues	10 mins	-10 mins
Party Business (split proportionately)	85 mins	-25 mins
Other formal business	2 mins	-
Buffer	5 mins	+5 mins
Total	3hrs	-

4.5. Form of participation and registration process

4.5.1. The small non-representative survey of residents, indicated a preference that members of the public should be able to ask questions without being present at the meeting; this was the same steer from the Chair of the Westminster Amenity Societies Forum. This does however partially negate the policy ambition and purpose of more public engagement with Full Council. On balance it is considered a reasonable requirement to require some form of active participation in the meeting rather than a passive session with a question read out on their behalf (for example by the Lord Mayor). Officers therefore recommend that a blended hybrid option with digital solutions be introduced to enable engagement without needing to join the meeting. This would make the process more inclusive for those in the city who may have unavoidable evening commitments such as childcare.

4.5.2. Officers recommend that participants should be limited to reading out their question or precis of the petition submitted in advance of the meeting rather than making wide ranging speeches that may touch on a range of different issues. It would, however, be for the Lord Mayor to manage this within a meeting and a small amount of deviation may be permitted if, for example, the issue being raised has changed in nature since the wording was submitted. The 2-minute limit is therefore expected to be extremely generous given individual questions are unlikely to be upwards of 250 words, and 2 mins would therefore represent an upper limit rather than a target for public speakers.

- 4.5.3. An online form where residents can submit their question or request to speak to a petition is recommended, however some residents expressed a preference for contacting the Council by phone, email, or in person. Officers recommend that there be a field that residents can enter what their question is or petition subject. No change will be made to the process for submitting petitions and therefore petitions may be presented digitally or in physical copy. There will also be a warning on the online form that inflammatory language or other profanities are not permitted. Political parties will not be able to make submissions. Officers should also ensure that any questions or petitions are concerned with local issues. Residents surveyed were content with submissions having to be made a week before the meeting.
- 4.5.4. The proposed timings would be able to accommodate 5-7 public questions or petitions per Council meeting. The preference coming out of the survey was that those who have not brought an issue before should be given priority (a tick box on the online form could ensure Officers can see who that is) or the issue itself has not been raised in the previous 12 months; otherwise, it should then go to those with more evidence of support, i.e. petitions, and then are randomly generated after that, rather than first come, first served basis.
- 4.5.5. In order to promote this new option for members of the public a communications plan would be put in place and enacted ahead of the launch of these provisions.
- 4.5.6. The current petition scheme would need to be revised to enable lead petitioners to address Full Council when the proposed threshold is met. Officers recommend that the bar is set at 100 signatures. Appendix B, Public Participation Protocol sets out how the petition scheme would be revised.
- 4.6. Removal of the future policy plan
- 4.6.1. Separate to considerations on public speaking, it is also proposed that the future policy plan is removed as a device for party business. It has ceased to serve the function originally intended and now represents an ever-growing list of issues. In its place Groups should be allowed to select any policy or operational matter relevant to the Council or city. In cases of doubt about relevance of subjects the Chief Executive as Proper Officer would be empowered to determine the validity of a subject. The Group proposing the subject would be required to give a single line title as well as a short paragraph to explain the nature of the debate, thus enabling other Group(s) to prepare to participate. No officer-drafted briefing note would be provided as is currently the case, but Members may of course ask officers for information to support their participation in the debate.

5. Outside Bodies

- 5.1. The Committee are invited to consider a new approach to Outside Bodies. Specifically, the paragraphs which follow propose to reduce the list of officially recognised Outside Bodies to which the Council makes a corporate nomination to a much smaller, core group of bodies, and to tighten the criteria and process for accepting bodies on to this list in the future.
- 5.2. The Outside Bodies list is a list held in the Constitution of organisations to which the Council officially nominates representatives, Board Members, Trustees etc.
- 5.3. This list has been reviewed as the current list is significantly out of date. It proposed a more rigorous approach to managing this list in future, so we do not return to this position in future years.
- 5.4. To this end, officers recommend that bodies eligible for the list are those that:
 - Invite representation from Boroughs across London or wider local government with the proviso that the Council sees the value in having representation from Westminster on their boards or committees.
 - The Council is a member organisation of and wishes to contribute to.
 - External bodies that are administered through the Council and need Member representation on their boards.
- 5.5. Officers recommend that all other bodies are removed from the list. Some organisations do not wish to receive nominations for us any longer or no longer exist. This would not mean that the organisation ceases to have a relationship with the Council or Members could not sit on their board, but instead it would simply mean that any such arrangements are made locally e.g. with ward councillors rather than a corporate nomination by the Council, which we consider should be reserved for those organisations where a strategic relationship is required. This is in line with the approach taken by many other London authorities. In many cases, current nominees are local ward councillors, and this simply rolls around each time ward members change, no central administration is required for these decisions to be reached as they are driven by the outcome of elections.
- 5.6. At least six of the bodies currently on the list that would be removed under the above suggested policy have it in their governing documents that they must have a number of WCC-nominated trustees. Our recommendation is to remove them from the list, as having this as a criterion sufficient to receive nominations from us would mean the Council would have to nominate to any body specifying WCC-nominated councillors in its governing documents – even those with no obvious local connection or those set up with unfriendly or sinister intentions (there is no suggestion that this latter point is the case with any current organisations on the list).
- 5.7. Some of the Outside Bodies in this group, as well on the wider list, have their own processes for sourcing trustees which the Council has no involvement with and the only interaction is to ask the Council to authorise

such nominations. We do not have an agreed process for doing so and, more importantly, these nominees do not necessarily have any connection to the Council and we therefore recommend ceasing this practice. Such a practice is considered a reputational and potential legal risk to the Council.

5.8. The Charity Commission have advised the Council that it is a matter for the individual charities to update their governing documents accordingly and the Council has no residual responsibility in this regard.

5.9. Furthermore, the Charity Commission noted the following which is an important consideration which the Outside Bodies scheme will be updated to reflect:

“Trustees that are nominated by the Council are not there to reflect the views of the Council. Once appointed as trustee, their sole responsibility is to the charity and they must act in its best interests and manage any conflicts of loyalty.”

5.10. Finally, it is considered necessary to specify who makes such nominations as the experience of a change of administration at the 2022 local election has shown that it is often unclear which Group is responsible for which nominations and if proportionality applies where multiple nominees are sought.

5.11. See Appendix C: Outside Bodies List Constitutional Revised Constitutional provisions mock-up and Appendix D: Outside Bodies List Outcomes for Current Bodies for final proposals

6. Financial Implications

6.1. There are no financial implications arising from this report. The constitutional amendments proposed will not directly incur any additional cost or achieve any savings.

7. Legal Implications

7.1. Paragraph 2.5 of the Council’s Constitution sets out that the General Purposes Committee, supported and advised by the Monitoring Officer, will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. Hence the Terms of Reference of the General Purposes Committee give it the power to make recommendations as to the Constitution and to recommend to the Council the adoption, repeal or amendment of Standing Orders.

7.2. Paragraph 2.6 of the Council’s Constitution outlines that changes to the Constitution (other than minor drafting or other consequential amendments) are generally only be approved by the Full Council after consideration of proposals by the General Purposes Committee.

7.3. Section 99 and Schedule 12 of the Local Government Act 1972 outline the provisions underpinning the holding of Council meetings. The recommendations in this report comply with those provisions.

8. Carbon Impact

8.1. The decision will have no carbon impact.

9. Equalities Impact

9.1. This decision has no direct equalities impact on protected groups. The opportunities presented by enabling more public participation in Full Council meetings are expected to improve the overall standard of decision making and accountability within the Council, which should in turn reduce the likelihood of decisions being taken which have disproportionate impacts on protected groups but this is not quantifiable.

9.2. Some of the organisations proposed to be removed from the list of Outside Bodies will work with vulnerable or protected groups, but it is not considered to be the case that these governance changes will in any way limit or alter their work as the proposed changes are largely a regularisation of existing practice.

10. Consultation

10.1. The Majority and Opposition Groups have been consulted on the proposed changes to the Full Council Standing Orders and list of Outside Bodies. Any further comments received will be reported at the meeting and factored into the final decision. Should the proposed amendments be agreed by the Committee then they will be reported to Full Council for adoption

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

**Richard Cressey Head of Governance and Councillor Liaison,
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APPENDICES

Appendix A: Findings from Community Survey on Resident Participation in Full Council.

Appendix B: DRAFT Public Participation Protocol

Appendix C: Outside Bodies List Constitutional Revised Constitutional provisions mock-up

Appendix D: Outside Bodies List Outcomes for Current Bodies

BACKGROUND PAPERS

- Westminster City Council Constitution