Date: 30 June 2017
Subject: GMCA Constitution
Report of: Liz Treacy, Monitoring Officer

PURPOSE OF REPORT

The GMCA’s Constitution requires substantial revision to reflect the new powers of the GMCA and the Mayor. This report sets out the main changes proposed to be made to the GMCA’s Constitution, and seeks formal adoption of the accompanying revised constitution as the Constitution of the GMCA.

RECOMMENDATIONS:

The GMCA are asked to:

i. Adopt the revised constitution accompanying this report as the Constitution of the GMCA.

ii. Note that the discharge of mayoral functions and the delegation of such responsibilities rests with the Mayor, and that the delegations of mayoral functions (and the arrangements in relation to such) set out in this constitution are for the information of the GMCA only.

iii. Authorise the Monitoring Officer to make any changes of a typographical nature to the Constitution.

iv. Note that the delegations of mayoral functions (and the arrangements in relation to such) set out in this constitution have been agreed by the Mayor.

CONTACT OFFICERS:

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Risk Management – as detailed in the report
Legal Considerations – as detailed in the report
Financial Consequences – Revenue – as detailed in the report
Financial Consequences – Capital – as detailed in the report

BACKGROUND PAPERS:

Report of Treasurer to GMCA Audit Committee – 19 April 2017

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<thead>
<tr>
<th>TRACKING/PROCESS</th>
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<td>Does this report relate to a major strategic decision, as set out in the GMCA Constitution (paragraph 14.2) or in the process (paragraph 13.1 AGMA Constitution) agreed by the AGMA Executive Board:</td>
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1. INTRODUCTION: STRUCTURE OF THE CONSTITUTION

1.1 The GMCA’s Monitoring Officer is required to monitor and review the operation of the GMCA’s Constitution and, where appropriate, to propose changes to the Constitution to the GMCA for approval. The Monitoring Officer has carried out such a review and brings forward for approval a revised version of the GMCA Constitution, which accompanies this report. New wording appears in bold in the revised version. The delegations of mayoral functions (and the arrangements in relation to such) set out in this constitution are for the information of the GMCA only.

1.2 The proposed revision of the GMCA’s Constitution follows the same basic structure as the 2016 version, with the most significant addition being the inclusion of a suite of documents relating to the discharge of the Mayor’s Police and Crime Commissioner functions in section 9. The sections are as follows:

Part 1 Introduction and Articles
Part 2 Functions of the GMCA
Part 3 Responsibility for Functions
Part 4 Committees
Part 5 Rules of Procedure
1.3 The following paragraphs highlight the main changes to the Constitution.

2. **PART 1: INTRODUCTION AND ARTICLES**

2.1 The main changes include the following:

- References to the new Orders extending the powers of the GMCA and creating new mayoral functions.

- Updating the GMCA’s membership to include the elected Mayor.

- Referring to the new role of Deputy Mayor (for general functions), appointed from amongst the Members of the GMCA. The Deputy Mayor must, in the event that the Mayor is unable to act or the office of Mayor is vacant, by law act in place of the Mayor (in respect of both general and PCC functions).

- Referring to the new role of Deputy Mayor for Policing and Crime (to deputise for the Mayor in relation to police and crime commissioner (“PCC”) functions), who will be an officer of the GMCA appointed by the Mayor.

- The GMCA’s new statutory responsibilities to establish:
  - an Audit Committee; and
  - one or more Overview and Scrutiny Committees.

- That the GMCA will establish a permanent Resources Committee.

- That the Mayor will establish a Fire Committee.

3. **PART 2: FUNCTIONS OF THE GMCA**

3.1 Part 2 sets out the GMCA’s functions in relation to the following areas:

- Transport
- Economic development, regeneration and housing
- Education, skills training and culture
- Fire and rescue
- Police and Crime Commissioner functions
• Incidental provisions (for instance data sharing)
• Functions conferred on the GMCA by local government legislation
• Miscellaneous roles (such as those relating to the Local Enterprise Partnership).

3.2 Some functions of the GMCA are exercisable only by the Mayor, such as Fire and Rescue and Police and Crime Commissioner functions.

3.3 It is to be noted that waste functions are not referred to in Part 2 as they will not be transferred from GMWDA to the GMCA until April 2018.

4. **PART 3: RESPONSIBILITY FOR FUNCTIONS**

4.1 Part 3 identifies the functions that are reserved to the GMCA or to the Mayor (and any limitations applying to the exercise of those functions). It also identifies the functions that have been delegated to officers of the GMCA (including Transport for Greater Manchester acting as an officer). The detail of delegations to Committees is set out in Part 4.

4.2 New functions reserved to the GMCA include the power to approve and veto of the Mayor’s General Budget.

4.3 Functions Reserved to the Mayor include:

• Certain transport powers including:
  o Adoption of a Local Transport Plan, subject to eight members of the GMCA voting in favour.
  o Bus franchising
  o Paying bus service operator grants

• Compulsory purchase powers, subject to obtaining the consent of the affected councils’ GMCA members.
• Developing a spatial development strategy, subject to a unanimous GMCA member vote in favour.
• The power to designate Mayoral Development Areas, subject to obtaining the consent of the affected councils’ GMCA Members
• A number of powers relating to the Fire and Rescue Service including the appointment and holding to account of person responsible for managing the fire and rescue service.
• Decisions in relation to the level or amount of ‘earnback’ used or allocated to any exercise of a Mayoral general function.

4.4 There are some additional functions delegated by the Mayor to TfGM in relation to the Local Transport Plan.

4.5 The County Fire Officer has been added as a Chief Officer of the GMCA.
4.6 General delegations have been made to all Chief Officers in relation primarily to financial matters and staffing issues in relation to staff within their direct or indirect line management responsibility.

4.7 The following additional delegations are given to the Head of Paid Service:

- Except where delegated to the County Fire Officer:
  - Establishment of new posts up to grade 11
  - In consultation with the Treasurer determining requests or recommendations for acting up/honoraria/additional payments
  - Acceleration of increments
  - Extensions of sickness allowance, in consultation with the Treasurer
  - Responsibility for the maintenance of an industrial relations framework

- Estate management (except where delegated to TfGM or the County Fire Officer) including:
  - the acquisition of land
  - the disposal of land or property
  - the management of the GMCA’s estate

- Management of investments made by the GMCA, which fall outside of the approved Treasury Management strategy.

4.8 The following additional delegations are given to the Treasurer:

- To exercise pensions discretions
- To authorise adoption and implementation of pay awards
- To act as the Senior Information Risk Owner
- Release grants to bus service operators

4.9 Functions delegated by the Mayor to the County Fire Officer include:

- All matters associated with the day-to-day operation of the Fire and Rescue Service
- Firefighter Pension Scheme determinations
- In relation to Fire and Rescue Service Operational Staff
  - Establishment of new posts up to grade 11
  - In consultation with the Treasurer determining requests or recommendations for acting up/honoraria/additional payments
  - Acceleration of increments
  - Extensions of sickness allowance, in consultation with the Treasurer
  - Responsibility for the maintenance of an industrial relations framework

- Estate management for fire and rescue property

5. **PART 4: COMMITTEES**
5.1 The Standards Committee’s terms of reference have been reviewed and refreshed.

5.2 The Audit Committee’s remit has been reviewed and updated to meet the new legislative requirements as per the report that went to the GMCA Audit Committee in April 2017, including the requirement for the quorum to be two-thirds.

5.3 The Resources Committee (originally established to support transition) is made a permanent committee. Its remit will be to support the development of the GMCA’s human resources functions. Its membership will comprise 5 members of the GMCA. The committee’s proposed delegations will include:

- Approval of significant revision to HR policies strategies and terms and conditions
- Approval of Posts between grade 11 and £100k
- Approval of Severance packages up to £95k
- To establish an appeals sub-committee

5.5 The Mayor has established a Fire Committee whose purpose is to support the operational discharge of fire and rescue functions. The quorum is five.

5.6 To put in place a scrutiny function which is compliant with the new legislative provisions it is provided in the Constitution that the following three overview and scrutiny committees will be established:

- Corporate Issues and Reform overview and scrutiny committee
- Economy, Business Growth and Skills overview and scrutiny committee
- Housing Planning and Environment overview and scrutiny committee

6. PART 5: RULES OF PROCEDURE

6.1 The GMCA procedure rules have been updated:

- to provide that the (general) Deputy Mayor will be appointed as one of the vice-chairs of the GMCA;

- to provide for the appointment of Assistant Portfolio holders who (while not being members of the GMCA) will have attendance and speaking rights at meetings of the GMCA (including where the public are excluded);

- to include a list of persons with a standing invitation to attend meetings of the GMCA;

- to include new provisions relating to committees; and
• to detail particular voting arrangements applying in respect of certain decisions – as these arrangements are complex, but of importance, they are set out in the Appendix to this report for ease of reference.

6.2 The access to information provisions, formally contained in the GMCA procedure rules, have been expanded and now form a separate set of procedure rules. Of particular note within these are new rules pertaining to:

• “key-decisions” – meaning a decision of a decision-maker which is likely:
  
  (a) to result in the GMCA or the Mayor incurring significant expenditure, or the making of significant savings, having regard to the GMCA’s budget for the service or function to which the decision relates; or
  
  (b) to be significant in terms of its effects on persons living or working in an area comprising two or more wards in the area of the GMCA.

• The recording of decisions by individual decision-makers – this includes procedures for the recording of Mayoral decisions, despite this not being explicitly provided for in legislation.

6.3 A new set of Procedure Rules governing the work on the GMCA’s overview and scrutiny committee(s) has also been included.

7. **PART 6: FINANCIAL PROCEDURES (FOR NON POLICE AND CRIME FUNCTIONS)**

7.1 The following changes have been made to the GMCA’s financial regulations:

• Clarity from the outset that these Financial regulations apply to everything other than Mayoral Police and Crime Commissioner functions (which are set out in Part 9).
• Additional content has been included to expand the guidance and coverage of the GMCA finance regulations
• Additional content to accommodate the changes needed to ensure they include specific matters relating to the Mayor’s role in Mayoral General (i.e. non-PCC) Functions.

7.2 The following changes have been made to the GMCA’s contract procurement rules:

• Clarity from the outset that the rules apply to everything other than to Mayoral Police and Crime Commissioner functions (which are set out in Part 9)
• Additional content has been included to highlight the need to include social value in procurement exercises.
• The financial limits for advertising and awarding quotations and tenders have been updated to largely align with the limits that the PCC utilised in previous years. The Procurement Teams from Police and Fire assisted in the review of these limits.
• Minor updates in narrative and explanations within the document.

8. PART 7: CODES OF CONDUCT AND PROTOCOLS

8.1 The Code of Conduct for Members has been updated. There has been clarification of who the code applies to as per the recommendation of the GMCA’s Standards Committee. It now makes clear the existing statutory position that the code applies to all voting co-opted members of GMCA committees as well as to GMCA members. It is now clear that, for example, the members of the Audit Committee and any Overview and Scrutiny Committee(s) are subject to the Code.

8.2 The revised Code of Conduct for Members also invites voluntary compliance with the code by non-voting co-opted members and by elected members of Greater Manchester district councils when they act for or represent the GMCA (such as by sitting on non-decision making bodies such as the Planning and Housing Commission).

8.3 The Officer Code of Conduct has been updated to reflect the fact that the GMCA’s role as an employing authority has expanded significantly. The Code is awaiting a response from the Trade Unions and if available this will be reported to the meeting.

8.4 There are no changes to the Gifts and hospitality guidance, or member officer relations guidance for members.

8.5 The GMCA’s Code of Corporate Governance, as adopted by the GMCA on 24 February 2017, is now included in Part 7.

8.6 The anti-fraud and corruption and whistleblowing policies have been amended to include reference to the fire and rescue and police and crime functions.

9. Part 8: MEMBER ALLOWANCES

9.1 Part 8 has been updated to:

• set out the requirements relating to the Independent Remuneration Panel; and

• reflect the allowance payable to the Mayor.

10. Part 9: POLICE AND CRIME SCHEME OF GOVERNANCE
10.1 For completeness and to aid transparency (and to align with the relevant statutory code of practice) the following Mayoral Police and Crime Commissioner governance documents have been included in the Constitution:

- Scheme of Consent – which details the Mayor and the Chief Constable’s roles and which activities the Chief Constable is able to act in his/her own name through the consent of the Mayor.
- The Mayor’s Scheme of Delegation for Police and Crime Commissioner Functions.
- The Mayor’s Police and Crime Financial Regulations
- The Greater Manchester Mayor’s Contract Standing Orders

11. Part 10: GMCA STRUCTURE CHART

11.1 A structure chart showing the reporting lines of senior GMCA officers is included.

12. RECOMMENDATIONS

12.1 Recommendations are set out at the beginning of this report.
APPENDIX

13. Voting

13.1 **Subject to sub-paragraphs 13.5 to 13.11, any questions that are to be decided by the GMCA are to be decided by a majority of the Members or Substitute Members, acting in place of Members, present and voting on that question at a meeting of the GMCA.

13.2 **Each Member of the GMCA, or Substitute Member acting in that Member’s place, is to have one vote and no Member of the GMCA or Substitute Member is to have a casting vote.

13.3 Whenever a vote is taken at meetings of the GMCA it shall be by a show of hands. On the requisition of any member of the GMCA, supported by two other Members who signify their support by rising in their places, and before the vote is taken, the voting on any question shall be recorded so as to show whether each Member present gave their vote for or against that question or abstained from voting.

13.4 **A Member of the GMCA, or Substitute Member acting in that Member’s place may demand that his/her vote be recorded in the Minutes of the meeting.

13.5 **Questions that are to be decided by the GMCA relating to the following matters require that at least 8 Members of the GMCA, or Substitute Member(s) acting in place of Member(s), vote in favour for any vote to be carried:

(a) the adoption, approval, amendment, modification, revision, variation, withdrawal or revocation of a plan or strategy of the following descriptions –
   (i) a sustainable community strategy;
   (ii) …
   (iii) approving the capital programme of the GMCA and TfGM and approving new transport schemes to be funded by the Greater Manchester Transport Fund;
   (iv) such other plans and strategies as may be determined by the GMCA from time to time;

(b) the preparation of a local economic assessment under section 69 of the Local Democracy, Economic Development and Construction Act 2009 (LDEDC);

(c) …

(d) the approval of the budget of the GMCA;

(e) the approval of borrowing limits, the treasury management strategy and the investment strategy;

(f) the setting of a transport levy;

(g) the acceptance of arrangements to delegate the functions or budgets of any person to the GMCA;

(h) the amendment of these Rules of Procedure of the GMCA;

(i) the approval of a transport policy developed by the Mayor under section 108 (1) (a) of the Transport Act 2000
(j) the approval of a local transport plan prepared by the Mayor under section 108 (3) of the Transport Act 2000
(k) approval of the alteration or replacement of a local transport plan as proposed by the Mayor under section 109 (1) or (2) of the Transport Act 2000

13.6 **Questions that are to be decided by the GMCA relating to road user charging require that all 11 Members of the GMCA, or Substitute Members(s) acting in place of Member(s), vote unanimously in favour for any vote to be carried.

13.7 **The following plans may be amended by a vote in favour by at least 7 members (excluding the Mayor), or substitute members acting in their place, present and voting on that question at a meeting of the GMCA:-

(a) a draft policy or draft local transport plan prepared by the Mayor under section 108 (1) (a) or (3) of the Transport Act 2000, or
(b) a draft alteration or replacement of the local transport plan under sections 109 (1) and (2) of the Transport Act 2000

13.8 **Questions relating the following functions in connection with the spatial development strategy (SDS), exercised pursuant to Part 8 of the Greater London Authority Act 1999 as applied by the GMCA Orders require a unanimous vote in favour by all members (or substitute members acting in their place), appointed by the constituent councils to be carried:-

(a) Section 335 (preparation of draft SDS)
(b) Section 336 (withdrawal of proposed SDS)
(c) Section 337 (publication of the SDS)
(d) Section 341 (alteration or replacement of the SDS)

13.9 **Questions relating to expenditure in respect of statutory contributions payable by Constituent Councils to the Mayor under article 14 (4) (a) of the 2016 Order require at least 7 votes (excluding the Mayor) in favour by members (or substitute members acting in their place) to be carried.

13.10 **Questions relating to the use of “earn back” budget cannot be carried without the vote of the Mayor or the deputy mayor acting in the place of the Mayor.

13.11 **Any decision to veto the Mayor’s draft general budget (or revised general budget) and approve the Mayor’s draft budget incorporating the GMCA’s recommendations must be decided by a two-thirds majority of the members of the GMCA (excluding the Mayor), or substitute members acting in their place, present and voting on the question at a meeting of the GMCA.

13.12 ** A proposal by the Mayor to acquire land compulsorily pursuant to:-
(a) Section 17 of the Housing Act 1985
(b) Section 226 of the Town and County Planning Act 1990, or
(c) Section 9 (2) of the Housing and Regeneration Act 2008,

requires the consent of all members of the GMCA (or substitute members acting in their place) whose area contains any part of the land subject to the CPO, such consent to be provided at a meeting of the GMCA.

13.13 ** A proposal by the Mayor to:-

(a) Designate any area of land as a mayoral development area (MDA)
(b) Alter the boundaries of an MDA so as to exclude an area of land, or
(c) Decide that a mayoral development corporation (MDC) should be the local planning authority for the purposes set out in section 202 (2) to (4) of the Localism Act 2011,

requires the consent of all members of the GMCA (or substitute members acting in their place) whose local government area contains any part of the area to be designated or excluded or in respect of which the Mayor wishes to decide that the MDC should be the local planning authority, such consent to be provided at a meeting of the GMCA.

13.14 ** A proposal of the Mayor under paragraph 13.13 (a) may be rejected by the GMCA in accordance with the provisions of section 197 of the Localism Act 2011 as modified by the 2017 Order, but only if a motion to reject has been considered at a meeting of the GMCA and agreed to by two-thirds of the GMCA members (or substitute members acting in their place) present and voting on that motion.

13.15 **The proceedings of GMCA are not invalidated by any vacancy among its Members or Substitute Members or by any defect in the appointment or qualifications of any Member or Substitute Member.