

Council Meeting
13 September 2011

Agenda Item 4.3.1

Report of Special Committee (Constitution Review)

19 July 2011

Councillors:

* Cllr Melvin Cohen (Chairman)
* Cllr Joan Scannell (Vice Chairman)

| | | |
|---------------------|---------------------|-----------------------------------|
| * Jack Cohen | * Andrew Harper | * Andrew Strongolou |
| * Richard Cornelius | * Alison Moore | * Jim Tierney |
| * Anthony Finn | * Alan Schneiderman | (substituting for Barry Rawlings) |

* denotes Member present

CONSTITUTION REVIEW): 2011/12

The Committee recommended a number of proposals for change to Council as set out in the attached appendices, and in recommendations below.

RESOLVED TO RECOMMEND –

- (1) That the changes as set out in the attached matrix and associated appendices be agreed by Council.**
- (2) That the changes to the Part 3 – Responsibility for Functions in the Constitution as set out in enclosure 1 to appendix B be agreed by Council (matrix number 1).**
- (3) That Council delegates authority to the Head of Governance to make minor and non-contentious ‘housekeeping’ changes to the Constitution without the authority of Council (matrix number 5).**
- (4) That the Scheme of Members Allowances be removed from the Council’s Constitution, ensuring that the information is publicly available elsewhere, including on the internet (matrix number 11).**
- (5) That the Council’s amend its decision of 17 May 2011 in respect of the Report of Special Committee (Constitution Review), ‘Review of Residents’ Forums and Area Environment sub-Committees’ to agree that in practice, Area Environment sub-Committee meetings shall**

commence at 7pm, or on the conclusion of the Residents' Forum, whichever is later (matrix number 16).

- (6) That the Head of Governance be instructed to make the necessary changes to the Council's Constitution.**

APPENDIX A

Constitution Review 2011/12: Matrix following 19 July 2011 meeting

| | Proposed by | Constitution Reference / Issue | Revision | Status |
|----|--|---|--|---|
| 1. | Head of Governance (HoG) 19/7/11 | Review of Delegated Powers | Further to the report received by Special Committee (Constitution Review) on 14 April 2011, a full report setting out proposed changes to the delegated powers process was received at agenda item 6. | AGREED See resolution 2 and Appendix B |
| 2. | Director of Corporate Governance / Conservative Group 19/7/11 | Section 4, Public Participation Rules, 5.14 | To clarify speaking arrangements at Planning Committees, particularly regarding the role of professional representatives. This has been flagged by as an issue both by the Director of Corporate Governance and by Councillor John Marshall of the Conservative Group. | Officer report to 2/11/11 meeting |
| 3. | AD – Legal 19/7/11 | Contract Procedure Rules - Council Terms and Conditions | To review the Council's standard terms and conditions to ensure that they are robust and up-to-date, particularly in relation to the Local Government transparency agenda. | Officer report to 2/11/11 meeting |
| 4. | Head of Governance 19/7/11 | Full Review of Constitution | To review the current state of the Constitution, to address in particular <ul style="list-style-type: none">• The extent to which it is 'user-friendly' for Members, the public and officers• Whether it is over-prescriptive in its scope• The issues raised by the frequency of updates (several times per the municipal year) | NOT TAKEN FORWARD |

| | Proposed by | Constitution Reference / Issue | Revision | Status |
|----|---|---|--|--|
| | | | To bring back proposals to Committee as a result of this review. | |
| 5. | Head of Governance 19/7/11 | Minor and Housekeeping changes to Constitution | All updates to the Constitution are currently required to be considered by Council. Members agreement is sought to grant the Head of Governance delegated authority to make minor and non-contentious amendments to the Constitution where required. | AGREED See resolution 3 |
| 6. | Business Governance Manager, 19/7/11 | Responsibility for Functions | To remove references to individual named Councillors from the Cabinet Committees section at 3.6 | AGREED See appendix A1 |
| 7. | Head of Governance, 19/7/11 | – The Council – Amendments to Business Items | To address the discrepancy between sections 32 and 37 relating to Amendments to Business Items through the deletion of section 37. | AGREED See appendix A2 |
| 8. | Business Governance Manager, 19/7/11 | Part 4 – Council Procedure Rules – Section 3 – Panels and Consultative Bodies | To delete reference to School Organisation Committee, and to consider simplification/removal of this section. | AGREED See appendix A3 |
| 9. | Business Governance Manager, 19/7/11 | Public Participation Rules | <ul style="list-style-type: none"> • To redraft this section to reduce its length, and to improve its clarity and readability for members of the public. • To include removal of the Head of Governance’s | AGREED See appendix A4 |

| | Proposed by | Constitution Reference / Issue | Revisi | Status |
|-----|---|---|--|---|
| | | | need to approve requests to speak under delegated powers. | |
| 10. | Head of Governance, 19/7/11 | Overview & Scrutiny Procedure Rules | To formalise arrangements for pre-decision Scrutiny. | Officer report to 2/11/11 meeting |
| 11. | Business Governance Manager, 19/7/11 | Scheme of Members Allowances | To remove the Scheme of Members Allowances from the Council's Constitution, ensuring that the information is publicly available elsewhere, including on the internet. | AGREED See resolution 4 |
| 12. | Head of Governance, 19/7/11 | One Barnet Governance Arrangements | To bring a report to a future meeting of the Committee setting out the proposed changes to the Constitution resulting from governance arrangements established for the One Barnet programme. | Officer report to 13/3/12 meeting |
| 13. | Business Governance Manager, 19/7/11 | Management of Real Estate Property and Land | To review and update this section | AGREED See appendix A5 |
| 14. | Head of Governance, 19/7/11 | Contract Procedure Rules | To review and update the Contract Procedure Rules | AGREED Proposed changes to 2/11/11 meeting |
| 15. | Business Governance | Council Procedure Rules | To update Rule 16, Suspension of Business, to reflect the changes made to the arrangements for Council meetings | AGREED |

| | Proposed by | Constitution Reference / Issue | Revision | Status |
|-----|---|--|--|--|
| | Manager, 19/7/11 | | agreed at the Council meeting of 17 May 2011. | See appendix A6 |
| 16. | Business Governance Manager, 19/7/11 | Article 10 – Area Committees and Forums and Local Strategic Partnerships (no changes proposed) | To amend the decision of Council of 17 May 2011 to agree that in practice, Area Environment sub-Committee shall commence at 7pm, or on the conclusion of the Residents' Forum, whichever is later. | AGREED See resolution 5 |

APPENDIX A1

Proposed change to Responsibility for Functions

3. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

General

3.1 All the local authority functions that are not mentioned in the first two tables, or reserved to Council in Article 4, are executive functions. These are the responsibility of

- Individual members of the Executive (the Leader and members of the Cabinet)
- The Cabinet Meeting
- Cabinet Committees
- Area Sub-Committees (see 3.10 below)
- Joint Committees (see Article 11)
- Officers (see section 6 below)

3.2 Cabinet Members

- i. Set out below is a table in the first column of which are listed the Cabinet Member portfolios.
- ii. The second column sets out each Cabinet member's functions and the third column summarises what has been delegated.

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| Executive Member and Portfolio | Responsibilities | Delegation |
|--------------------------------|---|--|
| LEADER OF THE COUNCIL | The Leadership of the Council. Specific individual responsibilities: <ul style="list-style-type: none"> • Strategy • Communications • Strategic equalities and diversity • Responsibility for the Oversight of the Council's duties as an employer under Health and Safety related legislation. • Mayoralty | The Leader may discharge any functions of the Executive. |

Deleted: Cllr. Richard Cornelius
 †
 Totteridge Ward
 †

| Executive Member and Portfolio | Responsibilities | Delegation |
|--|---|---|
| | <ul style="list-style-type: none"> Corporate Governance <p>To lead on budget and policy formulation and implementation in relation to regeneration including economic and strategic development.</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p> | |
| <p>DEPUTY LEADER OF THE COUNCIL</p> <p>RESOURCES AND PERFORMANCE</p> | <p>To lead on budget and policy formulation and implementation in relation to:</p> <ul style="list-style-type: none"> resources (including billing, collection and recovery of local taxation) financial forward planning and budgeting the effective use of resources and value for money risk management asset management corporate procurement Human resources Insurance <p>The monitoring of the Council's budget and to instigate such interventions as necessary to ensure spending is kept within limits determined by Council.</p> <p>The administration of Housing and Council Tax Benefits.</p> <p>To lead on budget and policy formulation and implementation in relation to Performance.</p> <p>To secure the most beneficial terms for services and goods provided to the Council.</p> <p>Work to provide better services with less money.</p> | <p>The general power delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p> |

Deleted: Cllr. Daniel Thomas
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| Executive Member and Portfolio | Responsibilities | Delegation |
|---|--|--|
| | <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p> | |
| <p>EDUCATION, CHILDREN AND FAMILIES</p> | <p>To lead on budget and policy formulation and implementation in relation to the Children Act 2004 and the Education and Inspection Act 2007.</p> <p>To enhance the Council's corporate parenting role and to champion the causes of all children in the London Borough of Barnet, promoting opportunity for all children.</p> <p>Includes Children's Social Services and the Youth Offending Team and the advantages offered by working with other agencies to secure a seamless approach to all aspects of children's services.</p> <p>To drive forward the Youth Justice Plan and ensure its approval annually by full Council.</p> <p>To lead on budget and policy formulation and implementation in relation to education and schools. In particular, raising and enhancing standards, ongoing education and services to schools, Early Years Provision and the Youth Service. Work to ensure that every child receives a first class education. Positively to encourage integration of all schools within the London Borough of Barnet into the community to achieve the best</p> | <p>The general power delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p> <p>The Deputy Leader may discharge any function of the Leader during periods for which the Leader has given formal notification that she will be unable to be contacted or in circumstances where the Leader cannot be contacted due to illness or other indisposition, or in cases of utmost urgency where the Leader cannot be contacted by any means.</p> |

Deleted: Cllr. Andrew Harper
 Garden Suburb Ward

| Executive Member and Portfolio | Responsibilities | Delegation |
|--------------------------------|--|--|
| | <p>possible opportunities for education and learning for the Borough's children. To work with children service partners to improve lifelong learning outcomes.</p> <p>All schools matters (Community, Voluntary and Foundation) associated with the teaching and development of children and young persons and the optimising of opportunities to further the same (including pre-school preparation). To lead on budget and policy formulation and implementation in relation to investment in educational infrastructure in schools and libraries.</p> | |
| ADULTS | <p>To lead on budget and policy formulation and implementation in relation to adult social care.</p> <p>In particular, supporting choice and independence for service users.</p> <p>Sharing opportunities and responsibilities with partners, providers and clients.</p> <p>Promoting the best possible adult social services and seamless care in the community by working with and optimising all opportunities offered by other providers to further these aims.</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p> | <p>The general power delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Consti</p> |

Deleted: Cllr. Sachin Rajput
 Oakleigh Ward

| Executive Member and Portfolio | Responsibilities | Delegation |
|---------------------------------------|--|---|
| <p>SAFETY AND RESIDENT ENGAGEMENT</p> | <p>To lead on budget and policy formulation and implementation in relation to community safety community engagement and civic events.</p> <p>In particular, to build upon the Council's leadership role in improving community safety, embracing diversity and inclusiveness, removing inequality and ensuring that each person and group in the community has opportunities for involvement.</p> <p>To work with the many different ethnic and religious groups to maintain community cohesion.</p> <p>To provide overall liaison with Barnet Borough Police.</p> <p>All matters relating to Community Safety, Environmental Health, CCTV, and anti-social behaviour, including Domestic Violence and combating graffiti, fly-tipping and fighting crime including policy development on combating fly-tipping and graffiti and trading standards.</p> <p>To liaise with the Fire Brigade and LFEPA to promote fire awareness and prevention in the Borough.</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p> | <p>The general power delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p> |

Deleted: Cllr David Longstaff
 High Barnet Ward

| Executive Member and Portfolio | Responsibilities | Delegation |
|--|--|--|
| <p>CUSTOMER ACCESS AND PARTNERS</p> | <p>To lead on budget and policy formulation and implementation in relation to:</p> <p>First class Customer Services, including development of:</p> <ul style="list-style-type: none"> • customer access • partnerships • the LSP • Information Technology <p>In particular the development of partnerships to further the Council's Corporate Plan and the Sustainable Community Strategy, and an effective consultation structure.</p> <p>Sharing opportunities and responsibilities through work with partners.</p> <p>To lead on the development and delivery of the One Barnet Programme.</p> <p>To lead on budget and policy formulation and implementation in relation to all operational aspects of the library service.</p> <p>The distribution of all grants, except those relating to the adaptation of properties in the private sector, after consultation with appropriate portfolio holders.</p> <p>All matters relating to the provision of services under the Leisure Contract.</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p> | <p>The general power delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p> <p>In addition this Cabinet Member may approve grants to voluntary organisations, up to £20,000 per annum.</p> |
| <p>ENVIRONMENT</p> | <p>To lead on budget and policy formulation and implementation in relation to the environment and transport.</p> | <p>The general power delegated to Cabinet Members are set out below.</p> |

Deleted: Cllr. Robert Rams
 † East Barnet Ward †

Deleted: Cllr Brian Coleman
 † Totteridge Ward †

| Executive Member and Portfolio | Responsibilities | Delegation |
|--------------------------------|---|---|
| | <p>In particular, promoting the reputation of the London Borough of Barnet as a successful London suburb with an attractive environment and transport infrastructure designed to meet the needs of today and the challenges of the future.</p> <p>All matters relating to the development and management of the environment, including:</p> <ul style="list-style-type: none"> • the street scene including pavements and all classes of roads; • parking provision • refuse and recycling • waste minimisation • graffiti removal • waterways • parks and open spaces • trees (includes public highways, Council housing estates and in parks) • allotments • transport and transport initiatives • contract management <p>Operational responsibility for service delivery on combating fly-tipping and graffiti. Also to be involved in and promote discussions in relation to any matters within the portfolio.</p> | <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p> |
| HOUSING | <p>To lead on budget and policy formulation and implementation in relation to housing.</p> <p>In particular working with Barnet Homes, housing associations and other providers to secure the optimum provision and associated environmental, neighbourhood development and social facilities for all those members of the community not living in private accommodation,</p> | <p>The general power delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p> |

Deleted: Cllr Tom Davey
Hale Ward

| Executive Member and Portfolio | Responsibilities | Delegation |
|--------------------------------|--|---|
| | <p>or for those who require public sector housing.</p> <p>Also to promote the better integration of privately rented properties into the Borough's framework, including the distribution of grants as necessary, for the adaptation of private properties, to further care in the community.</p> <p>All matters related to Housing excluding the administration of Housing Benefits.</p> <p>All matters related to Private Sector Housing, including Disabled Facility Grants, Hendon Cemetery and Crematorium and Finchley Mortuary.</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p> | |
| <p>PLANNING</p> | <p>To lead on budget and policy formulation and implementation in relation to planning, development plans, building and property construction.</p> <p>To include all aspects of the development control service, building control and the naming and numbering of streets and properties. In addition, to ensure that the Borough's Green Belt, greenspaces and Metropolitan Open Land is afforded the appropriate protection.</p> | <p>The general power delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p> |
| <p>PUBLIC HEALTH</p> | <p>To lead on budget and policy formulation and implementation in relation to the emerging public health agenda.</p> <p>This includes working in partnership with local and national NHS providers.</p> | <p>The general power delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member.</p> |

Deleted: Cllr Joanna Tambourides
 East Barnet Ward

Deleted: Cllr Helena Hart
 Edgware Ward

| Executive Member and Portfolio | Responsibilities | Delegation |
|---------------------------------------|---|--|
| | <p>Optimising all opportunities offered by the health authorities; shaping the community health and hospital services; to act as the champion on access to health facilities; to consider the implications for health facilities as the Borough develops. Also to be involved in and promote discussions in relation to any matters within the portfolio.</p> | <p>These are set out in Paragraph 6 of Part 3 of the Constitution.</p> |

APPENDIX A2

Proposed change to Council Procedure Rules

Rules that apply to Part 3 of the meeting

31. Individual Members' Business Items for the agenda - Part 3 of the meeting

Individual member's motions - explanatory Note

These are in effect the method Members may use to put items on the agenda for Council meetings for discussion.

Business Items should be phrased to take account of the separate functions of the Council and the Cabinet. Business Items on Council functions, for example, may seek approval to a course of action or instruct Council Committees or Officers to take action. Business Items on Executive functions should invite the Cabinet to consider a matter identified in the Business Item

- 31.1 Any Member may put a Business Item on the agenda for an ordinary meeting of the Council, except the meeting that deals with the Budget and Council Tax. The Member must give written notice to the Head of Governance at least six clear working days before the meeting. Any Business Item delivered after 4pm will be recorded as received on the next working day. The Business Item must be signed by the member and sent by email by the Member or his/her group's political assistant or Group Secretary.
- 31.2 The Head of Governance shall keep a record of the date the notice was received and any member of the Council may inspect the record.
- 31.3 The Head of Governance shall set out in the summons for the meeting all Business Items in order of receipt.
- 31.4 Once the Business Item is on the agenda, any Member may move the Business Item at the meeting. If the Business Item is not moved it shall be treated as withdrawn, unless the Council agrees to postpone it.
- 31.5 If the Member's Business Item is not dealt with by the end of the meeting, it will be referred to the Cabinet or an appropriate Council Committee or sub-Committee for consideration and any necessary action. (However, if the proposer has specifically asked in his or her notice for the Business Item to be voted on at that Council meeting it

will be voted on without discussion).

- 31.6 A Member who has a Business Item on the agenda may submit a further Business Item by 10.30am on the last working day before the meeting asking for the Business Item to be withdrawn and referred to the Cabinet or an appropriate council committee. The member must sign the Business Item and deliver It to the Head of Governance by hand, post, fax or e-mail.

32. Amendments to Business Items

- 32.1 Amendments to Business Items must relate to the Business Item on the agenda. They may be:

32.1.1 submitted to the Head of Governance in writing, by hand, post, fax or e-mail, (in which case they must be received no later than 10.30 am on the working day before the day of the meeting, and will be circulated by email and by hand by the Head of Governance at or before the meeting); or

32.1.2 submitted to the Head of Governance by 10am on the day of the Council meeting.

32. The right to give approval for a Member to move an amendment from the floor is reserved to the Mayor. The Head of Governance may require oral amendments to be submitted in writing at the meeting. Where prior notice has not been given in accordance with the Constitution, if a Business Item, to which an amendment is proposed to be moved under this provision, is to be put to the vote without discussion, the Member concerned must move the amendment before the Mayor or Chairman of the meeting calls for the vote on the Business Item. If the amendment is not moved in this way, it will not be voted upon by the Council.

33. Rules of Debate

- 33.1 The rules of debate for part 3 of the meeting are as follows:

33.2 Each Business Item will be dealt with in turn in the order set out on the agenda. The Business Item need not be seconded. The Member moving the Business Item, or another member of that group, will open the debate. The Leader of each of the other groups, or another member of their group, will then have an opportunity to comment. The time for this part of the debate will be set out in the timetable, and at the end of the time allowed the Mayor will bring this part of the debate to an end, whether or not all those entitled have spoken or completed their speeches.

33.3 Amendments may be moved by those speaking in the first part of the debate. The Mayor will then invite other Members to move amendments. After all the amendments have been debated the Business Item will be debated. Then the Member who opened the debate, or his/her nominee, has the right to respond.

33.4 At the end of debate the Mayor will put each amendment to the vote in turn. If an amendment is carried it alters the substantive Business Item.

33.5 The Mayor will then put the initiative to the vote.

34. Time for debate

34.1 The time allowed for Part 3 of the meeting will be set out in the timetable. Each of the first three speakers under Rule 33.2 may speak for a maximum of 5 minutes. All subsequent speakers will be limited to a maximum of 4 minutes. At the end of that period of time the Mayor will bring that part of the meeting to a close, whether or not every member wishing or entitled to speak is speaking or has spoken, and whether or not all the business for that part of the meeting has been dealt with. The Mayor will then put the remaining items of business for that part of the meeting to the meeting in turn, and the Council will decide and if necessary vote on each of them without debate.

34.2 The Mayor may at any time move that more time be allowed for a debate than is shown on the timetable, that an amendment, Business Item or recommendation be put to the vote without further debate, or that the order of business be varied. This Business Item from the Mayor need not be seconded, and will be immediately put to the vote without debate.

35. Administration and Opposition Policy Initiatives

Explanatory note

Part 4 of the meeting will debate:

- Any Business Items put forward by the Leader of the Council, a member of the Cabinet or the Leader of any other party or parties who form part of an administration. The time limit for the debate will be 30 minutes.
- Any Business Items put forward by the opposition groups. The time limit for the debate will be 30 minutes.

35.1 Business Items must consist of comments or requests addressed to the Executive. They must address broad policy issues and relate to the Council's powers or duties or matters that affect the Borough or its residents.

35.2 Business Items may not promote a policy initiative which has been rejected, or negate a policy initiative that has been agreed by Council or the Executive in the six months before the meeting.

36 Rules of Debate

- 36.1 The rules of debate for administration, opposition and non-Executive Member Business Items are as follows:
- 36.2 Each Business Item will be dealt with in turn in the order set out on the agenda. The initiative need not be seconded. The Leader of the group promoting the policy initiative, or another member of that group, will open the debate. The leader of each of the other groups, or another member of their group, will then have the opportunity to comment. The time for this part of the debate will be set out in the timetable, and at the end of the time allowed, the Mayor will bring this part of the debate to an end, whether or not all those entitled have spoken or completed their speeches.
- 36.3 Amendments may be moved by those speaking in the first part of the debate. The Mayor will then invite other members to move amendments. After all the amendments have been debated, the Business Item will be debated. Then the member who opened the debate, or his/her nominee, has the right to respond.
- 36.4 At the end of the debate, the Mayor will put each amendment to the vote in turn. If an amendment is carried, it alters the substantive Business Item.
- 36.5 The Mayor will then put the initiative to the vote.

37 Time for Debate

- 37.1 The time allowed for Part of the meeting will be set out in the timetable. Each of the first three speakers under Rule 36.2 may speak for a maximum of 5 minutes. All subsequent speakers will be limited to a maximum of 4 minutes. At the end of that period of time, the Mayor will bring that part of the meeting to a close, whether or not every member wishing or entitled to speak is speaking or has spoken, and whether or not all of the business for that part of the meeting has been dealt with. The Mayor will then put any remaining items of business for that part of the meeting to the meeting in turn, and the Council will decide and if necessary vote on each of them without debate.
- 37.2 The Mayor may at any time move that more time be allowed for a debate than is shown on the timetable, that an amendment or Business Item be put to the vote without further debate, or that the order of business be varied. This Business Item from the Mayor need not be seconded, and will be immediately put to the vote without debate.

Deleted: 37. Amendments to Business Items ¶

37.1 . Amendments to Business Items must relate to the Business Item on the agenda. They . may be: ¶
37.1.1 . submitted to the Head of Governance in writing, by hand, post, fax or e-mail (in which case they must be received by no later than 10.30 am on the working day before the day of the meeting, and will be circulated by the ¶

Head of Governance at or before the meeting); or ¶

37.1.2 . moved orally at the meeting. The Head of Governance may require oral amendments to be submitted in writing at the meeting. ¶

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[numbering of remaining paragraphs to be amended to reflect the proposed deletion]

APPENDIX A3

Section for proposed deletion from Council Procedure Rules

[Note: this would remove the Panels and Consultative Bodies from the Constitution but would not affect the establishment or terms of reference of the Corporate Health and Safety Joint Consultation Committee]

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Section 3 – Panels and Consultative Bodies

Contents

- | |
|---|
| 1. Consultative Bodies |
| 2. Other boards and panels |
| 3. Other advisory or consultative bodies |

1. Consultative bodies

The Council has established a consultative body for the purpose of consultation with the Trades Unions, and determined its constitution and Terms of reference. It does not discharge statutory functions and is not a Council committee. Its Constitutions is attached as Appendices 1 and the membership is set out below:

| Body | Council Members | Substitute Members | Employees' Side Members |
|--|------------------------|---------------------------|--------------------------------|
| Corporate Health and Safety Joint Negotiation and Consultation Committee | 6 | 6 | 10 |

2. Other boards and panels

- 2.1 The Head of Governance is authorised to appoint, nominate and convene boards and panels for specific statutory purposes. This excludes the establishment of Social Services Review Panels (Children and Community Care) which is the responsibility of the Director for Adult Social Care and Health and the Director for Children's Services.

Explanatory note – substitute members

This standing order enables the Head of Governance to make all the necessary arrangements for bodies which are set up by the Council, which:

- Are not effectively external bodies to which the Council nominates members; and
- Are not Committees or sub-Committees.

These bodies are:

- | |
|--|
| <p>(1) School Admission and Exclusion Panels are nominated by the Head of Governance under Delegated Powers.</p> <p>(2) The following bodies which are treated as outside bodies to which appointments are made by the Council:</p> <ul style="list-style-type: none">• Standing Council for Religious Education• Adoption and Permanency Panel |
|--|

2.2 The Council shall appoint members to the School Organisation Committee, which is a statutory body but not a committee of the Council, at its Annual Meeting or when vacancies arise.

3. Other advisory or consultative bodies

The Council and its Committees and sub-Committees can establish other informal advisory or consultative bodies, which are not Council committees or sub-committees.

Appendices 1

Constitution of the Corporate Health and Safety Joint Negotiation and Consultation Committee

1. Title

- 1.1 The committee shall be called the “**Corporate Health and Safety Joint Negotiation and Consultation Committee**”.

2. Representation

- 2.1 The committee will cover all employees in the employment of the Council of the London Borough of Barnet (“the Employers”). The Trade Union Side will represent trade unions and non trade union employees for the purpose of consultation as specified by the Safety Representatives and Safety Committee Regulations 1997 and the Health and Safety (Consultation with Employees) Regulations 1996.

3. Objectives

- 3.1 To promote a healthy and safe working environment for all members of staff employed by the Council and to protect the public from any risk of danger that may arise as a result of the Council’s activities.
- 3.2 To monitor the welfare arrangements (facilities for eating, drinking, first aid and toilets etc) provided for employees.
- 3.3 To provide a forum for consultation and as necessary, negotiation on proposals put forward by management and the trade unions.
- 3.4 To change the way in which work is performed by the introduction of safe systems of work, procedures and arrangements, including those for the training of staff.

4. Constitution

- 4.1 The Chairman of the Committee shall be appointed by the Council and Vice-Chairman shall be appointed by the trade unions.
- 4.2 The Council Side (the Employer’s) and the Trade Union Side shall each appoint a secretary and such secretaries shall be Joint Secretaries of the Committee.
- 4.3 The Head of Governance shall appoint a Clerk to the Committee, who shall be a member of Democratic Services. The Clerk will be responsible for securing the agreement of agenda items between the Joint Secretaries of the Trade Union Side and the Employer Side; the distribution of agenda, the drafting of minutes.
- 4.4 If a member of the committee ceases to be a member or an employee of the Local Authority they shall thereupon cease to be a member of the committee. Any vacancy shall be filled by the Council or by the appropriate employee organisation as the case may be.

- 4.5 The quorum of the committee shall be three members of the Council Side and three members of the Trade Union Side.

Trade Union Side of the Committee

- 4.6 The representation of the Trade Union Side shall be drawn from those Safety Representatives who are appointed by recognised unions for designated work areas of the council. Trade Union Safety Representatives are entitled to time off for trade union duties under the terms of the Facilities Agreement which is set out in the HR Procedures located on the Council's Intranet site.
- 4.7 The composition of the Trade Union Side shall be notified to the Clerk to the Committee at the beginning of each Municipal year.

The number of representatives of the Trade Union Side of the Committee shall be 10 at any one meeting including the Trade Union Side Vice-Chairman.

The representatives who may be available to serve at any time during the year shall be appointed by the appropriate trade union branches.

The normal distribution of seats will as closely as possible be proportionate to the number of Safety Representatives. Employee Side representatives of the Local Authority are to be appointed annually, but in any event to include,

- three teacher representatives, (including representation for head teachers) and
- seven representatives from all other areas of council work.

The Chairman of the Trade Union Side (Vice-Chairman of the Committee) shall normally be the main spokesperson for that side and shall be nominated by and from amongst those eligible to serve the Trade Union Side in the committee's affairs.

The Clerk to the Committee shall maintain an up to date record of recognised Safety Representatives and unions eligible for participation of the Committee.

The Secretary of the Trade Union side will be responsible for updating Committee's records as necessary.

Employer's Side of Committee

- 4.8 The Committee shall comprise six Members of the Council of the London Borough of Barnet to be appointed annually by the Council.
- 4.9 The Council's Health and Safety Strategist shall also attend meetings of the Committee. The Head of HR Strategy and the Health and Safety Manager will attend the meetings as and when necessary.
- 4.10 The Chief Officer or their representative shall attend when the report of that service area is before the committee.

5. Substitute Members

- 5.1 In addition to the members appointed to each side of the committee, five substitute members for the Employer's Side and four for the Trade Union Side shall be

appointed. In the event of any member of the committee being unable to attend a meeting they shall notify the clerk to the Committee at least two days before the meeting, when a substitute member shall then be entitled to attend the meeting, take part in the discussion and vote. Trade Union substitute members will be Safety Representatives.

6. Joint Secretaries' Responsibilities

- 6.1 The Joint Secretaries will meet to consider the agenda items for the Committee meeting prior to the agenda being circulated.
- 6.2 They will advise the Clerk to the Committee, where appropriate, of any changes to the membership of the committee at least one day before the meeting.
- 6.3 The Joint Secretaries will attempt to resolve any issues relating to health and, safety matters between the meetings of the committee. If issues cannot be resolved, they will be referred to the next meeting of the Committee.
- 6.4 The Joint Secretaries will conciliate or advise on any local health and safety issues as requested by the Area Joint Negotiation and Consultative Committees (JNCC) resolutions.

7. Procedure

- 7.1 Meetings of the committee shall be held at least quarterly or as often as may be necessary, provided that when the Chairman and Vice-Chairman are satisfied that the amount of business does not justify the convening of any such meeting, they may authorise its cancellation.
- 7.2 An emergency meeting of the committee shall be held within 10 working days of a written request being received by the Clerk to the Committee from the Chairman or Vice-Chairman.
- 7.3 Items for consideration at any meeting of the committee may be submitted by either side and should be received by the Clerk to the Committee at least 10 working days before the meeting, except in the case of an emergency meeting.
- 7.4 The agenda of business shall be circulated by the Clerk to the Committee to each member of the Committee at least 7 working days before a meeting, except in the case of emergency meetings.
- 7.5 No business other than that appearing on the agenda shall be transacted at any meeting unless both sides agree to its introduction.
- 7.6 Reasonable facilities shall be provided for meetings of both sides. The administrative expenses of the committee shall be paid by the Employer's Side.
- 7.7 Minutes of meetings of the Committee and the preparation of official agendas shall be the responsibility of the Clerk. Copies of the minutes of the committee shall be circulated to all members of the committee.
- 7.8 Minutes of any meeting of the Committee shall be signed by the Chairman (or their representative), and the Vice-Chairman (or their representative).

- 7.9 Decisions shall be arrived at only by agreement between the two sides of the Committee. In the event of the Committee being unable to arrive at an agreement on a motion, the matters will be referred to the General Functions Committee who may make such recommendation to the Council as they think appropriate. They may refer the matter back to the Committee with the views or recommendations of the General Functions Committee.
- 7.10 The minutes of the meeting will record any decisions reached, the essence of discussions which do not require agreement and any formal failure to agree may be referred to the General Functions Committee for consideration.

8. Terms of reference

The terms of reference of the Committee shall be:

- 8.1 The examination of accident statistics and trends.
- 8.2 The examination of any reported notifiable diseases.
- 8.3 Examination of safety audit reports.
- 8.4 To receive and consider reports and factual information provided by Health and Safety Executive Inspectors appointed under the Health and Safety at Work, etc, Act 1974.
- 8.5 Subject to their submission to the appropriate Area JNCC in the first instance, consideration of reports which safety representatives may wish to submit together with the views of the appropriate Area JNCC.
- 8.6 Advice on the development of safe systems of work.
- 8.7 Approval of Council Health and Safety Arrangements.
- 8.8 Monitoring the adequacy of the safety content of employee training.
- 8.9 Monitoring the adequacy of safety and health communication and publicity in the workplace.
- 8.10 To maintain a link with the appropriate inspectorate of the enforcing authority.
- 8.11 Consideration of annual reports from the service areas.

APPENDIX A4

Proposed redraft of Public Participation Rules

[Note: the proposed changes do not alter the substance of the rules, rather to improve their clarity and readability for members of the public]

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Section 4 – Public participation

1. Introduction

- 1.1 There are three ways in which members of the public can participate in committee meetings. These are:
- By asking a public question
 - By making a public comment
 - By submitting a petition
- 1.2 The following sections outline the process by which members of the public can exercise their right to participate in meetings, as well as giving details of the rules governing the exercise of these powers.

2. Public Questions

- 2.1 Public questions provide an opportunity for residents or business owners in the borough to ask questions of the Chairman of formal committee meetings.
- 2.2 Questions must relate to an item being considered on a committee agenda. Committee agendas are published on the Council's website five working days prior to the meeting.
- 2.3 Questions should be sent by e-mail or post to the Governance Service officer named on the front page of the agenda and **received** by 10am on the second working day prior to the meeting. For example, if a meeting is due to take place on a Tuesday evening, questions must be received by 10am on the preceding Friday. In practice, the majority of questions are sent by e-mail.
- 2.4 At the meeting, a time period of up to 30 minutes, or for up to 20 questions (whichever occurs first), is available.
- 2.5 Answers to the questions will be given in oral or written form at the meeting. Any questions not answered at the meeting will be responded to in writing within 10 working days.

- 2.6 If they wish, members of the public can ask one supplementary question at the committee meeting, which will be answered without discussion.

3. Public Comments

- 3.1 Public comments provide an opportunity for residents or business owners in the borough to address formal committee meetings.
- 3.2 Comments must relate to an item being considered on a committee agenda. Committee agendas are published on the Council's website five working days prior to the meeting.
- 3.3 Requests to speak should be sent by e-mail or post to the Governance Service officer named on the front page of the agenda and **received** by 10am on the second working day prior to the meeting. For example, if a meeting is due to take place on a Tuesday evening, requests must be received by 10am on the preceding Friday. In practice, the majority of requests are sent by e-mail. *Please note: for requests to make comments on planning applications or tree preservation orders, requests to speak must be received three working days prior to the meeting..*
- 3.4 At the meeting, each speaker will have a time period of up to 5 minutes to address the Committee. The Committee members will then have the opportunity to question the speaker. *Please note: for requests to make comments on planning applications or tree preservation orders, each speaker will have a time period of up to 3 minutes. No more than 4 individuals are able to make comments per application, or 2 individuals per application considered at an Area Planning sub-Committee. Where more than the maximum number of requests to speak have been received, the public shall decide amongst themselves who is to address the Committee. If this does not take place, the Chairman shall use their discretion to determine who is able to speak.*
- 3.5 Members of the public requesting to speak are able to send a substitute if they are unable to attend the committee meeting.

4. Restrictions and Exceptions for Public Questions and Comments

- 4.1 Public questions and comments are not permitted:
- On any matter which has been the subject of a decision of any committee in the previous six months
 - If they are requests from or in connection with the aims and activities of a political party

- If they would result in the release of confidential information, or which may prejudice enforcement
- If they relate to a matter where this is a right of appeal against any decision of the Council
- If they are defamatory, abusive or offensive
- If they are submitted by any individual working in a legal or professional capacity
- Is submitted from council employees or trade unions on employment matters; there are avenues available for these to be addressed via the terms of reference of the General Functions Committee

4.2 Public questions and comments are not permitted at the following meetings:

- Appeals Committee
- Chief Officer Appointment, Investigation and Disciplinary Panels
- Council
- Non-formal meetings
- Licensing Committees and sub-Committees
- Standards Committee, on agenda items relating to complaints of a breach of the Member Code of Conduct

4.3 Public comments are not permitted at Cabinet or Cabinet committee meetings, except at the invitation of the Chairman. Public questions are permitted in the usual manner.

5. Petitions

- 5.1 Petitions enable members of the public to bring matters to the attention of the authority. Petitions must have a minimum of 25 signatures by individuals who live, work or study within the borough to be considered.
- 5.2 Petitions can either be submitted in hard copy to the Head of Governance or by using the authority's e-petitions facility. Online petitions using other facilities will not be accepted.
- 5.3 Petitions must be relevant to the functions of the authority.

- 5.4 Petitions will not be accepted if they are:
- vexatious or abusive
 - relate to planning or licensing applications, appeals or reviews
 - made under any other enactment or statutory provision
- 5.5 Petitions will be acknowledged within 10 working days. The acknowledgement will include information on further action in respect of the petition.
- 5.6 Petitions will be formally received at the most relevant body to in which do so, which in many cases is the relevant Residents' Forum.
- 5.7 Petitions of over 7000 signatures will be considered at the next available Full Council meeting, where the lead petitioner will have a right to address the Council for five minutes. Petitions are required to be received 15 days before the Council meeting, and only one petition will be heard per meeting.
- 5.8 Petitions of over 2000 signatures will be considered at the Business Management Overview & Scrutiny Committee, where an officer will be called to give account. The lead Petitioner will have the right to address the Committee for five minutes.

APPENDIX A5

Proposed changes to Management of Real Estate, Property and Land Council Procedure Rules

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MANAGEMENT OF REAL ESTATE, PROPERTY AND LAND

Definitions :

Executive

This relates to the Executive as defined in Article 7 of the Constitution, a Cabinet Committee or Cabinet Member acting under delegated powers:

Area Environment Sub – Committee – The powers of these Sub – Committees are defined in Part 3 of the Council’s Constitution, Responsibility for Functions

1. The Council’s holdings of land and real property (“property”) are a corporate resource. Directors and Heads of Service will keep these holdings under review as part of the Property Review Process managed by the Head of Property Services. The Property Review Process will consider properties in the context of the Corporate Plan and Service Key Priorities and their ability to deliver continuing value for money for the council. A strategy framework will govern decisions on whether to (i) retain an asset for purposes in accordance with the Corporate Plan objectives or (ii) to dispose of the freehold (for capital generation purposes) or (iii) to lease it (for a combination of reasons including capital or revenue generation or other reasons serving the Council’s purposes). Future reports for decisions on action with respect to individual properties, in any one of these three ways would need to refer to the strategies within the framework and confirm compliance with it or reasons for departing from it. The strategies will be developed and monitored by the relevant Director with responsibility for real estate, property and land in conjunction with the relevant Cabinet Member with responsibility for the same, with approval of them sought through Cabinet Resources Committee.
2. If it appears that a property (in the context of these Rules the term “property” shall include an interest in property) is no longer required by the Council or, in the event of the Council having appropriated the property through other mechanisms if it appears that such property is not required to be retained, then the procedures set out below will apply. These are in addition to any statutory requirement, such as a requirement for consultation.
3. The relevant Director or designated officer, will consult all Directors and Heads of Service on possible alternative uses of the property.
4. The relevant Director or designated officer will report to the Cabinet meeting or the Cabinet Resources Committee (“the relevant body”). It may decide to transfer the property to an alternative Council use. Otherwise, it will deal with the disposal of the property or the disposal may be dealt with by the Director.

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within the parameters set by the Leader's scheme of delegation relating to executive functions.

5. On any disposal of property, proper regard will be had to the professional advice from a qualified valuer at all relevant stages in the process and where the Director or designated officer, the relevant Cabinet Member or the relevant body deems it appropriate, independent valuation advice shall be obtained.

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6. Where the relevant body is to deal with the disposal, it will receive a report from the relevant Director or designated officer or the relevant Cabinet Member setting out an analysis of:-

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- Comparative benefits and disadvantages to the Council and to local residents and other interested parties of the Council disposing of or retaining the property
- the objectives which the Council would secure by disposing of or retaining the property
- the alternative uses to which the property might be put with specific reference to the response from the Directors and Heads of Service.
- the alternative bases and methods of disposal
- the estimated disposal value or values
- the estimated costs associated with disposal together with a statement from the relevant Director or designated officer on the extent to which each item of expenditure is anticipated to enhance the value of the property
- all other financial implications and risks associated with disposal or retention of the property by the Council
- the relevance of the proposed disposal within the context of agreed Council strategies and plans.

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The above requirements shall also apply where the report is made to the relevant Cabinet Member or submitted to him/her in consultation.

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- 7.(i) Whenever a decision is taken by the Executive or the relevant Director acting under delegated powers to advertise the possible disposal or appropriation of open space land, the Director or designated officer shall report the matter to the next relevant Area Environment Sub-Committee to enable it to decide whether it wishes to make representations to the Executive in relation to the disposal of the open space land.

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7(ii) In the event that the relevant Director confirms that there is insufficient time to report to the Area Environment Sub Committee (AESC) as above because of the timing of the committee cycle and the need to progress the disposal expeditiously the decision to advertise may be circulated to all members of the AESC and to the relevant ward members to give them the opportunity to make representations to the Executive on the proposed disposal.

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8. The relevant Director or designated officer will where appropriate apply for any planning permission or other consent.

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9. Where disposal by selected tendering is agreed, a report will be submitted to the relevant body. The report will set out :

- those considered for selection
- those recommended for selection
- the reasons for the recommendation

10. Where disposal is to be by open tender, the relevant Director or designated officer will advertise the property and seek competitive tenders reserving the right not to accept the highest or any bid. Advertisements will be placed in two newspapers circulating in the borough and in such other publication as the Director or designated officer considers necessary. The closing date for bids shall be not less than two weeks after the latest publication date.

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11. The particulars of sale must indicate the method by which tenders are to be made. Tenders should not be considered unless contained in a plain envelope securely sealed and bearing the word "Tender" followed by the subject of the disposal and should not bear any other distinguishing mark to identify the tenders. The envelope should be addressed impersonally to the Director or designated officer and until the time appointed for opening shall remain in his or her custody. The Director or designated officer will maintain a list of all such tenders received distinguishing between those received before and after the closing date and time.

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12. Tenders shall only be opened at one time, and only in the presence of:-

12.1 The relevant Director or designated officer or his/her nominated representative.

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12.2 An officer from Legal services.

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13. Following the opening of the tenders, the Director or designated officer shall arrange for them to be scrutinised for compliance with the specified conditions of tender and subject to paragraph 14 report to the relevant body or Cabinet Member if he/she has authority to accept the bid under the Leader's scheme of delegation relating to executive functions. The Director or designated officer will ensure that full enquiry is made as to the identity of the recommended purchaser and that the relevant information is clearly set out in the report.
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14. Where a tender, amended tender or other bid is received after the specified closing date or time, or made other than in accordance with the specified conditions of tender, and would otherwise have been acceptable, the Director or designated officer must report the result of the tenders received including details of late or non-complying tenders to the next meeting of the relevant body.
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15. Where a bid or offer is made after the relevant body or Cabinet Member has taken a decision to accept an earlier bid or offer then the later bid or offer shall not be considered unless, in the Director's view (after consulting Legal Services), it is necessary to do so in order for the Council to comply with statutory duties. In that case, the Director or designated officer shall report the matter to the relevant body or Cabinet Member for, or, in cases of urgency, take a decision under delegated powers and report afterwards to the relevant body.
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16. The relevant body may decide to accept a tender or bid that is not the highest but must explain the reasons.
17. Where disposal by public auction has been agreed, the Director or designated officer shall before the auction begins provide the auctioneer with a note of the reserve price, if applicable, in a sealed envelope having previously agreed this in consultation with the Cabinet Member. The auctioneer shall open the envelope in the presence of the public to ascertain the reserve price but shall not communicate its contents to any person whatsoever. If the reserve price is equalled or exceeded, agreement for the sale to the highest bidder shall be concluded forthwith. If the reserve price is not reached, the property will be withdrawn from the auction and the matter reported to the relevant body.
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18. All other disposals shall be regarded as disposal by private treaty and the Director or designated officer shall be responsible for:-
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- (i) Taking all necessary steps to determine the level of potential interest from prospective purchasers and to identify any parties who might wish to purchase the property.
- (ii) Determining how the negotiations for each potential disposal by private treaty are to be conducted and setting the process out in writing.

(iii) Ensuring that full and reasonably contemporaneous records are made of all negotiations and that those records are appropriately stored either by hard copy or electronic means.

(iv) Upon the conclusion of negotiations reporting the results to the relevant body or Cabinet Member for consideration or where it is appropriate to do so for consultation with the Cabinet Member,

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(v) Ensuring that full enquiry is made as to the identity of the recommended purchaser and that the relevant information is clearly set out in the report referred to in (iv) above.

19. All recommendations for approval of the sale price and other terms of disposal must contain a statement from the Chief Valuer or, if appointed, from suitably qualified external agents that the Council will obtain the best price which can reasonably be obtained or that there is approval through the General Consent or that the consent of **Central Government** has been obtained or will be sought to enable the disposal of the property to proceed as recommended.

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20. The relevant body or Cabinet Member may decide to repeat or postpone the disposal process.

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21. The relevant body may decide to change a previously approved method of disposal.

22. Where the prospective purchaser will be required by the Council to enter into obligations in the legal documentation in favour of the Council or of any other party or for the benefit of the locality, then the **Director** or designated officer will ensure that full and proper enquiry is made as to the financial and other capacities of the purchaser to carry out the obligations. In so doing, the **Director** or designated officer will consult as necessary with the Chief Finance Officer, **Legal Services, and** other Directors and Chief Officers as appropriate. The **Director** or designated officer will set out the outcome of those enquiries and consultations in the report seeking approval to the disposal.

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23. Where the Council is disposing of property jointly with another party then to the extent that the procedures for the disposal do not accord with these Rules they must be approved in advance by the relevant body.

24. (i) Once a disposal has been approved, the **Director** or designated officer will ensure that the Assistant Director - Legal is provided with full and accurate instructions to enable the legal documentation to be prepared in accordance with the terms of disposal agreed by the parties and approved on behalf of the Council. In cases of urgency, the **Director** or a designated officer may provide instructions to the Assistant Director Legal to prepare and submit to the prospective purchaser or lessee or his/her/its advisors the draft legal documentation, subject to obtaining Council authority.

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- (ii) The Assistant Director - Legal will ensure that the Director or designated officer is provided with a copy of the draft legal documentation for comments/approval before it is sent to the prospective purchaser or lessee or his/her/its advisors except in cases of urgency where the documents will be submitted to the Director or designated officer simultaneously with submission to the prospective purchaser.
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- (iii) The Director or designated officer will confirm in writing that the draft documentation provided by the Assistant Director - Legal fully and accurately sets out the terms of disposal as agreed by the parties and approved on behalf of the Council.
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- (iv) The Assistant Director - Legal will consult the Director or designated officer in writing on all and any substantive amendments to the draft documentation and the Director or designated officer will respond to the Head of Legal in writing with comments on each proposed amendment to the draft documentation.
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- (v) Prior to completion the Assistant Director - Legal will forward to the Director or designated officer a copy of the final draft of the legal documentation as agreed with the prospective purchaser or lessee or his/her/its advisors and the Director or designated officer will read through the final draft documentation in order to verify that the documentation fully and accurately sets out the terms of disposal as agreed by the parties and approved on behalf of the Council.
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- (vi) The Head of Legal will not proceed to engross and complete any legal documentation unless and until the Director or designated officer has provided verification in writing that the final draft documentation fully and accurately sets out the terms of disposal as agreed by the parties and approved on behalf of the Council.
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- (vii) Reference to the Assistant Director - Legal includes officers authorized by the Assistant Director - Legal to carry out these instructions.

- 25. The relevant Cabinet Member or Director or the designated officer will regularly report to the relevant body on the progress of all previously approved disposals.
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APPENDIX A6

Proposed change to Council Procedure Rules, Rule 16

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Close of business

16. Suspension of business

16.1 No business at any meeting of the Council shall be transacted after 10 pm, or 10:30pm if the Mayor has extended the period for transaction of business to this time. Any business transacted after these times shall be null and void

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APPENDIX B

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| Meeting | Special Committee (Constitution Review) |
| Date | 19 July 2011 |
| Subject | Review of Delegated Powers Reports (DPRs) |
| Report of Summary | Director of Corporate Governance This report outlines steps taken to rationalise the DPR process. It also outlines what further steps are necessary to ensure that a robust, cost-effective and meaningful process is in place. |
| Officer Contributors | Jeff Lustig, Director of Corporate Governance Aysen Giritli, Head of Governance |
| Status (public or exempt) | Public |
| Wards Affected | All |
| Enclosures | Appendix 1- Report to Special Committee Constitution Review meeting on 25 March 2010 (available on the internet) Appendix 2 - Report to Special Committee Constitution Review meeting on 14 April 2011 (available on the internet) Enclosure 1 – Part 3 – Responsibility for Functions |
| For decision by | The Committee |
| Function of | Council |
| Reason for urgency | Not applicable |

Contact for Further Information: Aysen Giritli, Head of Governance

1. RECOMMENDATIONS

1.1 That the Committee approve the amendments to the Constitution at Part 3 – Responsibility for Functions to include –

- **A paragraph in Section 6 on ‘The recording of delegated powers to Officers’ as guidance on where formal reporting of action/decisions taken by Chief Officers acting under delegated powers will be required.**
- **That most decisions will be reported in summary form.**
- **That detailed reporting of individual decisions will be by way of exception and only where there is a clear need to do so.**
- **That where formal reporting is not required, the officer exercising delegated powers is responsible for ensuring that all decisions taken are properly recorded in accordance with the procedure for the relevant Directorate. Each Directorate will keep its own central record of all delegated decisions.**
- **An amendment to the wording at Paragraph 6.5 of Part 3 of the Constitution - Responsibility for Functions – that Chief Officers be required to draw up an up-to-date list of specific powers delegated to them which must be (i) in accordance with the general principles of delegation set out in the Constitution (ii) published on the Internet and (iii) updated annually.**

2. RELEVANT PREVIOUS DECISIONS

2.1 Special Committee (Constitution Review), 25 March 2010.

2.2 Special Committee (Constitution Review), 14 April 2011.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

3.1 The proposals in this report support the corporate priority of delivering “better services with less money” by allowing Directors to manage their services with greater confidence in the probity of their decision-making, with transparency and accountability and less bureaucracy.

4. RISK MANAGEMENT ISSUES

4.1 The implementation of any changes to the decision-making system implies the need to install safeguards to insure against failures of governance and a lessening of openness and accessibility.

5. EQUALITIES AND DIVERSITY ISSUES

5.1 Equalities considerations are required to be embedded in the corporate decision-making procedures, and any variations in those processes must preserve this principle.

5.2 Similarly, the ability of the community to access the decisions taken on their behalf must not be impaired

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

6.1 No additional cost implications arise from these proposals; the main effect of which is to achieve a saving in staff time.

7. LEGAL ISSUES

7.1 None in the context of this report.

8 CONSTITUTIONAL POWERS

8.1 The Council's Constitution provides for Chief Officers to take decisions under delegated powers. The relevant provisions are set out in section 6 of Part 3 – Responsibility for Functions.

9. BACKGROUND INFORMATION

9.1 In March 2010, the Committee received a report on the review of Delegated Powers Reports and instructed that a further report be submitted to the Committee on rationalising the delegated powers processes underpinned by the following objectives-

- Administrative efficiency
- Constitutional clarity
- Safeguarding of good governance

9.2 On 14 April 2011, the Committee received a further report outlining the steps taken to achieve this and the further steps would be necessary to ensure that a robust, cost-effective and meaningful process is in place. These reports are attached as Appendix 1 and Appendix 2.

9.3 At its meeting on 14 April 2011, a further report was requested by the Committee to consider the amendments to the Constitution at Part 3 – Responsibility for Functions.

9.4 The Committee agreed that appropriate guidance on the principles where formal reporting of actions/decisions taken by Chief Officers acting under delegated Powers will and will not be required should be included within the Constitution at Part 3 – Responsibility for Functions.

9.5 The principles agreed by the Committee were-

- Formal reporting (DPR) to take place where actions or decisions involve the exercise of specific statutory powers
- The service of formal notice
- The incurring of expenditure of £500 or more
- The fixing of fees and charges to be levied by the Council
- Authorisations and acceptances in accordance with the Contract Procedure Rules

- Land or property transactions
- The exercise of specific powers pertaining to finance
- Borrowing and investments
- The issue or defence of legal proceedings
- Taking other actions or decisions that are significant in the context of Service delivery and/or organisation or upon individuals, external bodies or the public

9.6 The Committee further agreed that, consistent with the principles in 9.5 above, there should be greater use of the existing provision for summary reporting of actions/decisions taken by Chief Officers acting under delegated powers. Amendments to the Constitution, Part 3 – Responsibility for Functions (Appendix 3) are attached for the Committee’s consideration.

9.7 Appendix 3 also includes an amendment to the wording of Paragraph 6.5 of Part 3 of the Constitution – Responsibility for Functions to the effect that Chief Officers be required to draw up an up-to-date list of specific powers delegated to them which must be (i) in accordance with the general principles of delegation set out in the Constitution (ii) published on the Internet and (iii) updated annually.

The current position

9.8 The General Powers delegated to Chief Officers are described in the following manner in Paragraph 6.1 of Part 3 of the Constitution – Responsibility for Functions;

“General Powers

6.1 Chief Officers (i.e. the Chief Executive, Directors and Heads of Service as listed in Article 12) can take decisions, in consultation with the Cabinet Member concerned (or without consultation where it is a decision authorised to be taken by the Chief Officer under the Contract Procedure Rules or it involves the implementation of policy or earlier decision of the Council or Cabinet or Committee or it is in respect of operational matters within the Chief Officer's sphere of managerial or professional responsibility and is not significant in terms of budget or policy):

- to discharge the functions allocated to them or dealt with by them or their staff, except for matters specifically reserved to Executive Members, Cabinet meeting, Cabinet Committees, Committees or Council;
- in all matters where they have managerial or professional authority;
- to authorise and accept quotations for contracts to the limits placed on Chief Officers by Contract Procedure Rules for approved schemes with sufficient estimate provision;
- to agree settlements of up to £1,000 subject to budget and audit trails;
- to agree financial settlement where recommended by the Ombudsman or a Court;
- without exception, in cases of emergency.”

Administrative requirements for exercising delegated powers

9.9 The administrative requirements set out in the Constitution for the exercise of delegated powers are as follows:-

- Chief Officers must draw up a list of specific powers delegated to them which must be published on the internet.
- Where Key Decisions are exceptionally taken by Chief Officers, details are required to be published and recorded in accordance with the Access to Information Procedure Rules.
- Other decisions taken by Chief Officers must be recorded and made available to Members of the Council either as individual or summary decisions published on the internet or as a performance indicator reported to an Overview and Scrutiny Committee.
- Chief Officers may authorise other officers to exercise their powers in practice, but they are taken in their name and remain their responsibility.
- Emergency action taken under delegated powers must be reported to the relevant body as soon as possible.

Reporting of Decisions under delegated powers

9.10 Generally, decisions taken under the arrangements require individual delegated papers reports following a drafting and approval process identical to that of formal Committee reports. The arrangements are complex. Moreover, those involved in providing delegated powers reports are often not clear about the precise nature of a Chief Officer's delegated decision making powers and how particular decisions need to be recorded. This can result in both delay and officers spending a disproportionate amount of time on the reporting process. The complexity and uncertainty also results in a lack of consistency in levels of reporting across the Council.

9.11 The present requirements are that decisions taken under delegated powers by Chief Officers are to be recorded and made available to Members either as individual or summary decisions published on the Internet or as a performance indicator reported to an Overview & Scrutiny Committee.

9.12 In practice most decisions are reported individually. At its meeting on 14 April 2011, the committee resolved to encourage greater use of summary reporting, and agreed that guidance be inserted into the Constitution to the effect that the expectation is that most decisions will be reported in summary form and that detailed reporting of individual decisions will be by way of exception and only where there is a clear need to do so. The amendments to the Part 3 of the Constitution – Part 3 – Responsibility for Functions – are attached as Appendix 3.

9.13 The reporting of Officers delegated decisions would then not only be a less cumbersome process for those involved in producing the documentation, the accessibility and transparency would similarly be improved by providing just critical information in a clear and succinct format. A cross reference to the appropriate power within the Chief Officer's scheme of delegation would be one of the pieces of critical information to be displayed.

9.14. Where formal reporting is not required, the officer exercising delegated powers is responsible for ensuring that all decisions taken are properly recorded in accordance with the procedure for the relevant Directorate. Each Directorate will keep its own central record of all delegated decisions.

Other Boroughs

9.15 Equiries of a number of other London boroughs have confirmed that Barnet's arrangements for reporting the exercise of delegated powers by Chief Officers are unusually protracted and regulated.

9.16 A number of boroughs reported in the following ways-

- **Haringey** - Regular reports (monthly or as near as possible) are presented to the Cabinet meeting, in the case of executive functions, and to the responsible Member body, in the case of non-executive functions, recording the number and type of all decisions taken under officers' delegated powers. Decisions of particular significance shall be reported individually.
Newcastle – Decisions must be recorded and delegated Officers should keep a written record of all delegated decisions. The exceptions to the requirement to record on the CMIS (publishing) System are;
 - (a) Decisions of a type which the Head of Corporate Law has agreed to exempt from such recording because they are adequately recorded elsewhere and are inappropriate for the CMIS System.
 - (b) any purely administrative or operational decision i.e. one which (i) does not directly affect any person outside the Council and (ii) does not commit expenditure above £100k.
 - (c) any decision which the Head of Corporate Law agrees, because of exceptional circumstances such as extreme urgency, can take effect without being recorded on the CMIS System.
- **Doncaster** –Only Key decisions are reported as a written report setting out all the information and advice relevant to the decision, evaluating any alternative courses of action and recording the outcome of any consultation undertaken. *Non-Key decisions* - It is the responsibility of Officers who take delegated Non-Key Decisions to keep an appropriate record of the date the decision was taken, the principal considerations involved in reaching the decision and the reasons for the decision.
- **Lake District** -Directors are responsible for retaining a record of delegated decisions which they (or their Officers) take and the reasons for such decisions sufficient for audit and evidential purposes (against the eventuality of evidence being required for judicial review, Employment Tribunal, Ombudsman, Audit Commission or other proceedings or investigation), and for ensuring that all those who need to know are informed promptly of the decision, such records being subject to audit by the Head of Paid Service, Monitoring Officer or Section 151 Officer at any time.

- **Southampton** - In exercising delegated powers, the officer shall:
 - a. take account of the requirements of the Corporate Standards and Special Procedures and shall address all legal, financial and other professional safeguards as if the matter were not delegated;
 - b. shall exercise the delegation so as to promote the efficient, effective and economic running of that Division, Directorate and the Council, and in furtherance of the Council's visions and values; and
 - c. shall, where and when appropriate, report back to the appropriate delegating body as to the exercise of those delegated powers.

Except where otherwise expressly provided either within this Scheme of Delegation or by resolution of the delegating body, the exercise of any delegated power, duty or function is subject to having the appropriate and necessary budgetary provision in place to take the action in the name of and/or on behalf of the Council.

10. LIST OF BACKGROUND PAPERS

10.1 None.

APPENDIX B, Enclosure 1 - Proposed changes to Responsibility for Functions in respect of Delegated Powers

6. POWERS DELEGATED TO OFFICERS

General Powers

6.1 Chief Officers (ie the Chief Executive, Directors and Heads of Service as listed in Article 12) can take decisions, in consultation with the Cabinet Member concerned (or without consultation where it is a decision authorised to be taken by the Chief Officer under the Contract Procedure Rules or it involves the implementation of policy or earlier decision of the Council or Cabinet or Committee or it is in respect of operational matters within the Chief Officer's sphere of managerial or professional responsibility and is not significant in terms of budget or policy):

- to discharge the functions allocated to them or dealt with by them or their staff, except for matters specifically reserved to Executive Members, Cabinet meeting, Cabinet Committees, Committees or Council;
- in all matters where they have managerial or professional authority;
- to authorise and accept quotations for contracts to the limits placed on Chief Officers by Contract Procedure Rules for approved schemes with sufficient estimate provision;
- to agree settlements of up to £1,000 subject to budget and audit trails;
- to agree financial settlement where recommended by the Ombudsman or a Court;
- without exception, in cases of emergency.

Explanatory Note

This covers emergency decisions that were not anticipated within the budget or Key Priority Plan but nevertheless relate to everyday business, not major changes/decisions outside the approved budget and statutory plans listed under paragraph 3.8 as being for decision by Council or Cabinet.

Example: school heating system fails during mid-winter, or a school roof collapses today.

Explanatory Note – Officers to deputise

All officers to whom powers are delegated under the Constitution will authorise another officer or officers to exercise those powers during periods for which they have given formal notification that they will be absent or unable to be contacted, or when they cannot be contacted due to illness or other indisposition, or in cases of utmost urgency where they cannot be contacted by any means.

6.2 They may use whatever means they consider appropriate to discharge those functions, including:

- incurring expenditure and collecting income;

- engaging and deploying staff;
- deploying other resources within their control;
- placing contracts and procuring other resources within or outside the Council.

6.3 Besides having delegated powers to deal with executive matters, specific chief officers have powers to deal with regulation, licensing enforcement, staffing and other statutory matters which are functions for which the Council is responsible, or for which the Council, acting as Licensing Authority, is responsible. These powers must be set out in the Directorate Scheme of Delegation to Officers.

Explanatory Note

There are a number of powers, mainly those relating to staffing and managerial issues, which Directors and Heads of Service are able to exercise without prior consultation, or in consultation with other officers, if they consider it appropriate.

For restructuring arrangements delegated powers may be exercised without reference to General Functions Committee if the restructure is deemed **minor** where;

1. The restructure only has implications for the staffing and management under the control of the Chief Officer exercising the delegated powers.
2. No compulsory redundancies will arise from the restructure.
3. Only vacant posts and/or posts held by staff that have volunteered and have been accepted for redundancy are deleted.
4. Changes in the designation of existing posts within the organisational structure are within budget.
5. Any new posts created within the organisational structure are within budget.
6. Temporary posts are created for up to a maximum of 2 years.
7. Minor changes to contracts of employment (with no corporate implications) where all individuals affected by the changes are in agreement.
8. The introduction of or change to existing local procedural arrangements.
9. Formal consultation has concluded with the staff affected and the trade unions and no notification of a failure to agree has been received.

Each of the above points where appropriate should be clearly referenced in the delegated powers report. Following signature, the Chief Officer concerned, will send a copy of the report to the Chairman of the General Functions Committee.

6.4 Before any delegated powers report is signed by a Chief Officer he or she must consider whether the issues involved are likely to raise significant levels of public concern or comment or give rise to policy considerations. Where this is the case, the matter must be referred to the appropriate Cabinet Member as to whether or

not it is appropriate to use the delegation. All delegated powers reports must indicate that this process has been undertaken.

Recording of delegated powers to Officers

- 6.5 Formal reporting of officer decisions will take place if actions or decisions involve the following –
- Specific statutory powers
 - The service of formal notice
 - The incurring of expenditure of £500 or more.
 - The fixing of fees and charges to be levied by the Council
 - Authorisations and acceptances in accordance with the Contract Procedure Rules
 - Land or property transactions
 - The exercise of specific powers pertaining to finance, borrowing and investments
 - The issue or defence of legal proceedings
 - Or taking other actions or decisions that are significant in the context of service delivery and/or organisation or upon individuals, external bodies or the public
- 6.6 Recording/publishing of most decisions will be in summary form and will set out the principal matters that are relevant to the decision. Detailed reporting/publishing of individual decisions (Delegated Powers Report) will be by way of exception and only when there is a clear need to do so.
- 6.7 Where formal reporting is not required, the officer exercising delegated powers is responsible for ensuring that all decisions taken are properly recorded in accordance with the procedure for the relevant Directorate. Each Directorate will keep its own central record of all delegated decisions. Proper administrative decision making requires that: -
- Decisions are properly made
 - Appropriate reasons are given to those affected
 - Decisions are fully recorded
- 6.8 All Directors and Chief Officers will draw up an up-to-date list of specific powers delegated which must be in accordance with the overall scheme of delegation, is updated annually and is published on the internet.

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Specific Powers

- 6.6 In addition, in consultation with the Cabinet member concerned:
- Corporate Directors have the power to agree revenue virements for sums in excess of £50,000 and up to £250,000 between service directorates and employee and non-employee expenditure.

Details of the Scheme of Revenue and Capital Virements can be found in Part 4 – Financial Regulations.

- 6.7 The Chief Finance Officer has the powers set out in the Financial Standing Orders and in particular:

- To agree to revenue or capital expenditure not provided for within the control budget being incurred if the Chief Finance Officer is satisfied that it is wholly reimbursable to the Council, or compensatory savings have been identified. In all circumstances the expenditure must be consistent with performance management plans.
- To take the most appropriate form of borrowing from the approved sources and to make the most appropriate form of investments in approved instruments.
- Subject to details being incorporated in the next available budget a report being submitted to Resources Cabinet Committee on the action taken, to write off individual debt amounts of up to and including £5,000 (including cancellations of penalty charge notices or any other sums due to the Council), in consultation with the Assistant Director - Legal.

6.8 The following Officers also have the powers indicated:

- the Chief Finance Officer to have responsibilities as set out in Pension Fund Governance Compliance Statement.
- the Director of Planning, Housing and Regeneration, in consultation with the Cabinet Member for Resources to make decisions about:
 - Entering into new leases with a consideration between £25,000 and £50,000 per annum where the council is granting the lease at best consideration in accordance with the Local Government Act 1972.
 - Acquisitions of land whether freehold or leasehold where the cost of the interest being acquired is between £20,000 and £30,000 per annum or as a one off consideration
- The Deputy Chief Executive (Chief Finance Officer) and Assistant Director- Legal to make decisions about:
 - Occupational and works Licences
 - Easements
 - Rent Reviews and Licences to Assign.
 - Lease renewals where this represents best consideration in accordance with the Local Government Act 1972.
 - Entering into new leases of less than 21 years, where the consideration is less than £25,000 per annum and at best consideration in accordance with the Local Government Act 1972, where the Council is granting the lease.
 - Acquisitions of land, whether freehold or leasehold, for less than £10,000 per annum or as a one off consideration
 - To respond to statutory notifications by Foundation Schools on proposals to dispose of surplus land (see all Disposal of land and real property rules)
- The Director of Planning, Housing and Regeneration to make decisions about:
 - (i) The acquisition of properties under the private sector leasing scheme, for £20,800 per annum or less or as a one off consideration; and
 - (ii) The Director of Planning, Housing and Regeneration shall have authority to sign the private sector leases as detailed at (i) above

Explanatory Note – other disposals

All disposals of freehold interests and leases where a capital premium is obtained for the interest will be agreed by Cabinet Resources Committee.

- 6.9 The Director of Children's Services shall have powers to take all necessary action to ensure that the Council's duties are properly and effectively discharged in child protection and care cases and the Director for Adult Social Care and Health shall have powers to take all necessary action to ensure that the Council's duties are properly and effectively discharged in adult protection and care cases.

Restrictions and Conditions

- 6.10 Directors and Chief Officers will not take decisions that are reserved to another decision making body under this constitution, and in particular
- they will only take Key Decisions as defined in Article 13 of the Constitution, or which do not involve the implementation of an annual Performance Management Plan or a decision previously taken by Council, Committee or Cabinet, if it is impractical for the relevant Executive Member to do so;
 - they will only take decisions that are reserved to Council or Cabinet under this Constitution in an emergency and if it is lawful for them to do so.
- 6.11 When exercising delegated powers officers must act within the law and the Council's constitution, and follow Council policy (including the Statement of Licensing Policy) and the lawful instructions of Council Committees, Licensing Authority Committees, and the Executive. If exceptionally they need to depart from Council policy or those instructions, they must report to the relevant body as soon as possible.
- 6.12 Key decisions taken by officers will be published and recorded in accordance with the Access to Information Procedure Rules. Other decisions taken by officers must be recorded and made available to members of the Council either as individual or summary decisions published on the Internet or as a performance indicator reported to an Overview and Scrutiny Committee,
- 6.13 They may authorise other officers to exercise these powers in practice, but they are taken in their name and they remain their responsibility.
- 6.14 Emergency action taken under delegated powers must be reported to the relevant body as soon as possible.