

**Council**  
**Tuesday 17 April 2012**

**Item 4.3.1**  
**Reports of Special Committee (Constitution Review)**

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## **Item 4.3.1 Reports of Special Committee (Constitution Review)**

AGENDA ITEM 4c

(i) 18 January 2012

Members:

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

* Jack Cohen	* Andrew Harper	* Alan Schneiderman
* Richard Cornelius	* Alison Moore	* Andrew Strongolou
* Anthony Finn	* Barry Rawlings	

\* denotes Member present

### **4.3.1.1 CONSTITUTION REVIEW: 2011/12**

**RESOLVED TO RECOMMEND:**

- (1) That the changes set out in the attached matrix (enclosure 1) and associated appendices be agreed by Council.**
- (2) That the Head of Governance be instructed to make the necessary changes to the Council's Constitution.**

(ii) 13 March 2012

Members:

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

* Jack Cohen	* Andrew Harper	* Alan Schneiderman
* Richard Cornelius	* Alison Moore	* Andrew Strongolou
* Anthony Finn	* Barry Rawlings	

\* denotes Member present

### **4.3.1.2 CONSTITUTION REVIEW: 2011/12**

**RESOLVED TO RECOMMEND:**

- (1) That the changes set out in the attached matrix (enclosure 1) and associated appendices be agreed by Council.**

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

#### **4.3.1.3 AMENDMENTS TO THE COUNCIL'S FINANCIAL REGULATIONS**

The Committee considered a proposed amendment to the Council's financial regulations, removing the requirement for two summary reports to be considered by the Cabinet Resources Committee. The Committee would continue to receive detailed quarterly reports.

##### **RESOLVED TO RECOMMEND:**

- (1) That Council approve the amendment to the Financial Regulations as identified in the report at enclosure 2.
- (2) That the Head of Governance be instructed to make the necessary changes to the Council's Constitution

#### **4.3.1.4 REVISIONS TO CONTRACT PROCEDURE RULES**

The Committee considered a report setting out proposed changes to the Contract Procedure Rules as a result of the amended EU thresholds coming into effect from 1 January 2012.

##### **RESOLVED TO RECOMMEND:**

- (1) That Council approve the amendments to the Contract Procedure Rules as set out in the report at enclosure 3.
- (2) That the Head of Governance be instructed to make the necessary changes to the Council's Constitution

#### **4.3.1.5 FUNCTIONS OF THE LICENSING COMMITTEE**

The Committee agreed a proposal to move functions from the Appeals Committee and the Planning and Environment Committee to the Licensing Committee, and to delegate a new function to that Committee.

##### **RESOLVED TO RECOMMEND:**

- (1) That Council approve the amendments to the Responsibility for Functions as set out in the report at enclosure 4.
- (2) That the Head of Governance be instructed to make the necessary changes to the Council's Constitution

#### **4.3.1.6 REMUNERATION COMMITTEE**

The Committee received a report recommending the establishment of a Remuneration Committee to manage the council's reward strategy, and agreed to refer its recommendations to Council, subject to the proposed terms of reference being amended to read (new text in italics):

**Membership** (Maximum 5, Quorum of 3)

*Membership of the Committee will normally consist of:*

- a. Chairman – Leader of the Council.
- b. Deputy Leader of the Council.

- c. Chairman of General Functions Committee.
- d. Leader of the Opposition
- e. Leader of the minority opposition group.
- f. *One substitute from each political group*

**RESOLVED TO RECOMMEND:**

- (1) That Council change the governance framework for the management of senior officer reward in response to the Localism Act 2011 by establishing a Remuneration Committee**
- (2) That Council approve the proposed Terms of Reference, subject to the amendments identified above, as set out in the report at enclosure 5.**
- (3) That the Head of Governance be instructed to make the necessary changes to the Council's Constitution**

## CONSTITUTION REVIEW 2012/13

### Index of Constitutional Amendments to be agreed

Item	SC (CR) Meeting	Matrix Point	Constitution Section	Appendix/Enclosure
4.3.1.1	18/1/12	19	Article 10 - Area Committees and Forums	Appendix A1
4.3.1.2	13/3/12	23	Committees and sub-Committees: change of Committee meeting date	Appendix A2
4.3.1.1	18/1/12	26	Committees and sub-Committees: Residents Forums and Area Environment sub-Committees	Appendix A3
4.3.1.1	18/1/12	27	Public Participation Rules: Petitions	Appendix A4
4.3.1.1	18/1/12	30	Committees and sub-Committees	Appendix A5
4.3.1.2	13/3/12	39	Public Participation Rules	Appendix A6
4.3.1.3	13/3/12	36	Financial Regulations	Enclosure 2
4.3.1.4	13/3/12	14	Revisions to Contract Procedure Rules	Enclosure 3
4.3.1.5	13/3/12	37	Responsibility for Functions	Enclosure 4
4.3.1.6	13/3/12	20	Responsibility for Functions	Enclosure 5 <i>subject to change identified at report to Council, item 4.3.1.6</i>

*The above items requiring Council decision are marked unshaded on the matrix overleaf at Enclosure 1.*

**Constitution Review 2011/12: Matrix following Special Committee (Constitution Review) meeting on 13 March 2012**

	<b>Proposed by</b>	<b>Constitution Reference / Issue</b>	<b>Revision</b>	<b>Status</b>
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 the meeting of 19/7/11.	<b>AGREED</b> Council meeting, 13/9/11
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.	<b>COVERED AT MATRIX POINT NINE</b>  <b>SC (CR) 18/1/12</b>
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.	<b>NOT TAKEN FORWARD</b> No changes necessary <b>SC (CR) 18/1/12</b>
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"> <li>• The extent to which it is 'user-friendly' for Members, the public and officers</li> <li>• Whether it is over-prescriptive in its scope</li> <li>• The issues raised by the frequency of updates (several times per the municipal year)</li> </ul>	<b>NOT TAKEN FORWARD</b> <b>SC (CR), 19/7/11</b>

	<b>Proposed by</b>	<b>Constitution Reference / Issue</b>	<b>Revision</b>	<b>Status</b>
			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.	<b>AGREED</b> <b>Council meeting,</b> <b>13/9/11</b>
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	<b>AGREED</b> <b>Council meeting,</b> <b>13/9/11</b>
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.	<b>AGREED</b> <b>Council meeting,</b> <b>13/9/11</b>
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.	<b>AGREED</b> <b>Council meeting,</b> <b>13/9/11</b>
9.	Business Governance Manager, 19/7/11	Public Participation Rules	<ul style="list-style-type: none"> <li>To redraft this section to reduce its length, and to improve its clarity and readability for members of the public.</li> <li>To include removal of the Head of Governance's</li> </ul>	<b>AGREED</b> <b>Council meeting,</b> <b>13/9/11</b>



	Proposed by	Constitution Reference / Issue	Revision	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. <i>BMOSC will be conducting the annual review of the Overview &amp; Scrutiny Arrangements at their meeting of 18 April 2012. Any recommended Constitutional changes to the Overview &amp; Scrutiny arrangements will be forwarded to Special Committee (Constitution Review) for consideration at their first meeting of the 2012/13 municipal year in June 2012.</i> <b>Agreed to move to 2012/13 matrix</b>	<b>Any proposed constitutional changes will be considered following a review of call-in and pre-decision Scrutiny by BMOSC.</b> <b>Agreed to move to 2012/13 matrix</b>
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.	<b>AGREED</b> <b>Council meeting, 13/9/11</b>
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.	<b>Full officer report to first meeting of SC (CR) of 2012/13.</b>
13.	Business Governance	Management of Real Estate Property and	To review and update this section	<b>AGREED</b> <b>Council meeting,</b>

	Proposed by	Constitution Reference / Issue	Revision	Status
	Manager, 19/7/11	Land		13/9/11
14.	Head of Governance, 19/7/11	Contract Procedure Rules	To review and update the Contract Procedure Rules  <b>Proposed change at Enclosure 3.</b>	<b>AGREED</b> in principle, <b>SC (CR), 19/7/11</b> <b>AGREED to go to Council at SC (CR) 13/3/12</b>
15.	Business Governance Manager, 19/7/11	Council Procedure Rules	To update Rule 16, Suspension of Business, to reflect the changes made to the arrangements for Council meetings agreed at the Council meeting of 17 May 2011.	<b>AGREED</b> <b>Council meeting, 13/9/11</b>
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.	<b>AGREED</b> <b>Council meeting, 13/9/11</b>
17.	Conservative Group <b>18/1/12</b>	– The Council – Amendments to Business Items	That all amendments to items on the Council Agenda be received by Corporate Governance no later than 10.30am the day before the meeting. That no amendments after this time be allowed.	<b>DEFERRED to 2012/13 matrix SC(CR) 13/3/12</b>
18.	Labour Group <b>18/1/12</b>	Council Procedure Rules	To address the issue of Cabinet Members not being able to give updates / report-backs to Council – as part of Business Items. This may be because of the Local Government Act 2000, but if not standing orders don't currently permit this,	<b>DEFERRED to 2012/13 matrix SC(CR) 13/3/12</b>

	Proposed by	Constitution Reference / Issue	Revision	Status
			and Cllr Moore would like the committee to consider changing this if possible.	
19.	Business Governance Manager 18/1/12	Article 10 – Area Committees and Forums and Local Strategic Partnerships	To incorporate a definition of 'public works' into the Terms of Reference of Residents Forums. Suggested definition: <i>Public works matters are defined as relating to:</i> <ul style="list-style-type: none"> <li>• <i>Parks and Greenspaces</i></li> <li>• <i>Trees</i></li> <li>• <i>Allotments</i></li> <li>• <i>Highways</i></li> <li>• <i>Pavements</i></li> <li>• <i>Traffic/Transport</i></li> <li>• <i>Parking</i></li> <li>• <i>Utility issues</i></li> <li>• <i>Refuse/Recycling</i></li> <li>• <i>Street cleaning</i></li> <li>• <i>Local crime</i></li> </ul> <p><b>Text of proposed change at Appendix A1</b></p>	<b>AGREED to go to Council at SC (CR) 18/1/12</b>
20.	Head of Strategic HR 18/1/12	Council Procedure Rules	To agree the necessary constitutional changes in relation to chief officer remuneration in accordance with the provisions of the Localism Act. <b>Proposed change at Enclosure 5.</b>	<b>AGREED to go to Council at SC (CR) 13/3/12</b>
21.	Director of Corporate	Localism Act	Constitutional changes required as a consequence.	<b>NOTED via separate report at</b>

	Proposed by	Constitution Reference / Issue	Revision	Status
	Governance 18/1/12			agenda item 12 and DEFERRED to 2012/13 matrix for further reports
22.	Chairman of Planning & Environment Committee 18/1/12	Committees and sub-Committees	To amend sections 17.2 and 17.3 of the Council Procedure Rules – Committees and sub-Committees to clarify that the decision to extend a Planning or Planning sub-Committee meeting to 10:30pm lies with the Chairman.	<b>NOT TAKEN FORWARD</b> Current provision sufficient. SC (CR), 18/1/12
23.	Conservative Group 18/1/12	Committees and sub-Committees	That the Chairman of a Committee can change the date of that Committee Meeting, in consultation with the appropriate Corporate Governance Officer, without reference to Full Council. <b>Agreed wording:</b> <i>In exceptional circumstances, the Chairman may change the date of any meeting, cancel or postpone and meeting or call any additional meeting by seeking and gaining the agreement of a majority of Members of the Committee.</i> <b>Text of proposed change at Appendix A2</b>	<b>AGREED, with consent of majority of Committee Members, SC (CR), 18/1/12.</b> <b>Proposed wording AGREED to go to Council at SC (CR) 13/3/12</b>
24.	Conservative Group 18/1/12	Council Procedure Rules	That Full Council and the General Functions Committee can make changes to the membership of the Council's sub-Committees, in addition to the parent Committee.	<b>NOT TAKEN FORWARD</b> following officer advice

	Proposed by	Constitution Reference / Issue	Revision	Status
25.	Conservative Group 18/1/12	Council Procedure Rules	That Full Council can make nominations to vacancies for School Governors, in addition to the General Functions Committee.	Existing provision sufficient. Consultation between Groups and Cabinet Member for Education, Children & Families to take place on protocol SC (CR) 13/3/12
26.	Business Governance Manager 18/1/12	Committees and sub-Committees	To clarify the timescales for Residents Forums and Area Environment sub-Committees by addition of the following text to section 17.1 of Council Procedure Rules Committees and sub-Committees:  <i>Residents Forums will meet at 6pm and will conclude their business by 8pm, followed by the Area Environment Sub-Committee on the same night and same venue at 7pm or on the conclusion of the Residents' Forum, whichever is later.</i>  <b>Text of proposed change at Appendix A3.</b>	<b>AGREED to go to Council</b> <b>SC (CR), 18/1/12</b>
27.	Business Governance	Public Participation	To amend the Public Participation Rules in respect of Petitions to enable formal receipt by the appropriate	<b>AGREED to go to Council, SC (CR),</b>

	Proposed by	Constitution Reference / Issue	Revision	Status
	Manager <b>18/1/12</b>	Rules: Petitions	Cabinet Member or Director. <i>Agreed, subject to publication of notification of receipt on website</i> <b>Text of proposed change at Appendix A4</b>	<b>18/1/12</b>
<b>28.</b>	Business Governance Manager <b>18/1/12</b>	Financial Regulations	To amend the Council's Financial Regulations.	<b>AGREED</b> subject to one change (see action note of SC (CR) 18/1/12) <b>Agreed at Council meeting</b> <b>24/1/12</b>
<b>29.</b>	Business Governance Manager <b>18/1/12</b>	LATC amendments	To make consequential changes to the Constitution relating to the establishment of a Local Authority Trading Company.	<b>AGREED</b> subject to one change (see action note of SC (CR) 18/1/12) <b>Agreed at Council meeting</b> <b>24/1/12</b>
<b>30.</b>	Labour Group <b>18/1/12</b>	Committees and sub-Committees	Recording of committee minutes: Currently motions that are moved and voted on, but defeated, at committees are not recorded in the minutes - could this be reviewed so that all motions voted on are recorded in the minutes.	<b>AGREED to go to Council</b> <b>SC (CR), 18/1/12</b>

	Proposed by	Constitution Reference / Issue	Revision	Status
			<b>Text of proposed change at Appendix A5</b>	
<b>31.</b>	Labour Group <b>18/1/12</b>	Area Environment sub-Committees: Decision Tracking	Could some form of regular decision tracking be introduced at Area Environment Sub Committees?	<b>AGREED – Head of Governance to prepare report for Environment sub-Committees on 6-monthly basis. No constitutional change required. SC (CR), 18/1/12</b>
<b>32.</b>	Labour Group <b>18/1/12</b>	Planning sub-Committees	Review of changes to Planning Sub-committees (reduction of committees to 2): This needs to be reviewed as there are still problems with workload at the committees.	<b>Review to take place after one year of operation – to be placed on matrix for 2012/13</b>
<b>33.</b>	Labour Group <b>18/1/12</b>	Pre-Decision Scrutiny	To review current operation of pre-decision scrutiny including the interface with call-in. <i>See matrix point 10, above</i>	<b>SEE MATRIX POINT 10 SC (CR), 18/1/12</b>
<b>34.</b>	Labour Group	Overview & Scrutiny structure	Review of new scrutiny structure: Is a review due?	<b>SEE MATRIX POINT 10</b>

	Proposed by	Constitution Reference / Issue	Revision	Status
	18/1/12			SC (CR), 18/1/12
35.	Labour Group 18/1/12	One Barnet Governance Arrangements	Governance arrangements for the ALMO / LATC and other outsourced services under One Barnet: With the alternative delivery of these services now being finalised when will the governance arrangements be looked at by the committee? <i>See matrix point 12, above.</i>	SEE MATRIX POINT 12 SC (CR), 18/1/12
36.	AD – Financial Services 13/3/12	Amending the Council's Financial Regulations	In addition to Matrix Point 28 above, a further amendment to the council's Financial Regulations.  <b>Text of proposed change at Enclosure 2</b>	AGREED to go to Council SC (CR) 13/3/12
37.	Trading Standards and Licensing Manager 13/3/12	Functions of the Licensing Committee	Proposed change to move functions from the Appeals Committee and the Planning and Environment Committee to the Licensing Committee.  <b>Text of proposed change at Enclosure 3</b>	AGREED to go to Council SC (CR) 13/3/12
38.	Standards Committee 13/3/12	Report from Standards Committee – Future Arrangements	Future arrangements for the investigation and determination of allegations of a breach of the Code of Conduct for Members and satisfying the Council's continuing duty to promote and maintain high standards of conduct for Members	SC (CR) 13/3/12 agreed that a further report should be brought forward by the Director of



	Proposed by	Constitution Reference / Issue	Revision	Status
				<b>Corporate Governance at a special meeting to be arranged to be held in the current municipal year</b>
<b>39.</b>	Business Governance Manager <b>13/3/12</b>	Planning Speaking Arrangements	To delete the prohibition of representatives from professional bodies speaking at Planning meetings.  <b>Text of proposed change at Appendix A6</b>	<b>AGREED to go to Council</b> <b>SC (CR) 13/3/12</b>

# APPENDIX A1

## Proposed change to Article 10 – Area Committees and Forums

### 10.02 Form, composition and function

- (a) **Table of Area sub-Committees and Forums.** The Council will appoint the Area sub-Committees and Forums as set out in the first column of the table below, composed as set out in the second column of that table and with the terms of reference set out in the third column:

Name of Committee	Composition	Terms of Reference
<p>Residents Forums:</p> <p>Hendon</p> <p>Finchley and Golders Green</p> <p>Chipping Barnet</p>	<p>A Chairman and Vice-Chairman of each appointed by the Council.</p> <p>Any Member of the Council may attend.</p>	<p>Residents Forums provide an opportunity for any resident to raise local matters (“Public Works”). Items must be received by the Governance Service by 6pm on the day before the day of the meeting for the item to be discussed at the Forum.</p> <p><u>Public works items are defined as relating to:</u></p> <ul style="list-style-type: none"> <li>• <u>Parks and Greenspaces</u></li> <li>• <u>Trees</u></li> <li>• <u>Allotments</u></li> <li>• <u>Highways</u></li> <li>• <u>Pavements</u></li> <li>• <u>Traffic/Transport</u></li> <li>• <u>Parking</u></li> <li>• <u>Utility issues</u></li> <li>• <u>Refuse/Recycling</u></li> <li>• <u>Street cleaning</u></li> <li>• <u>Local crime</u></li> </ul> <p>The Six Month Rule shall apply whereby matters dealt with cannot be raised again within this period.</p> <p>The Residents Forum may also be a forum for certain consultations from the Council as decided by the Chairman.</p>

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Name of Committee	Composition	Terms of Reference
		<p>Petitions on matters relevant to the Constituency only can also be presented.</p> <p>Matters must not relate to Planning or Licensing Issues.</p> <p>Relevant matters raised at the Forum may be included in the agenda for the Area Environment sub-Committee.</p> <p>Comments made are reported to the relevant decision maker.</p> <p>Cabinet/Executive Forums</p> <p>The Leader or a nominated Cabinet Member to chair a themed Residents' Forum at least once a year on any subject the Leader decides and for which the Leader and Cabinet have Executive responsibility.</p> <p>These can be used as part of the consultation process.</p> <p>Executive Forums will discuss and question matters relevant to these areas and to take questions.</p> <p>Questions must be submitted to the Governance Service by 6pm on the day before the day of the meeting.</p>

## APPENDIX A2

### Proposed change to Committees and sub-Committees: changing dates of Committee meetings

#### 5. Chairman of meetings

- 5.1 If the Chairman is absent from a meeting the Vice-Chairman will take the Chair. If both are absent, a Chairman must be elected for that meeting.
- 5.2 The person presiding at the meeting may exercise any power or duty of the Chairman concerning the conduct of committee, sub-committee or panel meetings.
- 5.3 In the event of more than one nomination for a Chairman, the procedure set out in Standing Order 20 must be followed.
- 5.4 The Chairman will always have the right to exercise a casting vote in the event of equality of voting on a motion or amendment, in accordance with the provisions of the Local Government Act 1972, provided s/he has voted when the motion or amendment was first put to the vote.
- 5.5 In exceptional circumstances, the Chairman may change the date of any meeting, cancel or postpone and meeting or call any additional meeting by seeking and gaining the agreement of a majority of Members of the Committee.

## APPENDIX A3

### Proposed change to Committees and sub-Committees: Residents Forums and Area Environment sub-Committees

#### Suspension of business at committee and sub-committee meetings

#### 17. The time limit for meeting and outstanding business

17.1 Except as indicated below, no business at any meeting of a committee or sub-committee shall be transacted after 10 p.m. and any business transacted after that time shall be null and void. At 10 p.m. and without further debate the Chairman shall immediately put to the vote any motion or amendment, which has been formally moved and seconded.

17.2 Residents Forums will meet at 6pm and will conclude their business by 8pm, followed by the Area Environment sub-Committee on the same night and same venue at 7pm or on the conclusion of the Residents' Forum, whichever is later.

17.3 At any meeting of the Planning and Environment Committee and an Area Planning Sub-Committee, the Chairman may extend the period for the transaction of business to 10.30 p.m. This will be recorded in the Committee's/ Sub-committee's decisions.

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17.4 If any items remain on the agenda to be dealt with, the committee may decide to:-

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17.4.1 call a special meeting or refer the remaining items to the next ordinary meeting; or

Deleted: 3

17.4.2 adjourn the meeting, but only the remaining items may be dealt with at the adjourned meeting. No new items may be put on the agenda and any substitutions at the meeting must remain for the adjourned meeting.

Deleted: 3

17.5 Standing order 17 does not apply to meetings of the Licensing Committee, the Licensing Sub-Committee, the Appeals Committee, the Chief Officers' Appointments Panel, the Chief Officers' Disciplinary and Capability Investigating Panel, or the Chief Officers' Disciplinary and Capability Panel or statutory bodies that are not council committees or sub-committees.

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## APPENDIX A4

### Proposed change to Public Participation Rules: Petitions

#### 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 by the appropriate Cabinet Member or Director, or at the most relevant body in which to do so, which in many cases is the relevant Residents' Forum. A notification of formal receipt of a petition will be published on the council's website.
- 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 change to Committees and sub-Committees: recording of motions

#### Motions and amendments

#### 12. Validity of motions and amendments

- 12.1 Every motion, amendment or question shall be relevant to matters within the committee, sub-committee or panel's terms of reference and to the agenda for the meeting. The Chairman of the meeting shall, if need be, give a ruling as to whether the motion is relevant.

#### Explanatory Note – Declaring interests at meetings

For the avoidance of doubt, the only motion which a Member can put before a Committee is one permitted under rule 7.1 or 13 of this section.”

- 12.2 An amendment must be relevant to the motion and shall be to either:-
- 12.2.1 refer a subject of debate to another committee for consideration or re-consideration; or
  - 12.2.2 change the words (including leaving out words or adding words);

but such changes must not merely have the effect of negating the motion before the committee.

- 12.3 No Member may personally move more than one amendment to a motion. However, amendments may be discussed together.
- 12.4 If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved. This is known as the substantive motion.
- 12.5 If the amendment is lost further amendments may be proposed on the original motion.
- 12.6 Once all amendments are dealt with in this way, the motion or the motion as amended is then put to the final vote.

12.7 All motions which are moved and voted on will be recorded in the decisions of the Committee or sub-Committee.

## APPENDIX A6

### Proposed change to Public Participation Rules

#### 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
- ~~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~~

**Deleted:** <#>If they are submitted by any individual working in a legal or professional capacity¶¶

##### 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.



## ENCLOSURE 2

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Meeting	Special Committee (Constitution Review)
Date	13 March 2012
<b>Subject</b>	<b>Amendment to the Council's Financial Regulations</b>
Report of	Assistant Director of Financial Services
Summary	To consider amendments to the Financial Regulations

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Officer Contributors	Maria Christofi – AD Financial Services Catherine Peters – Head of Finance, Closing & Monitoring
Status (public or exempt)	Public
Wards affected	Not applicable
Enclosures	Appendix A – Extract from Financial Regulations with proposed amendment
For decision by	Special Committee (Constitution Review)
Function of	Council
Reason for urgency / exemption from call-in	Not applicable

Contact for further information: Antony Russell, Finance Manager Closing & Monitoring,  
020 8359 7862

## **1. RECOMMENDATION**

- 1.1 That the Committee comments upon and recommends to Council for approval the amendment to the Financial Regulations as identified in this report and in Appendix A to this report.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Special Committee Constitutional Review, 25 March 2010, Council 20 April 2010.
- 2.2 Special Committee (Constitutional Review) 09 February 2011, Council 01 March 2011.
- 2.3 Special Committee (Constitutional Review) 18 January 2012, Council 24 January 2012.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 Clear, relevant and up to date Financial Regulations support the quality of decision making and ensure adherence to corporate policies.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 Failing to have in place robust and appropriate Financial Regulations could place the financial administration of the council at risk.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 Clear and robust Financial Regulations are important to ensure the management of resources to enable the equitable delivery of services to all members of the community and to reduce the differential impact of the services received by all of Barnet's diverse communities.

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

- 6.1 Financial Regulations ensure that the council manages its financial and other resources properly in line with statutory requirements and good financial management practice. There are direct consequences for all the implications listed above.

## **7. LEGAL ISSUES**

- 7.1 The statutory duties of the Chief Finance Officer are set out in section 151 of the Local Government Act 1972. The wording of section 151 covers, amongst other things, financial management and the financial appraisal of projects.
- 7.2 Section 114 of the Local Government Finance Act 1988 places a specific duty on the Chief Finance Officer to make a public report in specified cases of actual or anticipated financial misconduct.
- 7.3 The duties of the Monitoring Officer are set out in section 5 of the Local Government and Housing Act 1989.

## **8. CONSTITUTIONAL POWERS**

- 8.1 Financial regulations are part of the Council's Constitution.
- 8.2 Part 3, Section 2 of the Council's Constitution details the functions of the Special Committee (Constitution Review) which are " Proactively to review and keep under review all aspects of the Council's Constitution so as to ensure that it remains current and fit for purpose, and to make recommendations thereon to the Council."
- 8.3 Article 14, paragraph 14.01, indicates that the management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Council's Procedure Rules – Part 4 Financial Regulations. It is therefore important to make certain that the Financial Rules ensure the highest standards of financial governance.

## **9. BACKGROUND INFORMATION**

- 9.1 The Financial Regulations were last amended in January 2012. It is important to make certain that the Financial Regulations ensure the highest standards of financial governance. The draft amendment to the Financial Regulations are now presented to this Committee for discussion and recommendation to Council for approval. Once approved it will become final. The following section sets out the issue that has been addressed in the draft.
- 9.2 The current requirement for reporting budget management and monitoring to Members set out in the Financial Regulations is that the Chief Finance Officer will report in detail to Cabinet Resources Committee at least four times a year on the revenue and capital budgets and wider financial standing in addition to two summary reports at the beginning and end of the financial year.
- 9.3 The four detailed reports go to the Cabinet Resources Committee on a quarterly basis based on the forecast position at the end of month 3, month 6, month 9 and month 12 (the final outturn).
- 9.4 The additional two summary reports that are currently reported to Cabinet Resources Committee are:
- The month 2 report: this sets out the budget and projected outturn position as at the end of month 2.
  - The provisional outturn report: this sets out the budget and projected outturn position as at the end of month 11.
- 9.5 It is proposed that the Financial Regulations is amended to remove the requirement for the two additional summary reports to go to the Cabinet Resources Committee.
- 9.6 The Cabinet Resources Committee will continue to receive the four detailed quarterly reports. These quarterly reports provide the latest position for each quarter on:
- The revenue monitoring position with commentary on changes to the forecast outturn position;
  - Performance against Corporate Plan Indicators;
  - Agency costs;
  - Capital programme monitoring and analysis;
  - Corporate performance overview;
  - Current corporate risks;
  - Key finance indicators;
  - Human resources information;
  - Key projects overview.

- 9.7 The two summary reports only contain the financial variations in summary they do not contain the same level of detail as the four quarterly reports. Also, each additional summary report is based on the month end position only and is reported one month before a detailed quarterly report is produced for Cabinet Resources Committee. It is considered that these additional reports do not provide significant additional information that would not be sent to Cabinet Resources Committee in the next detailed quarterly report. These additional summary reports will continue to be produced for internal management information.
- 9.8 An extract from the Financial Regulations showing the proposed changes is attached as Appendix A.

## **10. LIST OF BACKGROUND PAPERS**

- 10.1 None.

Legal – SWS  
CFO – JH/MC  
Strategy/Equalities – AN

## Appendix A – Extract from the Financial Regulations with proposed amendment

### 4 BUDGET MANAGEMENT & MONITORING

#### 4.17 Reporting to Members

The Chief Finance Officer will report in detail to Cabinet Resources Committee at least four times a year on the revenue and capital budgets and wider financial standing ~~in addition to two summary reports at the beginning and end of the financial year.~~

#### 4.18 Reports on the revenue budget will normally include:-

- (a) a revised forecast outturn including details as part of which, Corporate Directors will inform Cabinet Resources Committee:
  - i) of those cost centres for which they are responsible that are projecting net overspends or underspends either;
    - a) over £100,000 or
    - b) over £50,000 where the cost centre's gross budget is less than £1m, and
  - ii) of the actions proposed to ensure that these overspends or underspends are not realised.
- (b) advice from the Chief Finance Officer on whether action is required to address any diminution in reserves and, if necessary, proposals and/or options for action that needs to be taken.

#### 4.19 These reports will make recommendations for varying the approved budget (revenue and capital) in the following circumstances:-

- allocations from the central contingency for unplanned expenditure over £250,000, or for planned expenditure where there are significant full year effects;
- underspends and windfall benefits returned to the centre;
- increases in service revenue budgets where overspends are considered unavoidable and cannot be contained within the overall budget managed by a Director or Head of Service;
- variations in capital project budgets;
- additions to the capital programme outside of the main budget cycle.

## ENCLSOURE 3

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Meeting	Special Committee (Constitution Review)
Date	13 March 2012
<b>Subject</b>	<b>Revisions to Contract Procedure Rules</b>
Report of	Director of Commercial Services
Summary	This report proposes that amendments to the Contract Procedure Rules, set out in this report and in Appendix A, be referred to Council for approval

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Officer Contributors	Craig Cooper, Commercial Director – Commercial Services Susan Lowe, Procurement Manager
Status (public or exempt)	Public
Wards Affected	N/A
Key Decision	Special Committee (Constitution Review)
Reason for urgency / exemption from call-in	Not applicable
Function of	Council
Enclosures	Appendix A – Contract Procedure Rules (revised)
Contact for Further Information:	Susan Lowe, 0208 359 7212

**1. RECOMMENDATIONS**

- 1.1 That the amendments to the Contract Procedure Rules, set out in this report and in Appendix A, be referred to Council for approval;**

**2. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 2.1** To ensure that the Council has robust corporate governance arrangements, the Constitution is required to be kept under review and amended/updated periodically such that it continues to be a living document.
- 2.2** The revised Contract Procedure Rules provide the framework for effective and efficient procurement of works, supplies and services. They also contribute to the delivery of the Corporate Plan priority of better services with less money.

**3. KEY DECISION**

- 3.1 Not applicable.

**4. RELEVANT PREVIOUS DECISIONS**

- 4.1 Special Committee (Constitution Review) 9 February 2011. Report on revisions to Contract Procedure Rules accepted. These are the current Contract Procedure Rules that now require further revision in accordance with this report.

**5. RISK MANAGEMENT ISSUES**

- 5.1 Failure to comply with legislation may result in the Authority being subject to legal action and possibly receiving a fine.
- 5.2 Failure to comply with legislation may also result in the existence of Council suppliers without proper contracts.
- 5.3 There has also been an increase in legal challenges made against public bodies following tender procedures and the Council must ensure that Contract Procedure Rules are as robust as possible to lessen such risks applying to the Council.

**6. EQUALITIES AND DIVERSITY ISSUES**

- 6.1 Contract Procedure Rules are important in the efficient delivery of better services to all members of Barnet's community. These rules ensure that the procurement policy allows the council to meet its statutory equality duty as defined in the Equality Act 2012.

- 6.2 Tender documents, as defined in the Contract Procedure Rules also include an assessment of an organisation's equality documents, response to qualification questions relating to equalities and the voluntary completion of a diversity monitoring form. .
- 6.3 The core provisions of the Equality Act 2010 came into effect in October 2010. This Act provides a new cross-cutting legislative framework to update, simplify and strengthen the previous discrimination legislation. The council is confident that the Contract Procedure Rules will ensure the council will have due regard to the equality duties whenever it exercises a public function. The broad purpose of this duty is to integrate considerations of equality and good relations into day to day business requiring equality considerations to be reflected in the Contract Procedure Rules and in the design of the procurement policy.

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

- 7.1 The Contract Procedure Rules provide the framework within which the Council may procure works, supplies and services. The aim of these rules is to:
- ensure value for money and propriety in the spending of public money; and
  - to enable services to be delivered effectively and efficiently without compromising the Cabinet's ability to influence strategic decisions.
  - to ensure that the council is not exposed to unnecessary risk and likelihood of challenge

## **8. LEGAL ISSUES**

- 8.1 With effect from 1 January 2012 the EU thresholds changed to the following:

Supplies £173,934 (200,000 euros)  
Services £173,934 (200,000 euros)  
Works £4,348,350 (5,000,000 euros)

- 8.2 On 20 December 2009, the Public Contracts Regulations 2006 (SI 2006/5) were amended to take account of changes to EU procurement rules. These changes, amongst other things, provide new remedies (including the power to declare a contract "ineffective") for aggrieved parties. On 1 October 2011, The Public Procurement (Miscellaneous Amendments) Regulations 2011 defined a timeline for setting contracts aside in that aggrieved parties must start such proceedings within three months from the date when they first knew or ought to have known that grounds for starting proceedings had arisen.
- 8.3 The Council's procurement of supplies, services and works must comply with EU procurement and domestic procurement rules, as well as with the EC Treaty principles. The, proposed, amendments to the Contract Procedure Rules seek to ensure that such compliance is achieved.
- 8.4 The general equality duty on public bodies is set out in section 149 of the Equality Act.  
(1) A public authority must, in the exercise of its functions, have due regard to the need to:



- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

**9. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)**

- 9.1 Part 3, Section 2 of the Constitution details the functions of the Special Committee (Constitution Review) which are “Proactively to review and keep under review all aspects of the Council’s Constitution so as to ensure that it remains current and fit for purpose, and to make recommendations thereon to the Council”.

**10. BACKGROUND INFORMATION**

- 10.1 Appendix A to this report sets out the proposed revision of Contract Procedure Rules published in the Constitution May 2011.

- 10.2 The review of Contract Procedure Rules and inclusion as update for action by Special Committee (Constitution Review) is required to address:

- 10.2.1 With effect from 1 January 2012 the EU thresholds changed to the following:

Supplies £173,934 (200,000 euros)  
 Services £173,934 (200,000 euros)  
 Works £4,348,350 (5,000,000 euros)

These are set thresholds for the period 1 January 2012 to 31 December 2013 and are not subject to exchange rate fluctuation during that period.

- 10.2.2 To ensure the Contract Procedure Rules reflect delivery of action points arising from the Procurement Controls and Monitoring Action Plan which identifies recommendations of internal audit and the Contract Monitoring and Community Benefit Task and Finish Group.

- 10.2.3 To ensure the Contract Procedure Rules remain fit for purpose in delivery of governance structure within which the Council may procure works, supplies and services

- 10.3 The transformation of procurement delivery during the period April 2012 to March 2013 may require a further review of Contract Procedure Rules to ensure these remain fit for purpose. Any such review will be formally presented to a Special Committee (Constitution Review) meeting.

- 10.4 The review of the Council’s Procurement Code of Practice, is taking place and and it is intended for this guidance to be in place for the financial period commencing April 2012.

## **11. LIST OF BACKGROUND PAPERS**

11.1 **None**

Legal: MC/JH

CFO: SS/PJ

## ENCLOSURE 4

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Meeting	Special Committee (Constitutional Review)
Date	13 March 2012
<b>Subject</b>	Functions of the Licensing Committee
Report of	Trading Standards and Licensing Manager
Summary	This report sets out the proposed changes to the Council’s constitution to move functions from the Appeals Committee and the Planning and Environment Committee to the Licensing Committee. Also to delegate a new function to the Licensing Committee

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Officer Contributors	Emma Phasey
Status (public or exempt)	Public
Wards Affected	All
Key Decision	N/A
Reason for urgency / exemption from call-in	N/A
Function of	Council
Enclosures	Appendix 1 – Relevant parts of the constitution with tracked changes
Contact for Further Information:	Emma Phasey, Trading Standards and Licensing Manager 020 8359 2119

## **1. RECOMMENDATIONS**

- 1.1 That the committee comments upon and recommends to Council for approval the proposed amendments to the Constitution in Appendix 1.

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 None.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 To ensure that the Council has robust corporate governance arrangements, the Constitution requires to be kept under review and amended/updated periodically such that it continues to be a living document.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 That the Constitution will become outdated if not reviewed, and will not accurately reflect the corporate governance arrangements or requirements of the day.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 The decision making processes of the Council, as enshrined within the Constitution, need to be transparent and accessible to all sectors of the community. The regular review of the Constitution will help ensure that this is the case and ensure the Council is meeting its equality obligations.

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

- 6.1 In relation to the moving of the licensing functions there are none.
- 6.2 The delegation of the film classification function is a new function, however this can be managed within current department budgets.

## **7. LEGAL ISSUES**

- 7.1 Under the Licensing Act 2003 the Council as Licensing Authority is the classification body for the public exhibition of films in the Borough. All films to be distributed must be classified under the Video Recordings Act 2010

## **8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)**

under review all aspects of the Council's Constitution so as to ensure that it remains current and fit for purpose, and to make recommendations thereon to the Council".

## **9. BACKGROUND INFORMATION**

### **9.1 Amendment of current constitution**

The London Borough of Barnet has the statutory responsibility for dealing with a number of licences, approvals, consents and registrations. Currently the responsibility for these functions are split across a number of committees

9.2 Following the implementation of the Licensing Act 2003 the Council set up a licensing committee to deal with all functions under the Licensing Act 2003 and later the Gambling Act 2005. However all other licensing functions remained within various other council committees.

9.3 The Licensing Department have the responsibility for a number of licences and registrations including Licensing Act and Gambling Act. However they also have responsibility for Sex Shops, Sex cinemas and Sex Encounter Establishments and also Street trading. One department has responsibility for all these different types of licences as there are similarities in the procedure and processing. However the responsibility for these functions sit within a number of different committees.

9.4 Environmental Health have the responsibility for a number of licences and registrations including special treatment licence and food registrations, the responsibility for this also this currently sits with different committees.

9.5 The Licensing Committee has been established a number of years and regularly are required to determine licensing applications. In this time they have built up considerable expertise in the area of licensing in general.

9.6 The Appeals Committee have not met at all in either 2010-11 or 2011-12 to determine a licensing matter. The Planning Committee have met many times in 2010-11 and 2011-12 but none of these occasions was to determine a matter "in relation to gaming, entertainment, food and miscellaneous licensing".

9.7 It would therefore seem logical that the Licensing Committee should have responsibly for other similar licensing matters outside of the Licensing Act and the Gambling Act as they meet more regularly and have built up expertise in this area.

### **9.8 New Function – Film Classification**

The Video Recordings Act 2010 states that all films to be distributed should be classified. Whilst the British Board of Film Classification (BBFC) performs a national film classification role, the Council, as a Licensing Authority, is the classification body for the public exhibition of films shown in the Borough by virtue of the Licensing Act 2003.

- 9.9 The Licensing Authority may be required to classify a film that has not been classified by the BBFC. A typical example of this would be a locally made film to be shown at a film festival within the Borough.
- 9.10 A distributor of a film or other party may appeal to the Licensing Authority against a decision of the BBFC and request that the Licensing Authority classifies the film for local screening.
- 9.11 In addition to classifying films, the Licensing Authority can issue a classification waiver which permits the exhibition of the film or films within the local area without a classification, but subject to certain conditions and restrictions.
- 9.12 Any authorisations for the exhibition of film(s) issued by the Licensing Authority shall only apply when the film(s) is exhibited within the Borough of Barnet
- 9.12.1 The Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003, states that:
- "The BBFC classifies films in accordance with its published Guidelines which are based on extensive research into public opinion and professional advice. The Secretary of State therefore recommends that licensing authorities should not duplicate this effort by choosing to classify films themselves. The classifications recommended by the Board should be those normally applied unless there are very good local reasons for a licensing authority to adopt this role. Licensing authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.
- 9.13 Currently this function has not been delegated. It is therefore logical for this to function to be delegated to the Licensing Committee.

## **10. LIST OF BACKGROUND PAPERS**

10.1 None.

CFO: JH/MC

Legal: BH

## 2. RESPONSIBILITY FOR COUNCIL FUNCTIONS

. Body responsible	Functions	Membership
Council acting as the Licensing Authority	Agreeing and reviewing the Statement of Licensing Policy.	All Members of the Council
Licensing Committee	<p>All functions under the Licensing Act 2003 and the Gambling Act 2005 associated Regulations, not otherwise delegated to the Licensing Sub-Committee. Agreeing increases to fees and charges for licence applications under the Gambling Act 2005.</p> <p><u>Applications and appeals and revocations relating to Sex Shops, Sex Cinemas and Sex Encounter Establishments</u></p> <p><u>Applications, appeals and revocations relating to Special Treatment Licenses.</u></p> <p><u>Application for film classification for films shown within the Borough</u></p> <p><u>Gaming, entertainment, food and miscellaneous licensing including functions relating to:</u>  <u>street trading including the designation of permanent pitches for street trading</u></p> <p><u>Safety at sports ground certification</u></p>	10 Non-executive Councillors, based on overall political proportionality of the Council.
Licensing Sub-Committee	All functions under the Licensing Act 2003 and the Gambling Act 2005 and associated Regulations, as	10 Non-executive Councillors, based on overall political proportionality of the

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	<p>delegated to it by the Licensing Committee.</p> <p><u>All functions in relation to other licensing as delegated by the Licensing Committee</u></p>	<p>Council. Each of the Chairmen will substitute for each other and each of the other 12 'ordinary' members will substitute for the other two Members.</p> <p>The Democratic Services Manager will arrange suitable hearing times.</p>
<p>Appeals Committees</p>	<p>Determining an appeal or application where there is a right of appeal to a Council committee. This does not include matters, which are the responsibility of the Licensing Committee or the Licensing Sub-Committee, nor does it include special statutory appeal or review bodies. It does include:-</p> <p>Appeals relating to renovation, disabled facilities, home repair assistance and common parts facilities grants Statutory complaints against school governing bodies</p> <p>Appeals under the housing right to compensation scheme</p>	<p>The composition of each of the Appeals Committees will comprise 10 councillors plus 2 substitutes from each political group.</p>

**Deleted:** <#>Applications and appeals and revocations relating to Sex Shops, Sex Cinemas and Sex Encounter Establishments ¶  
<#>Applications, appeals and revocations relating to Special Treatment Licenses. ¶

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<p>Planning and Environment Committee</p>	<p>Take action under Town and Country Planning, and associated legislation including Part 8 of the Anti Social Behaviour Act 2003 relating to high hedges</p> <p>The following functions are reserved to the Committee and cannot be discharged by an Area Committee or officer.</p> <ul style="list-style-type: none"> <li>planning applications which involve a significant departure from the statutory development plan;</li> <li>applications on behalf of the Council or where the Council has a significant interest in the development;</li> <li>applications within the categories of development which must be referred to the Mayor of London; and</li> <li>matters of significance to the entire borough or where major issues extend across geographic boundaries of sub-committees. (Reports on all the matters reserved to the Committee shall be made direct to the Committee and not through an area sub-committee.)</li> </ul> <p>Contaminated land and all statutory nuisances.</p> <p>Commons registration and town and village greens including powers of protection and enforcement although in practice these specific functions will be discharged by officers.</p> <p>which may include considering the recommendations of a non-statutory inquiry chaired by an independent</p>	<p>10 Councillors with 10 substitutes, excluding Cabinet Members, and reflecting the political structure of the Council.</p>
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	<p>person).</p> <p>Highways use and Regulation, access to the countryside, arrangements and extinguishment of public rights of way.</p> <p>▲ explanatory note:</p> <p>▲ the Council's highways functions are limited to:</p> <p>▲ maintaining, stopping up and diverting footpaths and bridleways</p> <p>▲ diverting and protecting public rights to use highways</p> <p>▲ removing things deposited on highways which cause nuisance</p> <p>other highway functions are Executive functions).</p> <p>■</p>	<p><b>Formatted:</b> Font: Not Italic</p> <p><b>Formatted:</b> Font: Not Italic</p> <p><b>Formatted:</b> Font: Not Italic</p> <p><b>Formatted:</b> Indent: Hanging: 21 pt, Space After: 6 pt, No bullets or numbering</p> <p><b>Formatted:</b> Font: Not Italic</p> <p><b>Formatted:</b> Font: Not Italic</p> <p><b>Formatted:</b> Indent: Hanging: 21 pt, Space After: 6 pt</p> <p><b>Formatted:</b> Indent: Hanging: 21 pt</p> <p><b>Formatted:</b> Default, Indent: Hanging: 21 pt, Space After: 6 pt</p> <p><b>Deleted:</b> Gaming, entertainment, food and miscellaneous licensing in so far as not otherwise the responsibility of the Licensing Committee or the Licensing Sub-Committee.</p> <p><b>Formatted:</b> Font: 11.5 pt</p>
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## ENCLOSURE 5

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Meeting	Special Committee (Constitution Review)
Date	13 March 2012
<b>Subject</b>	<b>Remuneration Committee</b>
Report of	Assistant Director of Human Resources
Summary	This report outlines an option for a change to governance mechanisms in respect of remuneration, in response to the Localism Act 2011 and other pressures to more closely manage pay in the public sector and to provide increased transparency regarding senior officer pay.

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Officer Contributors	Jacque McGeachie – Assistant Director Human Resources
Status (public or exempt)	Public
Wards affected	-
Enclosures	Appendix A – Proposed Terms of Reference of Remuneration Committee (to be tabled)
For decision by	Special Committee
Function of	Council
Reason for urgency / exemption from call-in	Not applicable

Contact for further information: 020 8359 7952

## 1. RECOMMENDATIONS

- 1.1. That the Committee agrees the establishment of a Remuneration Committee would represent robust and transparent management of the Council's Reward Strategy for all employees.
- 1.2. That the Committee agree in principle to recommend to Council to change the governance framework for the management of senior officer reward in response to the Localism Act 2011 by establishing a Remuneration Committee.
- 1.3. That the Committee recommends to Council the attached proposed Terms of Reference for the proposed Remuneration Committee, and instructs officers to bring forward the consequential constitutional changes to Part 2 – Responsibility for Functions of the Constitution to Council for agreement.
- 1.4. That, subsequent to the agreement of the Committee to recommendations 1.1 to 1.3 above, that officers be instructed to provide a report to the General Functions Committee of 29 March 2012 containing the Human Resources implications of the establishment of a Remuneration Committee.
- 1.5. That the proposed Remuneration Committee absorbs the current ad hoc committees which deal with Chief Officer Appointments and Discipline matters.

## 2. RELEVANT PREVIOUS DECISIONS

- 2.1. None.

## 3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1. The remuneration committee will play a key role in ensuring that the corporate vision of 'Better Services with Less Money' is supported by the Reward Strategy. The pay bill is the largest cost for the London Borough of Barnet and therefore this recommendation underpins the aim of pay control in order to deliver the Mid Term Financial Plan.
- 3.2. The Council supports and is committed to the Coalition Government's aims regarding transparency.
- 3.3. The London Borough of Barnet is undergoing a period of significant change including a new Reward Strategy and a review of officer posts at the senior levels. It would be prudent to have the Remuneration Committee in place as soon as possible so that any aspects regarding senior pay can be referred as appropriate
- 3.4. The proposal brings together all matters that deal with Chief Officers so that they are managed on a consistent basis and with the same membership and quorum rules.

<b>Panel</b>	<b>Membership</b>	<b>Quorum</b>
Remuneration Panel	Reflecting the political structure of the Council  Leader of the Council Leader Majority Opposition Group Leader Minority Opposition Group Deputy Leader of the Council Chairman of the General Functions Committee	<b>3</b>

## **4. RISK MANAGEMENT ISSUES**

- 4.1. The Committee will ensure that the Council is compliant with the Localism Act 2011 as enacted.
- 4.2. The terms of reference will include ensuring that pay levels are set in the correct contexts e.g. the Council's full reward strategy and national and local markets and the Council is compliant with the Equality Act 2010.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1. The functions undertaken by the Remuneration Committee would support the Council in its compliance of the Public Sector Equality Duty as set out in the Equality Act 2010.
- 5.2. This would require the Remuneration Committee to demonstrate that its functions and decisions have taken due regard of the need to:
- Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Act;
  - Support equality of opportunity between those with a protected characteristic and those without;
  - Promote good relations between those with a protected characteristic and those without
- 5.3. The Remuneration Committee will ensure that it will have due regard to the need to achieve these results as listed.
- 5.4. The decision makers who serve on the Remuneration Committee understand that they will be required to take a rigorous and open-minded approach to these decisions and will draw on fact specific evidence to assist.

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

- 6.1. In establishing the Committee, it is recommended that an independent advisor is appointed to support Members in carrying out the specialised functions of the Committee . The estimated cost is £5k per annum including:

6.1.1. Attendance at meetings as required.

6.1.2. Contribution to and delivery of reports as requested by the committee.

## **7. LEGAL ISSUES**

- 7.1. The Localism Act 2011 places the following obligations on local authorities:

Section 38: Pay policy statements:

- (1) A relevant authority must prepare a pay policy statement for the financial year 2012-2013 and each subsequent financial year.
- (2) A pay policy statement for a financial year must set out the authority's policies for the financial year relating to—
  - (a) the remuneration of its chief officers,
  - (b) the remuneration of its lowest-paid employees, and
  - (c) the relationship between—
    - (i) the remuneration of its chief officers, and
    - (ii) the remuneration of its employees who are not chief officers.
- (3) The statement must state—
  - (a) the definition of "lowest-paid employees" adopted by the authority for the purposes of the statement, and
  - (b) the authority's reasons for adopting that definition.
- (4) The statement must include the authority's policies relating to—
  - (a) the level and elements of remuneration for each chief officer,
  - (b) remuneration of chief officers on recruitment,
  - (c) increases and additions to remuneration for each chief officer,
  - (d) the use of performance related pay for chief officers,
  - (e) the use of bonuses for chief officers,
  - (f) the approach to the payment of chief officers on their ceasing to hold office under or to be employed by the authority, and
  - (g) the publication of and access to information relating to remuneration of chief officers.
- (5) A pay policy statement for a financial year may also set out the authority's policies for the financial year relating to the other terms and conditions applying to the authority's chief officers.

Section 39: Supplementary provisions relating to statements:

- (1) A relevant authority's pay policy statement must be approved by a resolution of the authority before it comes into force.
- (2) The first statement must be prepared and approved before the end of 31st March 2012.
- (3) Each subsequent statement must be prepared and approved before the end of the 31st March immediately preceding the financial year to which it relates.
- (4) A relevant authority may by resolution amend its pay policy statement (including after the beginning of the financial year to which it relates).
- (5) As soon as is reasonably practicable after approving or amending a pay policy statement, the authority must publish the statement or the amended statement in such manner as it thinks fit (which must include publication on the authority's website).

7.2. Should any changes to decision making on remuneration arise that impact on contractual terms, this would be; referred to the General Functions Committee if appropriate and; any necessary consultation with employees of the Council will be carried out.

## **8. CONSTITUTIONAL POWERS**

8.1. Part 3, Section 2 of the Constitution details the functions of the Special Committee (Constitution Review) which are “proactively to review and keep under review all aspects of the Council’s Constitution so as to ensure that it remains current and fit for purpose, and to make recommendations thereon to the Council”.

## **9. BACKGROUND INFORMATION**

9.1. The current position in the Council is that contractual matters for all employees are dealt with as part of the business of the General Functions Committee. This paper recommends that the Council establish a separate Committee to deal specifically with matters of remuneration, with a view to it being fully compliant with the Localism Act 2011

9.2. The Remuneration Committee membership would be prescribed by the current regulatory framework unless change is required under the Localism Act 2011 or other legislation.

9.3. The Remuneration Committee would have the responsibility for making recommendations to the Council on pay and remuneration and, when appropriate, General Functions Committee, according to its Terms of Reference.

9.4. It is envisaged that the Remuneration Committee, if established by Council, would recommend the annual Pay Policy statement, as required by the Localism Act 2011.

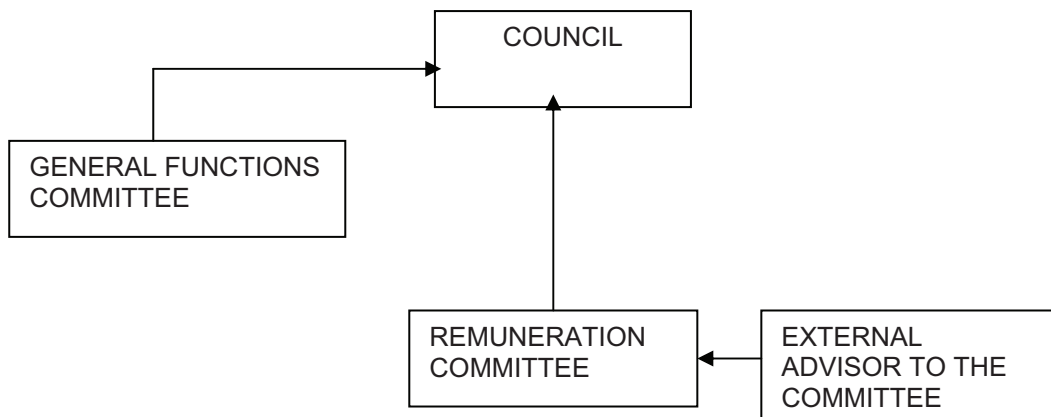
9.5. The Hutton Report (Fair Pay in the Public Sector) and Localism Act 2011 recommend that an external advisor is appointed to advise the Remuneration Committee, to bring expertise from the remuneration field, in order that it can make properly informed recommendations on pay policy. The reward expert would support the Committee, provide reports and be available to attend Committee should it be necessary for them to provide verbal evidence. This paper supports the establishment of an external advisor. This may include advice from:

- The Council’s own HR function
- National and/or Regional employers’ organisations
- Independent consultancy organisations with relevant experience in pay market analysis
- Submissions made by the Associations on behalf of their members

9.6. The responsibility for changes or alterations to the Committee structure sits with the Council. Members are asked to recommend to Council to establish a Remuneration Committee in accordance with the attached Terms of Reference, and any consequential changes to Part 2 – Responsibility for Functions, of the Constitution to be identified by officers.

9.7. Proposed Membership of the Committee is the Leader of the Council (Chairman), Deputy Leader of the Council, Chairman of the General Functions Committee, Leader of the Opposition, Leader of the minority opposition group. In line with other Committees, appointments will be the responsibility of the Council.

9.8 Proposed position of the Committee in the Council's decision-making structure



9.9 Initial agenda items which should be considered by a first meeting of the Remuneration Committee include:

- The Terms of Reference of the Committee for noting.
- A report on the Localism Act 2011 as the foundation to the purpose of the Committee.
- To agree a set of protocols for the operation of the Committee
- A report and presentation on the Council's Future Reward Strategy.
- A report taking forward steps to appoint a Reward Advisor to provide advice to the Committee as required
- Development of the Council's Pay Policy
- Understanding the local, regional and national context
- Reviewing organisational performance
- Understanding the local economy
- Understanding the pay bill and the wider pay context
- Embracing transparency

9.10 The Remuneration Committee will not be responsible for the actual operation of any appraisal processes, which should be kept separate.

## 10. LIST OF BACKGROUND PAPERS

10.1 Review of Fair Pay in the Public Sector, Will Hutton, (March 2011)

10.2 The Localism Act 2011 (insert link)

10.3 CLG Plain English guide to the Localism Act (insert link)

10.4 CLG Openness and accountability in local pay: Draft guidance under section 40 of the Localism Act



## REMUNERATION COMMITTEE

### Draft Terms of Reference

#### 1. Constitution

- a. London Borough Barnet has established a committee known as the Remuneration Committee.

#### 2. Membership (Maximum 5, Quorum of 3)

- a. Chairman – Leader of the Council.
- b. Deputy Leader of the Council.
- c. Chairman of General Functions Committee.
- d. Leader of the Opposition
- e. Leader of the minority opposition group.

#### Notes

- f. A person that holds sole responsibility for appraising senior officers may not be a member of the committee.

#### 3. Authority

- a. To recommend and seek approval for Chief Officer (as defined in the CLG Openness and accountability in local pay: Guidance under section 40 of the Localism Act 2011) remuneration via non-executive resolution. The definition of remuneration will include:
  - Pay
  - Charges
  - Fees
  - Allowances.
  - Benefits in Kind
  - Increases or enhancements to pension entitlements
  - Termination payments

#### 4. Responsibilities

The Committee will take account of the Reward & Employment strategies of the Council and ensure that it is fully briefed on the prevailing organisational approach. The following list of responsibilities is not intended to be exhaustive:

- a. To develop and approve the Pay Policy and be responsible for the publication of the annual statement, which will include:
  - The level and elements of remuneration for each Chief Officer
  - Relationship of the remuneration of Chief Officers and other officers
  - A description of the relationship between decisions made on the lowest paid and top paid employees in the organisation
  - Remuneration of the lowest paid (with the definition of the lowest paid and the reasons for adopting that definition)
  - Remuneration on recruitment, increases and additions to remuneration, use of performance-related pay and bonuses, termination payments
  - Transparency arrangements

- Reasons for chosen approach to remuneration levels and how this is to be implemented
  - Differences of approach to groups of employees and the reasons for them
  - Pay dispersion
  - Incremental progression factors
  - Use of honoraria and ex-gratia payments
  - Determine remuneration parameters for officers who have returned to work for a local authority
  - Appointment and remuneration terms
- b. To review annually remuneration, as defined above, for the Council's Chief Officers except those elements determined nationally or pensions.
- c. To keep under review the terms & conditions of the Council's Chief Officers that relate to pay and make recommendations to the General Functions Committee, so that any necessary consultation is carried out.
- d. To receive information in the context of reward from organisations that have a relationship with the Council or arrangements that may influence decisions when determining pay
- The employees of Barnet Group
  - Contractors
  - Shared management schemes
  - Outplacements
  - Agency and other staff
- e. To have oversight to ensure that remuneration terms of appointments are appropriate.
- f. To take advice from the Pensions Committee with regard to decisions on pay that would impact upon pension arrangements or contributions.
- g. To set parameters for the remuneration of Chief Officers on recruitment.
- h. To ensure that sufficient flexibility exists within the pay policy to allow responses to unforeseen circumstances without having recourse to revising the pay policy statement between annual reviews.
- i. To have oversight of the national pay agenda and consider the implications in the local context
- j. To commission relevant research and/or comparative information on salaries in the public and private sectors e.g. from:
- The Council's own HR function
  - National and/or Regional employers' organisations
  - Independent consultancy organisations with relevant experience in pay market analysis
  - Submissions made by the Associations on behalf of their members

and make recommendations thereon

- k. To ensure that the Public Sector Equality Duty, as set out by the Equality Act 2010, is applied throughout the pay and reward structure.
- l. To take cognisance of the CLG Code of Recommended Practice for Local Authorities on Data Transparency.
- m. To reference back to previous year's actual remuneration for Chief Officers and senior employees ( definition of senior employee is consistent with CLG Code of Recommended Practice for Local Authorities on Data Transparency).
- n. To obtain assurance that adequate internal and external moderation and benchmarking takes place when senior posts are subject to job evaluation.
- o. To take account of forward plans and the impact of remuneration on workforce planning, talent management and succession planning.
- p. To review remuneration arising from performance management and ensure that any performance-related pay mechanisms are fair and transparent.
- q. To refer such items as necessary to the Council
- r. To refer to guidance from the Secretary of State.

## **5. Recommendations**

- a. The Committee will, as appropriate, make reasoned recommendations to the Council.

## **6. Protocols**

- a. To maintain confidentiality whilst discussions are taking place and until decisions are published and thereafter in relation to matters where there is an ongoing requirement for confidentiality.
- b. Insofar as possible, to ensure that meetings are quorate.
- c. To declare any conflicts of interest.

## **7. Frequency & attendance**

- a. The first meeting of the committee will be to
  - Note the Terms of Reference of the Committee.
  - Receive a report on the Localism Act 2011 as the foundation to the purpose of the Committee.
  - Agree a set of protocols for the operation of the Committee
  - Receive a report and presentation on the Council's Future Reward Strategy.
  - Take steps to convene a Reward Advisory Panel to provide advice to the Committee as required
  - Discuss development of the Council's Pay Policy
  - Take steps to develop and understanding the local, regional and national context

- Undertake a review of organisational performance
  - Take steps to understand the impact of pay levels on the local economy
  - Take steps to understand the pay bill and the wider pay context
  - To embracing the transparency agenda and agree step to ensure compliance.
- b. Meet bi-annually in September and January but with additional special meetings if necessary

## **8. Reporting procedures**

Normal Committee arrangements

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