

## **Decisions of the Constitution, Ethics and Probity Committee**

19 October 2017

Members Present:-

Councillor John Marshall (Chairman)  
Councillor Melvin Cohen (Vice-Chairman)

Councillor Richard Cornelius      Councillor Barry Rawlings  
Councillor Ross Houston          Councillor Joan Scannell  
Councillor Dr Devra Kay

### **1. MINUTES OF LAST MEETING**

**RESOLVED** that the minutes of the meeting held on 29 June 2017 be approved as a correct record.

### **2. ABSENCE OF MEMBERS (IF ANY)**

None.

### **3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)**

None.

### **4. REPORT OF THE MONITORING OFFICER (IF ANY)**

None.

### **5. PUBLIC QUESTION AND COMMENTS (IF ANY)**

The Committee noted the responses to the public comment and questions which had been published and circulated prior to the meeting.

### **6. MEMBERS' ITEMS (IF ANY)**

None.

### **7. CONSTITUTION REVIEW**

**RESOLVED** that the Committee recommend to Council that the Constitution be amended to incorporate the changes set out in the table below and the track change versions attached at Appendix A to Appendix O.

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
1	Introduction and Summary	Pages 27 – 28	<ol style="list-style-type: none"> <li>1. Revised text throughout the Article to remove unnecessary wording and clarify language.</li> <li>2. Renamed Sections 1 and 2 and sections contained therein.</li> <li>3. Delete ‘citizens’ and replace with ‘residents’.</li> <li>4. Revised wording to highlight that Members have a duty to all residents, not just those living in their ward.</li> <li>5. Amended the ‘Decision Making Structure’ section to simplify the content.</li> <li>6. Delete section on ‘Urgent and Emergency Decisions’ as covered in revised Article 7 (Committees, Forums, Working Groups and Partnerships)</li> <li>7. Delete section on ‘Area Committees and Forums’ as covered in revised Article 7 (Committees, Forums, Working Groups and Partnerships)</li> <li>8. Amended the ‘The Council’s Staff’ section to clarify that officers give advice to committees and Members.</li> <li>9. Amend section on ‘Residents Rights’ to refer to revised Article 3 (Residents and Public Participation)</li> <li>10. Delete section on ‘Explanatory Notes’ as unnecessary.</li> <li>11. Delete diagram of committee structure appended as unnecessary.</li> </ol>	Agreed as per report

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
2	Article 1 – The Constitution	Pages 29 – 30	<ol style="list-style-type: none"> <li>1. In section 1.3 delete ‘citizens’ and replace with ‘residents’.</li> <li>2. Delete ‘address inequality’ as this is not a purpose of the constitution.</li> <li>3. Amend section 1.4 to state that the Council may amend the Constitution.</li> <li>4. Move Article 13 (Suspension, Interpretation and Publication of the Constitution) into a new section 1.5 of Article 1 and delete current Article 13.</li> </ol>	Agreed as per report
3	Article 2 – Members of the Council	Pages 31 – 34	<ol style="list-style-type: none"> <li>1. Amend section 2.1 to clarify the language.</li> <li>2. Amend section 2.3 (a) to clarify the language relating to the ‘Key roles’ of councillors including the deletion of the section which starts ‘Champion the causes...’ as this is perfunctory.</li> <li>3. Amend section 2.3 (b) to delete the section relating to scrutiny of performance as this is covered in the preceding bullet point (relating to participating in decision-making).</li> <li>4. In section 2.3 (b) delete ‘authority’ and replace with ‘council’.</li> <li>5. Delete duplicated text in Section 2.3 (b).</li> <li>6. Amend the title of section 2.3 (c) to ‘Access to Information as the sections covers Members rights of access to council information.</li> <li>7. In section 2.3 (c) delete ‘Councillors’ and replace</li> </ol>	<p>Agreed as per report subject to:</p> <ol style="list-style-type: none"> <li>1. The addition in section 2.3 (d) of the Lead Member for Children’s Services;</li> <li>2. The deletion of the wording ‘...other than planning committees...’ from the first paragraph in section 2.3 (e); and</li> <li>3. The addition of the following paragraph in section 2.3 (e): “The Chairman or three Members of an Area Planning Committee may refer an item to the Planning Committee for determination</li> </ol>

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			<p>with 'Members'</p> <p>8. In section 2.3 (c) add a requirement for officers to keep Ward Members informed of matters affecting their Ward.</p> <p>9. In section 2.3 (d) delete 'Councillors' and replace with 'Members' and add 'Vice-Chairman'</p> <p>10. Move content relating to referrals from Responsibility for Functions (proposed to be deleted) and create a new section 2.4 (d). Revise section 2.4 (d) to simplify the rules relating to referrals between committees. <i>Note:</i> sections copied from Responsibility for Functions have been copied and retained and deleted tracked changes for reference.</p> <p>11. Add wording in section 2.1 (e) to restrict urgent decisions from being referred and to clarify that the referral must be made before the decision is taken</p> <p>12. Move content from Meetings Procedure Rules into Article 2 and add a new section 2.5 (f). Revise wording to simplify the rules relating to Members Items'. Sections copied from Responsibility for Functions have been copied and tracked change deleted for reference.</p> <p>13. Move content relating to</p>	<p>by indicating before the vote is taken that they wish to refer the item and providing reasons for the referral."</p>

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
			<p>Members rights to address planning committees from the Planning Committee Procedure Rules (currently section 7 of Meeting Procedure Rules). Revise wording to delete unnecessary content and duplication.</p> <p>14. Move content relating to councillor’s rights to attend and speak at committees or sub-committees when they are not a member (currently section 9 of Meeting Procedure Rules). Retain content un-amended. Add new wording to confirm Members rights to remain in the meeting room when committees that they are not a member of consider exempt business</p>	
4	Article 3 – Residents and Public Participation	Page 35 – 41	<ol style="list-style-type: none"> <li>1. Revised text throughout the Article to remove unnecessary wording and clarify language.</li> <li>2. Delete references to ‘citizens’ and replace with ‘residents’.</li> <li>3. Delete section 3.1 (a) (i) relating to voting and petitions</li> <li>4. Amend section 3.1 to refer to clarify that only residents can petition the council.</li> <li>5. Move section 2 (Public Questions) of the Public Participation and Engagement Rules into Article 3. Create new section 3.2 titled ‘Questions to a</li> </ol>	Agreed as per report subject to the inclusion of the additional wording in section 3.6: “Petitions which have been submitted in response to a consultation process initiated by a specific committee should be reported back to that committee.”

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			<p>committee’.</p> <p>6. Move section 3 (Public Comments) of the Public Participation and Engagement Rules into Article 3.</p> <p>7. Add a new section 3.4 titled ‘Public Questions and Comments – Procedure at Committee’ to clarify the order in which public comments and supplementary questions will be managed at a committee meeting.</p> <p>8. Amend section 3.5 to refer to ‘issues’ for residents’ forums as this is consistent with the terminology currently used by Members and officers in relation to matters considered at the forums.</p> <p>9. Amend section 3.5 to clarify the meaning of the Six-Month Rule in the context of residents’ forums.</p> <p>10. Amend the wording in section 3.6 relating to petitions to clarify that certain petitions will be treated as ‘letters of representation’ and will be outside of the normal petition procedures.</p> <p>11. Amend section 3.7 to clarify and simplify the rules relating to speaking at planning committees including to reflect that the Governance Service will take over management of the registering speakers.</p>	

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5	Article 4 – The Full Council	Pages 43 – 44	<ol style="list-style-type: none"> <li>1. Revised text throughout the Article to remove unnecessary wording and clarify language Amend the wording in section 4.1 to simplify the language.</li> <li>2. Move the functions of Full Council listed in section 1 of Responsibility for Functions into Article 4.</li> <li>3. Add a new responsibility for Full Council to approve Member and officers appointments to outside bodies and external organisations on the recommendation of the Group Secretaries or Chief Executive</li> <li>4. Delete the definition of the policy framework in section 2 as the explanation is not required.</li> <li>5. Delete section 4.4 (Responsibility for Functions) as this simply refers to other sections of the constitution.</li> </ol>	Agreed as per report
6	Article 5 – The Mayor and Chairing the Council	Page 45	<ol style="list-style-type: none"> <li>1. Amend the wording in section 5.1 to clarify that the Deputy Mayor should also be appointed by Council and to clarify their term of office.</li> <li>2. Add a new section 5.2 to ensure that the election of the Mayor and Deputy Mayor is the first item of business transacted at the annual council meeting.</li> <li>3. In section 5.3 delete the provision that states that the Mayor will appoint a deputy.</li> </ol>	Agreed as per report subject to: <ol style="list-style-type: none"> <li>1. The addition of the word ‘dies’ in the second sentence of paragraph 5.1; and</li> <li>2. Amend section 5.2 as follows: “The election of the Mayor and <b><i>the nomination and ratification of</i></b></li> </ol>

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
			4. Add wording to section 5.3 to provide that the Mayor may write letters of condolence and congratulation on behalf of the Council.	the Deputy Mayor shall be the first business transacted at the annual meeting of the council.”
7	Article 6 – The Leader	Page 47	1. Amend section 6.1 to clarify wording.	Agreed as per report
8	Article 7 – Committees, Forums, Working Groups and Partnerships		<ol style="list-style-type: none"> <li>1. Delete ‘Sub-Committees’, ‘Area Committees’, ‘Forums’ and ‘the Local Strategic’ from the Article title</li> <li>2. Revise the wording in section 7.1 to make more succinct.</li> <li>3. Delete references to ‘Panels’ and replace with ‘working groups’.</li> <li>4. Delete section on ‘Additional Sub-Committees and Panels’.</li> <li>5. Amend section 7.2 to refer to delete references to parent committees making appointments to sub-committees.</li> <li>6. Delete section on Area Committee and Forums as these are included in the terms of reference of committees detailed later in the Article.</li> <li>7. Delete unnecessary text from section 7.4 on the Local Strategic Partnership.</li> <li>8. Review and shortening of terms of reference of all committees to improve</li> </ol>	Agreed as per report, subject to the reinstatement of the current terms of reference of the General Functions Committee



No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
			<p>clarity (including revisions to the terms of reference and remit of Area Committees).</p> <p>9. Add new responsibilities to the terms of reference of the Planning Committee and Area Planning Committees in relation to a Brownfield Land Register.</p> <p>10. Revise the membership of the Local Pension Board to increase from 5 to 7.</p> <p>11. Include the following committee procedures in this Article moved from Meetings Procedure Rules (proposed to be deleted): Substitute Members – Rules; Quorum – Rules; Chairmen of Meetings; Minutes; Urgent Business</p> <p>12. Amend Urgency provisions to remove the ability for the Chief Executive to take a decision normally reserved for a committee.</p> <p>13. Delete text relating to the conclusion time for Residents Forums as these now take place at 7.00pm and no longer have an Area Committee which follows immediately after.</p>	
9	Article 8 – Joint Arrangements	Page 69	<ol style="list-style-type: none"> <li>1. Delete 'References' to legislation as these are not required.</li> <li>2. Delete unnecessary text relating to delegations to joint committees being listed in Responsibility for Functions as this is no longer required.</li> </ol>	<p>Agreed as per report subject to paragraph 8.2 being amended as follows:  "Access to Information legislation will apply to Members</p>

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
				of joint committees.”
10	Article 9 – Chief Officers	Pages 71 – 75	<ol style="list-style-type: none"> <li>1. Add wording to 9.01 (a) to clarify that the Chief Executive as Head of Paid Service appoints all staff except Chief Officers.</li> <li>2. Update the list of Chief Officers to reflect the senior management structure approved by the General Functions Committee implemented in June 2017.</li> <li>3. Updated wording relating to the powers delegated to officers to simply the language and clarifies financial limits to delegations.</li> <li>4. Updated list of Statutory Officers.</li> <li>5. Delete the section titled ‘Other Chief Officers’ as these are listed in the ‘Chief Officers’ section above.</li> <li>6. Delete references in 9.4 (b) as these are no longer required.</li> <li>7. Amend 9.3 (b) delete ‘Chief Operating Officer’ and replace with ‘Assistant Chief Executive’ to reflect the new senior officer structure.</li> <li>8. Delete sections from section 9.3 relating to the functions of the Monitoring Officer relating to ‘contributing to corporate management’ and</li> </ol>	Agreed as per report

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
			<p>‘restrictions on posts’ as these are covered elsewhere or are statutory provisions.</p> <p>9. Delete references at the end of section 9.3 as these are no longer required.</p> <p>10. Delete sections from section 9.4 relating to the functions of the Chief Finance Officer relating to ‘contributing to corporate management’ as this are covered elsewhere.</p> <p>11. Delete section 9.8 on other chief officers as this is no longer required.</p>	
11	Article 10 – Decision Making	Pages 77 – 82	<ol style="list-style-type: none"> <li>1. Delete section on ‘Responsibility for decision making’ as no longer required.</li> <li>2. Amend section 10.2 to refer to decisions taken by Full Council.</li> <li>3. Amend section 10.3 to refer to decision-making by committees and revise the wording to improve clarity. Include new text to state that: i) all committee reports will be in the name of the Chairmen apart from Planning and Licensing Committees; and ii) that Chairmen will clear all committee reports apart from Planning and Licensing Committees.</li> <li>4. Add a new section 10.4 (Decision Making by Chairmen of Theme Committees Jointly with Chief Officers) to give a new power to Chairmen of</li> </ol>	Agreed as per report

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
			<p>theme committee to make decisions jointly with chief officers with a value of between £165K and £500K.</p> <p>5. Amend section 10.5 to clarify the circumstances where a written record report is required.</p> <p>6. Insert Table A detailing authorisation limits in relation to land and property transactions previously included in the Management of Assets, Land and Property Rules.</p>	
12	Article 11 – Finance, Contracts and Legal Matters	Pages 83 – 84	<ol style="list-style-type: none"> <li>1. Delete ‘References’ as these are no longer required.</li> <li>2. Amend sections 11.3 and 11.4 to delete ‘Monitoring Officer’ and replace with ‘Assistant Chief Executive’ as the senior responsible officer.</li> <li>3. Amend section 11.4 on authentication of documents to improve clarity and confirm the financial threshold for documents which require the Seal to be attested.</li> <li>4. Delete wording in section 11.4 relating to authorised officers as this is covered in section 11.5.</li> <li>5. Minor amendments to 11.5 to include the Assistant Chief Executive as they are a senior responsible officer.</li> <li>6. Delete text relating to the ‘Facsimiles of Common Seal’ as no longer required.</li> <li>7. Delete section on ‘Disposal of land and real</li> </ol>	Agreed as per report

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
			property' as no longer required.	
13	Article 12 – Review and Revision of the Constitution	Pages 85 – 86	1. Amend text to clarify some of the wording.	Agreed as per report
14	Full Council Procedure Rules	Pages 87 – 108	<ol style="list-style-type: none"> <li>1. Amend Part 4, Business for Debate, 15. to remove Motions for the Adjournment and replace with a procedure for debating more than two motions if time permits at the end of the meeting.</li> <li>2. Amendments to clarify the wording in sections 6 (Variations), 7 (Suspension of Rules), 9 (General Provisions for Motions and Amendments).</li> <li>3. Deletion of sections 13 (Motions which may be moved during debate and closure motions) and 14 (Division and Voting) which are no longer required.</li> <li>4. Clarification of wording in section 22.1 to clarify that Motions must relate to Barnet specific issues.</li> <li>5. Revisions to the wording in sections 23.5 and 23.6 to shorten and clarify the language.</li> <li>6. Delete section 26 relating to Procedure for Policy and Resources Committee Budget Report as not required.</li> </ol>	<p>Agreed as per report subject to:</p> <ol style="list-style-type: none"> <li>1. Amend section 2.1, 2. to include the Deputy Mayor</li> <li>2. Amendment of section 5.2 to state: “If the Mayor is absent from a meeting of the Council then the Deputy Mayor will preside.”</li> <li>3. Delete the following wording from paragraph 5.3: “...or if the Deputy Mayor being present is not chosen...” Amend section 6 as follows: “The order of any business may be varied by the Mayor with the consent of Council.”</li> <li>4. Retain section 11 (Division</li> </ol>

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
				and Voting); 5. Delete the following wording from section 17.3: “(Including Overview and Scrutiny Committees)” 6. Change the wording in section 17.11 from ‘particularly’ to ‘substantially’

In considering the Full Council Procedure Rules, Councillor Rawlings moved that section 10.3 (which stated “After the deadline referred to at 10.1 above, a Member may only move an amendment to a Motion in their name orally from the floor”), which was proposed for deletion, be retained. Councillor Houston seconded the motion. Upon being put to the vote, the proposal was lost. Votes were recorded as follows:

In Favour	3
Against	4
Abstentions	0

The meeting finished at 8.03 pm