

MEETING

CONSTITUTION AND GENERAL PURPOSES COMMITTEE

DATE AND TIME

TUESDAY 25TH JUNE, 2019

AT 7.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BQ

**TO: MEMBERS OF CONSTITUTION AND GENERAL PURPOSES COMMITTEE
(Quorum 3)**

Chairman: Councillor Melvin Cohen LLB
Vice Chairman: Councillor Alex Prager BA (Hons) ACA

Councillor Geof Cooke	Councillor Richard Cornelius	Councillor Alison Moore
Councillor Barry Rawlings	Councillor Helen Richman BA (Engineering) JD (Juris Doctor, Barrister (Middle Temple, TEP	

Substitute Members

Councillor Anne Clarke	Councillor Claire Farrier	Councillor Anthony Finn
Councillor Sachin Rajput	Councillor Alan Schneiderman	Councillor Peter Zinkin

In line with the Constitution's Public Participation and Engagement Rules, requests to submit public questions or comments must be submitted by 10AM on the third working day before the date of the committee meeting. Therefore, the deadline for this meeting is Thursday 20 June at 10AM. Requests must be submitted to Maria Lugangira 020 8359 2761 at maria.lugangira@barnet.gov.uk

You are requested to attend the above meeting for which an agenda is attached.

Andrew Charlwood – Head of Governance

Governance Service contact: Maria Lugangira 020 8359 2761

Media Relations Contact: Gareth Greene 020 8359 7039

ASSURANCE GROUP

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ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Minutes	5 - 10
2.	Absence of Members	
3.	Disclosable Pecuniary interests and Non Pecuniary interests	
4.	Report of the Monitoring Officer (if any)	
5.	Public Question and Comments (if any)	
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12.	Any item(s) that the Chairman decides is urgent	

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Decisions of the Constitution and General Purposes Committee

9 April 2019

Members Present:-

AGENDA ITEM 1

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

Councillor Geof Cooke Councillor Barry Rawlings
Councillor Richard Cornelius Councillor Sarah Wardle
Councillor Alison Moore

1. MINUTES

RESOLVED that the minutes of the Committee held on 17 January 2019 be approved as a correct record.

2. ABSENCE OF MEMBERS

None.

3. DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS

Member	Item	Interest Declared
Councillor Barry Rawlings	8 – Constitution Review Terms of Reference of the Safer Communities Partnership Board	Non-Pecuniary interest by virtue of the fact that Councillor Rawlings does some work for CommUNITY Barnet who are represented on the Board.

4. REPORT OF THE MONITORING OFFICER (IF ANY)

None.

5. ANNOUNCEMENT BY THE CHAIRMAN

The Chairman announced that the items list below were being withdrawn from the agenda. The items would be given more detailed consideration before being brought back to future meeting of the Committee.

	No.	Section	Reference
4.	Full Council Procedure Rules	Sections 18.7 – 18.8	A provision for public questions to the Leader at Full Council has been in-situ for several years. There have been no public questions to the Leader at an ordinary council meeting since this provision was

			added. It is therefore recommended that this provision be deleted.
12.	Article 7 (Committees, Forums, Working Groups and Partnerships)	Terms of Reference of Area Planning Committees	Barnet has a relatively low threshold for the number of objections which trigger an application being referred to committee for determination. Consequently, two out of the three area planning committees usually have a high volume of planning applications to be determined. For example, the Finchley & Golders Green Area Planning Committee regularly receives between 10 and 20 applications per meeting. It is proposed that the threshold be increased from 5 to 10 objections.

6. PUBLIC QUESTION AND COMMENTS

Details of the questions asked and the answers provided were published and circulated at the meeting.

Mr Levy addressed the Committee, in relation to his public comment submitted below

Constitution Review (Appendix B)

"I have found that where the Chairman of a Residents Forum instructs an officer to provide information within 20 days (item 3.5), it is currently often unsatisfactory because;

- i. if information is not provided within 20 days, it can then be very protracted to obtain the information because then officers have no further deadline to fulfil; and if this provision is used to obtain a response or part response to a tabled question that was not provided in time for the printed response/meeting, then;
- ii. other interested residents will not see the response and will have to inquire separately to obtain the information;
- iii. the resident loses the opportunity to address the Forum with the light of the deferred response until six months have elapsed, which may mean waiting for another 9-12 months.

I am therefore seeking that the following text be considered for insertion into the Constitution, Appendix B, 3.5:

1. After "within 20 days to provide an additional response", add "; if this occurs or if an officer has undertaken to follow up with such full response, this response shall also be printed in the final draft and published minutes of that Forum, captioned as a NOTE, within the minuting of that agenda item"
2. At end of paragraph beginning "The Six Month rule", add "An exception is that where additional time following a Residents Forum is required to provide a full response to an issue tabled at a particular Forum, the same resident will promptly be advised that (s)he may speak for 3 minutes in response to that response at any

subsequent Residents Forum for the same area within the six month period following the said Forum, or appoint another Barnet resident to do so, other than a Councillor, MP or Assembly Member. At least three working days' notice must be given of such intention to speak; the original issue and proceedings to date shall be appear in full in the agenda and noted as a deferred item; and the Chairman will determine the issue in the same manner as other issues at the Forum, see below, save that (s)he shall seek to avoid duplication within the six-month period."

Following Mr Levy's representation the Committee agreed that the proposal is referred to officers for consideration and that a report with proposed amendments is brought back to the next meeting of the Committee **[ACTION Head of Governance]**

7. MEMBERS ITEM (IF ANY)

None.

8. CONSTITUTION REVIEW

The Committee noted the items that had been withdrawn by the Chairman at item 5 above.

The Head of Governance presented the Constitution Review report.

Following consideration of the report **the Committee RESOLVED to:**

Recommend to Council that the Constitution be amended to incorporate the changes detailed in the report and in the amended versions the sections set out in Appendix A to F subject to the following amendments:

- 1. Appendix C - Article 7 - Committees, Forums, Working Groups and Partnerships – Trade Unions, revise proposed wording as follows:**

"When considering a report on staffing matters, a representative of the trade unions may submit a request to speak and/or be questioned by the Committee with the consent of the Chairman, before a decision is made. Each representative will have up to 3 minutes to address the Committee."

- 2. Appendix B - Article 3 - Residents and Public Participation – Section 3.5 - defer the following proposed amendment for further consideration;**

"Public questions and comments are not permitted:...

- If they are received from people who are not Barnet residents;

- 3. Appendix A - Article 2 - Members of the Council (Councillors) Section 2.3 (g) – add the following;**

- Where a Member has a pecuniary interest in an application they are precluded from 'calling in' that application

9. LOCAL GOVERNMENT BOUNDARY COMMISSION FOR ENGLAND - ELECTORAL REVIEW OF BARNET COUNCIL - DRAFT RECOMMENDATIONS

The Chief Executive presented the report which set out the LGBCEs draft recommendations of the new electoral arrangements for Barnet. In summary, the raft recommendations propose that:

- Barnet's council size should remain at 63 councillors - as at present.
- Barnet should move to having 25 wards - four more than there are now.
- The 63 Councillors will represent; 14 three-councillor wards, 10 two-councillor wards and 1 one-councillor ward
- The boundaries of all wards will change, none will stay wholly the same.

Member's raised a number of queries on the above, with regards to understanding the constitutional implications these changes will have on:

- Planning and Area Committees which are currently appointed to on the basis of ward
- Ensuring fair representation for the single ward member.

The Chief Executive agreed to ensure that the officers response to the LGBCE would capture the proposal implications for committees and other bodies that are constituted on an area basis.

Following consideration of the report **the Committee RESOLVED:**

1. **That the Committee note the Local Government Boundary Commission for England consultation timescales.**
2. **That the Committee notes the officers approach to responding this stage of the Electoral Review consultation and are asked to offer any feedback on the practical and technical aspects of the proposals, to inform officers submission.**

10. LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN (LGSCO) AND HOUSING OMBUDSMAN SUMMARY OF UPHELD COMPLAINTS REPORT - 2018/19

The Monitoring Officer presented the report which provided a summary of the upheld complaints determined by the Local Government & Social Care Ombudsman (LGSCO) and Housing Ombudsman during 2018/19.

The report further set out the full details of the LGCSO decision relating to an upheld complaint.

Following consideration of the report **the Committee RESOLVED to:**

1. **To note the summary of upheld decisions by the LGSCO and Housing Ombudsman during 2018/19 (Appendix A).**
2. **To note and consider the LGSCO upheld complaint (Case ID 17000409) – Appendices B and C.**

11. CAMPAIGN FOR FREEDOM OF INFORMATION - REPORT ON FOI GOOD PRACTICE IN LONDON BOROUGH

The Chief Executive presented the report which set out the findings of a recent report by the Campaign for Freedom of Information on Freedom of Information (FOI) performance and good practice in London Boroughs.

Various elements of the report referred to best practice examples with Barnet Council being cited as one of the leading local authorities in this area. The report also included an update on Barnet's FOI performance in 2018/19.

The Committee wished to convey their thanks and congratulations to the officers involved in achieving this recognition.

Following consideration of the report **the Committee RESOLVED to:**

1. To note the report, and the recognition from CFI of the positive and effective approach Barnet has taken in order to be an exemplar of FOI good practice.
2. To note the council's commitment to maintaining continuous improvement in this regard, as evidenced by current high levels of performance

12. COMMITTEE FORWARD WORK PROGRAMME

The Committee noted the Forward Work Programme.

13. ANY ITEM(S) THAT THE CHAIRMAN DECIDES IS URGENT

None.

14. VOTE OF THANKS

With this being the last meeting of the municipal year 2018/19, the Vice-Chairman and the Committee thanked the Chairman, for his hard work and the fair manner in which he has conducted the meetings of the Committee over the past year

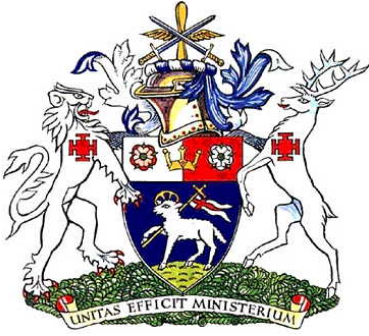
Councillor Cohen thanked both Members for their work and officers for their support

The meeting finished at 8.05 pm

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Constituion & General Purposes Committee

25 June 2019



Title	Public Participation
Report of	Monitoring Officer
Wards	All Wards
Status	Public
Urgent	No
Key	No
Enclosures	None
Officer Contact Details	Andrew Charlwood, Head of Governance, andrew.charlwood@barnet.gov.uk , 020 8359 2014

Summary

Members are requested to consider the issues and proposals as detailed in the report in relation to public participation and resident engagement at committees.

Officers Recommendation

1. That the Committee consider the issues outlined in the report and recommendations set out in section 1.7 and give instructions.
2. That, following the Committee agreeing their preferred options in relation to public participation, that officers be instructed to prepare a revised Article 3 (Residents and Public Participation) for reporting to Full Council for consideration and agreement.

1. WHY THIS REPORT IS NEEDED

- 1.1 Residents have several rights as detailed in Article 3 (Residents and Public Participation) including to ask questions at Full Council and to make comments and/or ask questions at committee meetings. The current rules state that “Written responses to public questions will be circulated to the questioner in advance or at the meeting. Residents can ask the committee chairman one supplementary question per question asked at the committee meeting, which will be answered without discussion. The supplementary question must be relevant to the original question put to the chairman.” In most cases, officers draft a response which is reviewed by the relevant committee chairman and then sent to the questioner and published in advance of the meeting alongside the council or committee agenda and reports.
- 1.2 At present there are no limitations on the number of questions submitted by residents and there have, on occasion, been more than 150 questions submitted to a single committee meeting. All questions require a written response and drafting responses and can take up a significant amount of senior officer time. Additionally, the committee chairmen need to review and clear responses.
- 1.3 In a recent 5-month period (1st September 2019 to 1st March 2019) a total of 598 questions were submitted by residents to theme committees (see list [here](#)), the Audit Committee and the Constitution & General Purposes Committee. From the total, one resident submitted 165 questions (28%) and another 111 (19%), with a further four residents submitting between 19 and 48 each. 79% of the total number of questions are submitted by 10 residents. The right of residents to raise questions and make comments at committees has become used to a degree which is officer resource intensive and requires limitation to achieve savings.
- 1.4 Enabling residents to attend meetings, ask questions, create petitions and raise issues at residents’ forums is an important element of the council’s governance arrangements. Residents should be able to understand how the decisions that affect them are made. However, the current arrangements in relation to public questions has resulted in senior officers spending a significant amount of time responding to (or coordinating responses to) questions from a small cohort of individuals. It is estimated that the time-cost of responding to public questions is around £42K per annum. Members are requested to consider whether this is an appropriate use of council resources and whether another arrangement may reduce the requirements on officers to provide responses to questions whilst maintaining resident’s rights to ask questions.
- 1.5 In addition to the right to ask questions, residents also have the right make comments at committees. Residents can submit a written comment, but are not required to do so. Raising issues before committee by way of comments of which the Council has no prior knowledge is not advisable as either: the comment(s) are relevant to the decision-making and therefore must be in the report before committee; or are not relevant to the decision-making in which case such comments are unnecessary. Any relevant comment made and not within the committee report must result in the Chairman deferring the committee decision so that the report to committee can be suitably amended. If the right to make comments is to continue then it should be amalgamated with questions which must be delivered before the committee meets to discuss the relevant agenda item, thus giving

time for the comment to be given due consideration and the committee report to be amended if necessary.

- 1.6 There is no legal requirement to allow residents to speak at committee and some local authorities do not allow any public participation. Members are the elected representatives of all residents and any local resident may raise relevant matters with officers or their local Councillors at any time. Members can in turn make representations at committees in accordance with their rights enshrined in Article 2 and other sections of the Constitution.
- 1.7 The Committee are requested to consider the proposals of the Monitoring Officer as set out below and comment accordingly:
1. Questions and comments should be amalgamated; it is perfectly possible to raise a comment as part of a question. The number of words for each question/comment should be limited at 100.
 2. Questions/comments should be raised under the current rules for questions. This means that the council and lead officer would have notice of the question/comment before the meeting and would therefore be in a position to amend the committee report (if necessary) to include a relevant matter raised in the question/comment, if not currently within the committee report.
 3. Residents may raise one question/comment on an agenda item. The question/comment must relate to the substantive matter to be determined by the committee. No more than two questions from residents will be allowed per agenda item taken in the order of receipt by the Governance Service.
 4. Residents may raise one question/comment per committee meeting in order to allow as many residents as possible to raise questions/comments and ask a supplementary question at Committee.
 5. The deadline for submitting a question/comment be extended to 10am two clear working days before the meeting. Questions/comments will be responded to verbally at the meeting only. Residents will be able to ask one supplementary question for each question/comment made. If there is insufficient time to deal with all questions in the 30 minutes of allocated time, a written response will be provided within a reasonable period. The Chairman should also have the discretion to request that a question answered at the meeting also be responded to in writing.
- 1.8 Following the committee's consideration and agreement on their preferred option(s) for the changes proposed above, a revised Article 2 will be drafted in preparation for reporting to Council on 30 July 2019.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The right of residents to raise questions and make comments at committees has become used to a degree which is officer resource intensive and requires limitation to achieve savings.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The Committee could retain the current public participation arrangements unaltered.

4. POST DECISION IMPLEMENTATION

- 4.1 Subject to the committee's comments and decision on the proposals detailed above. Constitution amendments need to be agreed by Full Council on the recommendation of this committee.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 Barnet Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded, properly accounted for, and used economically, efficiently and effectively. By keeping the Constitution under review it ensures that the framework in which the Council is governed supports the delivery of corporate priorities and performance.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 Providing written responses to public questions requires substantial input from officers of varying levels across the Council. Members are requested to consider whether this an appropriate use of officer time and council resources.

5.3 Social Value

- 5.3.1 None in the context of this decision

5.4 Legal and Constitutional References

- 5.4.1 Council's Constitution, Article 7 - the Constitution and General Purposes Committee terms of reference includes responsibility "To 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".

5.5 Risk Management

- 5.5.1 The process of managing changes to the Constitution through the Constitution and General Purposes Committee ensures that the proposals are developed through Member participation and consideration.

5.6 **Equalities and Diversity**

5.6.1 The decision-making processes of the Council, as enshrined within the Constitution, need to be transparent and accessible to all sectors of the community.

5.7 **Corporate Parenting**

5.7.1 None in the context of this decision.

5.8 **Consultation and Engagement**

5.8.1 None in the context of this decision.

5.8 **Insight**

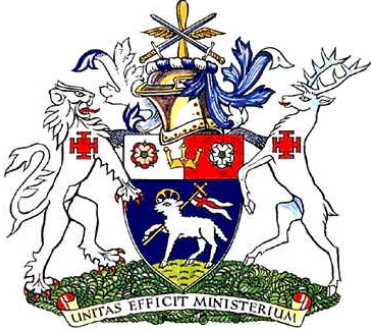
5.8.1 None in the context of this decision.

6. **BACKGROUND PAPERS**

6.1 The currently adopted Constitution can be accessed here:

<http://barnet.moderngov.co.uk/ecCatDisplay.aspx?sch=doc&cat=13581&path=0>

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	AGENDA ITEM 8
	Constitution and General Purpose Committee 25 June 2019
Title	Barnet Council's Annual Health and Safety Report
Report of	Mike Koumi - Head of Safety, Health and Wellbeing
Wards	None
Status	Public
Urgent	No
Key	No
Enclosures	Appendix 1 – Barnet Council's Annual Health and Safety Report
Officer Contact Details	Mike Koumi michael.koumi@barnet.gov.uk 020 8359 7960

Summary

This report provides information on the Council's health and safety performance for the period 2018/19. It also sets the priorities for the period 2019/20, to ensure continued improvement in H&S performance.

The report is based on performance information and data obtained from the council's accident/incident reporting system, together with independent audit results, corporate training records and ill health data.

Officer Recommendation s

- 1. The Committee is requested to note the report and approve the priorities for the period 2019/20 as outlined in section 3 of Appendix 1; Councils Annual Health and Safety Report**

1. WHY THIS REPORT IS NEEDED

- 1.1 This report enables the council to monitor its health and safety performance over a defined period and set priorities to achieve continual improvement and address any gaps identified.
- 1.2 The [Management of Health and Safety at Work Regulations 1999](#) and associated guidance suggests that regular monitoring of health and safety performance enables organisations to set meaningful targets to effect improvements in attendance and productivity, reduce work related accidents and ill health and comply with statutory duties.
- 1.3 The review of the previous year's performance as shown in Appendix 1 is split into the four areas that enable us to effectively monitor health and safety; these being:
- Reported work related accident and Ill health
 - Levels of compliance with legislation and council policy
 - Health and safety training delivered
 - Any enforcement action taken against the council
- 1.4 The review shows that the council performs well overall and manages its risks effectively, with the main performance achievements over the year being:
- A 50% reduction in RIDDOR reportable incidents compared to last year
 - Sickness absence average reduced from 10 to 8 working days per employee
 - An increase in the reporting of minor injuries and verbal assaults of 30%
 - Significant improvement on the number of mandatory courses undertaken with the average completion rate now at 72% compared with 55% at the same period last year
 - Improvements in H&S performance with average compliance audit scores increasing from 75% to 84%.
 - Improvement in premises compliance across the council estate
- 1.5 The main areas that require further improvements are in managing stress and mental health related absence as well as ensuring our premises are managed effectively.
- 1.6 The council's priorities for 2019/20 are:
- 1) Seek reductions in days lost due to stress related and illness and mental ill health
 - 2) Seek reductions of at least 10% in days lost due to work related incidents and ill health
 - 3) Ensure all staff have undertaken mandatory health and safety training
 - 4) All council managed premises are compliant with statutory requirements
 - 5) Improve the staff Health and Wellbeing offer and achieve the revised London Healthy Workplace Charter

2. REASONS FOR RECOMMENDATION

- 2.1 The recommendation seeks agreement of the council's health and safety priorities which aim to address gaps and effect improvement in the council's health and safety performance.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Not applicable

4. POST DECISION IMPLEMENTATION

- 4.1 Directors will be required to formulate action plans to implement the priorities for the period 2019/20. Directors will be supported and advised by the Corporate Health and Safety and Wellbeing Team to ensure action plans are comprehensive and achievable.
- 4.2 The 2019/20 Annual Council Health and Safety report will highlight performance against these priorities.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The [Corporate Plan](#) includes the strategic objective to "improve the satisfaction of residents and businesses with the London Borough of Barnet as a place to live, work and study". This report aims to contribute to that objective by setting standards, through the way it manages health and safety, to ensure the council remains exemplars in the community, continues to be a good employer and protects persons who may come into contact with its activities.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 There are no additional financial implications as a result of the proposed decision. Health and safety management is part of business as usual and is managed within existing budgets.

5.3 Social Value

- 5.3.1 Not applicable

5.4 Legal and Constitutional References

- 5.4.1 The council has various legal duties held under the Management of Health and Safety at Work Regulations 1999, the [Health and Safety at Work, etc. Act 1974](#) and regulations made under it. Failure to comply with those duties may lead to prosecution for breach of statutory duty for the council as well as individual Members and officers. Negligence in relation to health and safety matters can also result in costly personal injury claims in the civil courts.

5.4.2 According to the Council's Constitution, Article 7 the terms of reference for the Constitution and General Purposes Committee includes to have responsibility for overseeing the Council's governance arrangements including Health and Safety Strategy and performance.

5.5 Risk Management

5.5.1 Failure to effectively manage health and safety risk increases the likelihood of injury and ill health to staff and others during council activities. Significant failure may lead to a catastrophic event that causes multiple injuries or fatalities to staff and the public. Failure to comply with statutory obligations increases the risk of prosecution. Any work practices that result in ill health or injury could result in legal action against the council, financial loss and negative publicity leading to reputational damage.

5.6 Equalities and Diversity

5.6.1 The council's Corporate Health and Safety Policy aims to ensure the protection of employees and anyone else who may come into contact with our activities and services. This includes people at particular risk, for example people with disabilities, pregnant women and vulnerable service users. The policy helps to enhance Barnet's reputation as a good place to work and live, and aims to protect employees and service users taking regard of age, disability, ethnicity, faith/belief, gender, and sexual orientation.

5.6.2 The policy also supports the council in meeting its statutory public sector equality duties and compliance with the range of employment (equality) regulations.

5.7 Corporate Parenting

5.7.1 The report has no impact on looked after children or care leavers

5.8 Consultation and Engagement

5.8.1 The Annual Health and Safety report will be presented and discussed at the Local Joint Consultation Committees (JCC's).

5.9 Insight

5.8.1 Not applicable

6 BACKGROUND PAPERS

6.1 [Health and Safety at Work etc. Act 1974](http://www.legislation.gov.uk/ukpga/1974/37)
<http://www.legislation.gov.uk/ukpga/1974/37>

6.2 [The Management of Health and Safety at Work Regulations 1999](http://www.legislation.gov.uk/uksi/1999/3242/contents/made)
<http://www.legislation.gov.uk/uksi/1999/3242/contents/made>

Council Health and Safety Annual Report – 2018/2019

1. INTRODUCTION

This report summarises significant corporate management activities over the period 2018/19 covering key achievements, council-wide statistics and developments for the year ahead to improve Health and Safety.

The objectives of this report are to demonstrate Barnet Council's commitment to:

- Our responsibility for ensuring the health, safety and wellbeing of employees, service users, members of the public and contractors;
- The on-going effective implementation of the council's Corporate Health and Safety Policy;
- Continual improvements in health and safety through the monitoring and measurement of its health and safety performance to highlight areas where the council performs well as well as areas for improvement;
- Openness and accountability

Key activities:

- 1) The Safety Health and Wellbeing team (SHaW) carried out a council wide risk profiling exercise to identify the activities that carry the greatest risk and the arrangements in place to manage those risks. This will enable the appropriate distribution of resources for H&S support into the areas of greatest risk. The exercise will also assist in the identification of the type of H&S training required by managers and lead to the production of a H&S training matrix.
- 2) The SHaW team reviewed and updated the incident reporting system to ensure its usability in all areas of the organisation.
- 3) The Head of SHaW revised the Health and safety guidance for project management to ensure all elements of H&S are considered throughout the life time of a project. This has been used to successfully manage the H&S elements of the new leisure centre builds and the new Colindale Offices.
- 4) A Workforce Health and Wellbeing Group (WHWBG) was established in the early summer of 2018 with the main purpose of scaling up our organisational offer on workforce health and wellbeing with the aim of reduced absenteeism, increased productivity, staff engagement and resident's satisfaction. The group is led by Public Health and includes stakeholders from services, partners and the Trade Unions.
- 5) The introduction of a Health and Wellbeing Intranet Hub which is now a part of corporate staff induction.
- 6) The council has successfully carried out Mental Health First Aid and Mental Health Champion Training over the course of the year. The courses have been heavily oversubscribed and further training will be organised to commence during the autumn.
- 7) The "New Office New You" and "Active Design" projects, that encompass the Health and wellbeing offer to staff linked to the move to Colindale
- 8) Health checks for staff were provided at NLBP and Barnet House with over 100 staff taking part. Sessions have been booked in for both Oakleigh and Harrow Depots in June. These health checks assess key health and wellbeing

indicators such as weight and blood pressure and provide advice on ways to improve health.

- 9) A successful flu immunisation campaign was carried out with over 200 front line staff given vaccinations.
- 10) A campaign was run to increase the reporting of minor incidents and verbal assaults
- 11) The Head of SHaW took a lead role in ensuring the CSG Estates service meet the councils aim to ensure our premises are fully compliant with the requirements for statutory tests and inspections. This resulted in an action plan being produced by the Estates Service that enabled these improvements to be made

2. SUMMARY OF PERFORMANCE FOR 2018/19

Main performance achievements:

- 1) A 50% reduction in RIDDOR reportable incidents compared to last year
- 2) Sickness absence average reduced from 10 to 8 working days per employee
- 3) An increase in the reporting of minor injuries and verbal assaults of 30%
- 4) Significant improvement on the number of mandatory courses undertaken with the average completion rate now at 72% compared with 55% at the same period last year
- 5) Improvements in H&S performance with average compliance audit scores increasing from 75% to 84%.
- 6) Improvement in premises compliance across the council estate

Introduction of new health and safety policies or procedures

- As part of the TW3 project and the move to Colindale H&S guidance was produced for staff and managers. There was a poster campaign and guidance was published on the intranet and includes:
 - Lone and Remote Working
 - Use of Display Screen Equipment
 - Manual Handling
 - Fire safety

Accident/Incident data

The council strives to continually improve its health and safety performance and to reduce work related accidents and ill health. Managers are required to ensure all incidents are reported and investigated and to introduce measures to prevent recurrence.

All incidents are recorded on the council's on-line accident reporting system and sickness absence is reported on HR Core These are interrogated by managers, the Customer Support Group Safety, Health and Wellbeing (SHaW) team and the councils Head of Safety Health and Wellbeing to ensure all incidents are fully investigated and to identify any emerging work-related incident or ill Health trends.

There has been a slight increase in the total number of incidents reported over the period, from 112 in 2017/18 to 119 in 2018/19. However there has been a 50% decrease in the number of Reporting of Injuries, Diseases and Dangerous Occurrences (RIDDOR) incidents. This is positive news and a reflection of the work

the council has done to review and improve its H&S management approach. None of these incidents were classified major injuries but rather over 7-day absences cause by either manual handling activities or slips and trips. There has been a 30% increase in the numbers of minor injuries and verbal assaults reported. Again, this should be seen as positive as the council ran a campaign to increase this type of reporting which has been previously under reported. This trend will be monitored to ensure this is because of an increase in reporting and not a rise in incidents occurring. The council remains high performing with its Accident Incidence Rate (RIDDOR incidents per 100,000 staff), a national recognised measure of performance, standing at 260 for the reporting period, which is considerably below the average for public service provision of over 500. Despite this the council will continue to strive to reduce not just RIDDOR incidents but all reported incidents.

Chart 1 shows all reported work-related incidents by type with the most common work-related incidents reported being ‘Slips and Trips’, ‘Verbal Assaults’ and ‘Contact with an Object’. Slips and Trips are the most common incident reported nationally and are in the main contributable to the working environment such as slippery floors and uneven floors, trailing cables, etc. Contact with Objects can be contact with something stationary, such as a cupboard, or something moving such as a vehicle. Risk assessments consider environmental conditions and managers are required to regularly inspect the workplace to ensure no hazards exist. The majority of verbal assaults reported occurred in Schools.

The RIDDOR incidents were either Lifting and Handling injuries or Slips and Trips occurring in the Streetscene Directorate and Schools. Chart 2 also highlights a common cause of work related ill health as Musculoskeletal and lifting and handling is a major contributor to these types of injuries. Streetscene regularly review their manual handling risk assessments and deliver training on lifting and moving to their staff.

Chart 2 shows that there are two common cause of work related ill health reported on CoreHR; “stress related”, which include psychological ill health and “musculoskeletal”, commonly muscle injuries to the neck, shoulders and lower back.

Organisational change and lack of control are common causes of work related stress. Exposure to stress is not though limited to work, as a good employer we should seek not only to reduce organisational causes of stress but also support staffs who are experiencing issues that may lead to stress outside of work. To this end the council provides support services to staff including 24/7 employee assistance which includes, if required, confidential counselling sessions. Services have stress action plans in place to manage the risk of organisational stressors.

Musculoskeletal injuries are commonly caused by both lifting and handling activities or repetitive movements and poor posture, such as when continual using Display Screen Equipment or in maintenance activities. The majority of these injuries have been attributed to lifting and moving and so there has been a campaign to reduce these through a thorough review of risk assessments and controls.

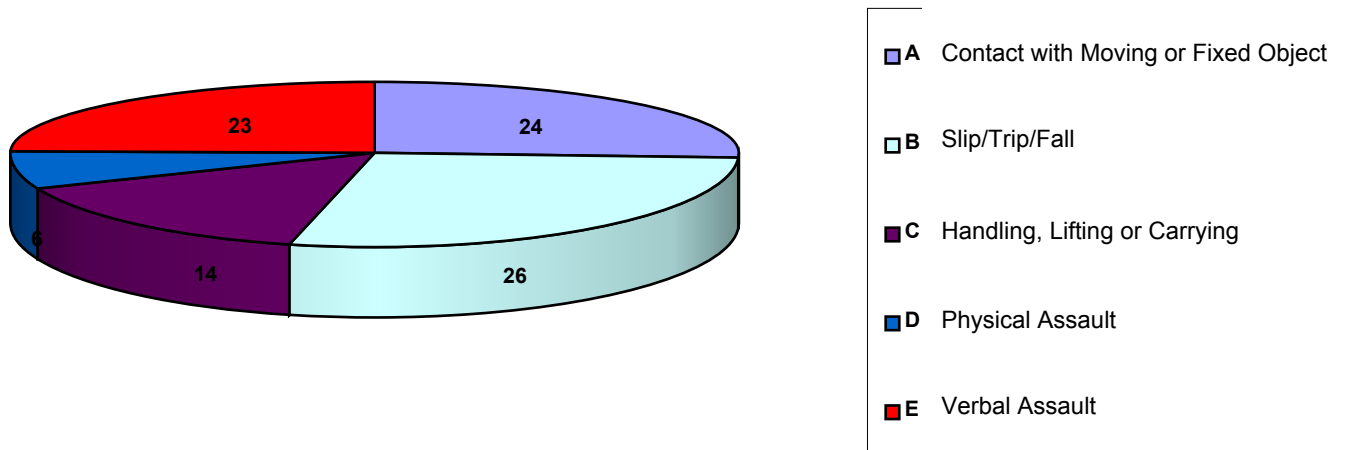


Chart 1 – Significant reported Work-Related Incidents to employees by type 2018/19

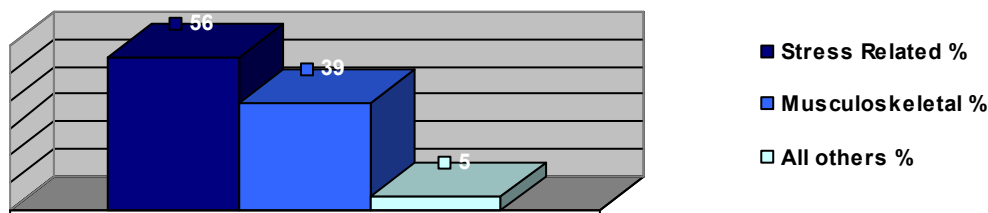


Chart 2 - Top three common causes of Work Related Ill Health 2018/19

Corporate Health and Safety Training

We have continued to deliver corporate health and through our e-learning system as well as face to face training. There are 26 courses available on our eLearning system with 3 of those being mandatory training for all staff.

Alongside this corporate training services organise and deliver a wide range of role specific health and safety training identified through performance review and risk assessments.

The mandatory corporate H&S training modules and numbers who completed these courses are as follows:

Mandatory E-learning - Percentages Completed	
Workplace Safety	70%
DSE	74%
Fire Safety	72%

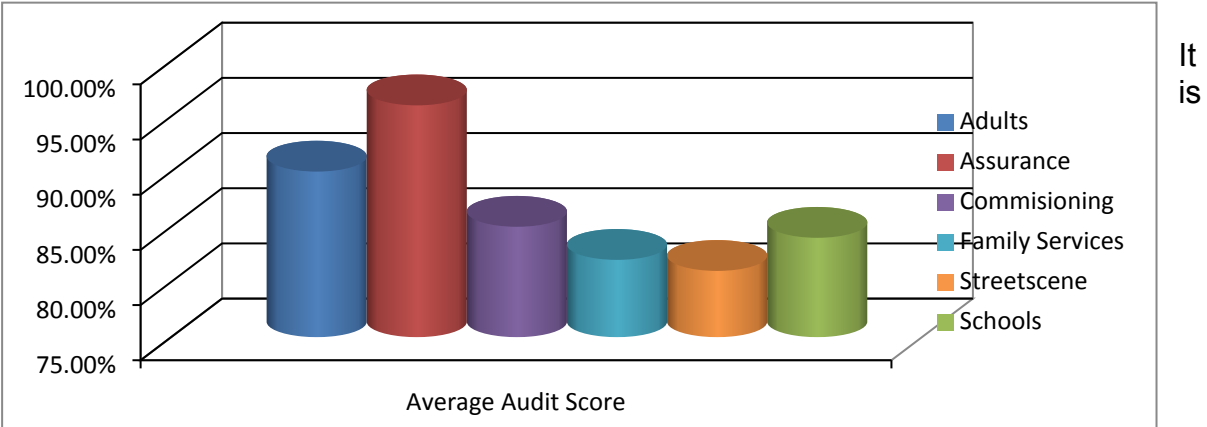
Health and Safety Audits

To monitor compliance with the councils Health and Safety Management System, Legislation and accepted good practice we use a system of internal auditing to identify and remedy any shortfalls in health and safety performance. The audits are carried out by health and safety professionals with the annual audit programme agreed by the Head of Safety, Health and Wellbeing. The areas for audit are selected to ensure a representative sample of council activities as well as considering higher risk activities. Audits are not usually carried out on lower risk areas of the council, such as predominantly office based activities, to make effective use of the available

resource. Risk assessments and regular monitoring by managers still continues in these low risk areas to ensure good practice and compliance.

A total of 41 H&S Audits and performance reviews were carried out in 2018/19 with the averaged results of the audits summarised in the table below. The average overall performance score across the council was 84% which is an increase in the average score compared to 2017/18 of 75%. Scores of 70% and above are viewed as 'Good Performance' 'Excellent Performance' would see scores of >90% and achievement of this score is the councils aim.

The audits show that the council performs well in the implementation of policy and in H&S risk management. The areas for improvement are in local premises related compliance and record keeping.



important to note that all audits result in the production of action plans to address any areas of low performance, with the SHaW team supporting managers in addressing these gaps.

3. COUNCILS HEALTH AND SAFETY AND WELLBEING PRIORITIES FOR THE PERIOD 2019/20

The corporate priorities aim to ensure the continued proactive improvements in health and safety and wellbeing performance, reduction of work related injury and ill health and increased productivity of our workforce. They also seek to address any gaps or trends identified through monitoring activities as highlighted in this report.

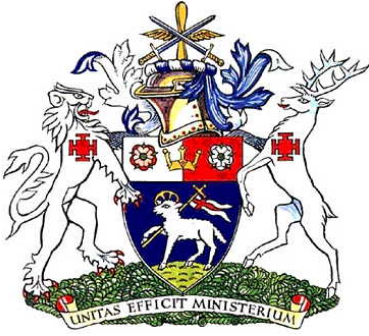
- 1) *Seek reductions in days lost due to stress related and illness and mental ill health* – Corporate Stress Audit to be undertaken to identify Organisational Stressors. The Safety Health and Wellbeing Team to support Directors, through Directorate H&S Champions, to produce action plans that address any organisational issues identified in audit. The Head of SHaW to review current provision for Stress and Mental health training as well as employee support offer.
- 2) *Seek reductions of at least 10% in days lost due to work related incidents and ill health* - The Safety Health and Wellbeing Team to support Directors to review local arrangements for the management of risks, particularly those associated Musculoskeletal Injures, including manual handling and Display Screen Equipment.
- 3) *Ensure all staff have undertaken mandatory health and safety training* - Directors to introduce measures to ensure that all staff have undertaken

mandatory health and safety training and that health and safety practice is imbedded in daily work routines.

- 4) *All council managed premises are compliant with statutory requirements – Wholesale Client-side review of the current arrangements and monitoring activities to ensure H&S premises compliance.*
- 5) *To improve the Health and Wellbeing offer to staff and continue to impact in the decrease of sickness absence - Achieve the revised London Healthy Workplace Charter*

Constitution and General Purposes Committee

25 June 2019



Title	Local Government & Social Care Ombudsman (LGSCO) Upheld Complaint Case ID 18009897
Report of	David Tatlow, Monitoring Officer & Chief Legal Advisor
Wards	All
Status	Public
Urgent	No
Key	No
Enclosures	Appendix A - LGSCO Report - Case ID 18009897 Appendix B – Overview of Ombudsman Recommendations
Officer Contact Details	David Tatlow, Monitoring Officer and Chief Legal Advisor 020 8359 2786 / david.tatlow@Barnet.gov.uk Phillip Hoare, Head of Parking and Infrastructure 020 8359 2308 / phillip.hoare@barnet.gov.uk

Summary

This report presents the full LGSCO decision concerning the upheld complaint (Case ID 18009897) which the law requires that we report to committee as the LGSCO issued a public report.

Officers Recommendations

1. That Committee note and consider the LGSCO upheld complaint (Case ID 18009897) as detailed within the Ombudsman's report at Appendix A.

1. WHY THIS REPORT IS NEEDED

- 1.1 Complaints can be a valuable source of information and insight to enable the Council to focus on improvements to our processes and service delivery. The Council operates a two-stage Corporate Complaints Procedure. At Stage 1, the manager of the service area deals with the complaint, with the aim of resolving the complaint as quickly as possible. At Stage 2, complaints which are not resolved at Stage 1 are reviewed by the relevant Head of Service.
- 1.2 If the complainant remains dissatisfied after going through the Council's complaints procedure, they may escalate the matter to the Ombudsman.
- 1.3 There are separate statutory processes in relation to social care complaints for Adults and children's services. This is referred to as the statutory social care complaints Procedure. Once the statutory procedure is exhausted the complainant has the right of recourse to the LGSCO.
- 1.4 The LGSCO reserves the right to accept and investigate a complaint even if this has not been through either our corporate or the statutory complaints procedures. This can occur when there are urgent issues (such as imminent homelessness), vulnerability, or if the complainant shows that they have complained to the Council but have not received a response.
- 1.5 The LGSCO have reported their findings on Case ID 18009897 as set out at Appendix A, and requires that the Council report these findings and recommendation to the relevant committee.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The LGSCO has determined that maladministration and injustice was suffered by the complainant and has set out recommendations within its report attached at Appendix A.
- 2.2 The Council accepts the decision of the Ombudsman in respect of this case and will complete the recommendations as outlined within the Ombudsman's report. An overview of these recommendations and actions taken to date is attached at Appendix B.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Officers have considered not to accept the decision of the LGSCO Case ID 18009897, but on this occasion that option is not recommended.

4. POST DECISION IMPLEMENTATION

- 4.1 The Council will undertake to complete the recommendations made by the Ombudsman in relation to this case, as set out at Appendix B, and in accordance with the specified timescales.
- 4.2 Following the committee meeting, officers will report back to the LGSCO regarding Case ID 18009897.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The Council's Corporate Plan - Barnet 2024 has three outcomes for the borough focus on place, people and communities:

- a pleasant, well maintained borough that we protect and invest in
- our residents live happy, healthy, independent lives with the most vulnerable protected
- safe and strong communities where people get along well.

5.1.2 As outlined in the council's approach to this vision, delivering a fair and open complaints process helps to ensure we deliver a 'efficient and effective council'.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 Payment of compensation will be made to the party as directed by the Ombudsman.

5.3 Social Value

5.3.1 As contained in this report.

5.4 Legal and Constitutional References

5.4.1 Local Government Act 1974, Section 30.

5.4.2 Under article 7 of the Constitution, the Constitution and General Purposes Committee's terms of reference include:

"To consider and make recommendations to the Council on:
(iii) ethical standards in general across the authority.

To have responsibility for overseeing the Council's governance arrangements."

5.5 Risk Management

5.5.1 Complaints can be an essential means by which the Council assures the quality of council service. By listening to complaints and taking improvement action where necessary, the Council minimises the risk of non-compliance and ensures improved customer satisfaction.

5.6 Equalities and Diversity

5.6.1 Learning from complaints also assists the Council in fulfilling its statutory duty under s149 of the Equality Act.

5.6.2 Section 149 of the Equality Act 2010 sets out the Public-Sector Equality Duty which requires a public authority (or those exercising public functions) to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not
- foster good relations between persons who share a relevant protected characteristic and persons who do not.

5.6.3 The broad purpose of this duty is to integrate considerations of equality into day to day business and keep them under review in decision making, the design of policies and the delivery of services. The protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation
- Marriage and Civil Partnership

5.6.4 Changes to policies and services are analysed in order to assess the potential equalities impacts and risks and identify any mitigating action possible, through an equalities impact assessment, before final decisions are made. Consideration will also be made to the equalities and data cohesion summary.

5.7 Corporate Parenting

5.7.1 There are no corporate parenting implications arising from this report.

5.8 Consultation and Engagement

5.8.1 Engaging with customers through the complaints process is an important and valuable source of information and insight to enable the Council to focus on improvements to our processes and service delivery.

5.9 Insight

5.9.1 Learning from complaints provides insight into service improvement opportunities, complementing quantitative and statistical data on service performance.

6. BACKGROUND PAPERS

6.1. [The Local Government and Social Care Ombudsman website](#)

**Report by the Local Government and Social Care
Ombudsman**

**Investigation into a complaint against
London Borough of Barnet
(reference number: 18 009 897)**

9 May 2019

The Ombudsman's role

For more than 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mr X The complainant

Report summary

Environmental services, public protection and regulation

Mr X complains the Council wrongly removed and destroyed his fast food trailer. He says it did not make efforts to contact him to give him the opportunity to claim the trailer and stop the enforcement action.

Finding

Fault found causing injustice and recommendations made.

Recommendations

To put Mr X back into the same position he would have been without the fault, within three months of this final report, the Council should arrange for an independent assessor to establish the cost of providing Mr X with a trailer of similar age, quality and fittings as the one it wrongly destroyed. The Council should then pay this sum to Mr X within one month of the independent value assessment.

Within three months of the date of this report it should also:

- write to Mr X to apologise to him for the failures identified;
- pay Mr X £500 for the distress and uncertainty caused by the loss of the trailer and for the time and trouble taken to bring his complaint;
- carry out training to remind staff of the law, regulations, government guidance and its own policy when making decisions about abandoned vehicles;
- review its policy as set out on its website, to clarify its duty to try and find the vehicle owner;
- consider the report to identify if any procedural change is required to prevent a similar situation happening in the future and confirm with us the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

The Council has agreed to our recommendations.

The complaint

1. Mr X complains the Council wrongly removed and destroyed his fast food trailer. He says it did not make efforts to contact him to give him the opportunity to claim the trailer and stop the enforcement action. He wants the Council to compensate him for the cost of the trailer and subsequent loss of earnings.

Legal and administrative background

The Ombudsman's role

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this report, we have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. We refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
3. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
4. We investigate complaints about councils and certain other bodies. Where an individual, organisation or private company is providing services on behalf of a council, we can investigate complaints about the actions of these providers. (*Local Government Act 1974, section 25(7), as amended*)

The law and legal guidance on the removal and disposal of abandoned vehicles

5. The Refuse Disposal (Amenity) Act 1978 and the Removal and Disposal of Vehicles (England) Regulations 1986 (as amended) set out the legal framework for the removal and disposal of abandoned vehicles.
6. The Act defines a vehicle as:
"a mechanically propelled vehicle intended or adapted for use on roads, whether or not it is in a fit state for use, and includes any trailer intended or adapted for use as an attachment to a vehicle".
7. The Act says councils have a duty to remove abandoned vehicles from land or roads in their area.
8. Government guidance lists the following factors to consider when a council is deciding if vehicles are abandoned:
 - there is no keeper on the DVLA's database and they are not taxed;
 - they are stationary for a significant amount of time;
 - they are significantly damaged, run down or unroadworthy;
 - they are burnt out;
 - they have number plates missing.

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9. If a council decides a vehicle has been abandoned, the council can dispose of a vehicle immediately if either:
 - it is only fit to be destroyed;
 - it has no number plates or tax disc.In all other cases, the council must try to find the owner.
 10. If the council proposes to remove a vehicle, it must fix a notice to the vehicle saying the council intends to remove the vehicle after the stated time period ends.
 11. If the council cannot find the owner, or the owner fails to comply with the notice to collect the vehicle, the council can remove the vehicle.
 12. After the council has removed a vehicle it may dispose of it as it sees fit. The law says if a vehicle to which a notice is fixed has current road tax, it can be destroyed any time after the road tax expires.
 13. If a vehicle does not have current road tax or a registration mark, it can destroy it at any time after its removal.

The Council's policies and procedures

14. The Council's website sets out its policy for the reporting, removal and disposal of abandoned vehicles.
15. The website lists the likely indicators for it to decide a vehicle has been abandoned:
 - stationary for a long period (more than four weeks);
 - missing number plates;
 - two or more flat tyres;
 - a broken windscreen, windows or mirrors;
 - presence of weeds or litter under the vehicle suggesting it has not been moved for some time;
 - build-up of debris inside the vehicle;
 - general poor state of repair and subject to ongoing acts of vandalism;
 - vehicle is not taxed or has no MOT.
16. It says that if a person reports a vehicle as abandoned, a member of the team will undertake a site visit within 24 hours. They will assess if the vehicle meets the criteria for abandonment.
17. If the Council decides the vehicle has been abandoned and believes it to have a value of more than £500, the Council will fix a 7-day notice to the vehicle.
18. If the owner does not collect the vehicle within seven days, the Council will decide what further action to take.
19. The Council's website says motorists have the right to leave a legally parked vehicle on the public highway for as long as they consider necessary. A vehicle left in a stationary position for a period of time does not usually mean the owner has abandoned the vehicle.
20. The Council has contracts with an enforcement company and a vehicle removal company to carry out vehicle enforcement action within its area on its behalf.

How we considered this complaint

21. We produced this report after examining relevant documents and interviewing the complainant's representative.
22. We gave the complainant and the Council a confidential draft of this report and invited their comments. The comments received were considered before the report was finalised.

What we found

What happened

23. In 2016, Mr X bought a mobile catering trailer to make and sell food at street markets and events. He paid £20,000 for the trailer.
24. In May 2018, Mr X was working elsewhere, but was employing a chef to run the food trailer preparing and selling food at a local market. Mr X was parking the trailer on private land overnight.
25. During May 2018, due to unforeseen circumstances, the chef working the trailer became unable to work. Mr X could not continue parking the trailer on the private land.
26. Mr X says on 26 May, he moved the trailer and parked it on a road near his house. He chose the road as it was a wide road and had no parking restrictions.
27. On 3 June, a member of the public emailed a councillor. The email said the trailer had been parked in the road for over three weeks and was not taxed. It said the trailer was taking up space and was an eyesore, and asked if anything could be done to remove the trailer.
28. The councillor emailed another councillor (Councillor B) asking for advice about what could be done.
29. The next day Councillor B asked a Council manager to look at the case. The manager emailed the Council's enforcement company. They asked the enforcement company to carry out a site visit, provide a full report and photographs, attach a 7-day removal notice to the vehicle and set a task for further review in seven days.
30. On 5 June, the enforcement officer carried out a site visit. They took eight photographs which we have seen. The photographs all showed the trailer to be in a good state of repair, there was a number plate attached to the trailer and Mr X's mobile phone number was prominently displayed as part of the advertising on the trailer.
31. On 7 June, the enforcement officer emailed their report to the Council. The report said, *"unattached trailer, clean exterior, spider webs are on the trailer"*. It said the officer had attached a 7-day enforcement warning notice to the trailer. The officer asked the Council to confirm if it wanted the enforcement company to enforce the trailer.
32. The Council replied with *"full enforcement please with the intent of removing on Day 8 from today"*.
33. On 15 June, the enforcement officer emailed the Council again. They asked if the Council wanted them to remove the trailer as a Category A removal (a term used for vehicles so badly damaged they should be destroyed), or removal for storage.

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34. Later that day the Council replied to the enforcement officer. The email simply said, “*Class A removal*”.
 35. On 16 June, Mr X visited the trailer. The door into the trailer was on the pavement side, but the enforcement officer had fixed the 7-day enforcement notice to the road side of the trailer. Mr X did not see the notice.
 36. On 18 June, the Council’s vehicle removal contractor removed the trailer and destroyed it soon after.
 37. On 22 June, Mr X went to visit the trailer again, but found it was not there. He presumed someone had stolen the trailer and went to the Police. The Police told him to contact the Council to check if the Council had removed it, before reporting the trailer as stolen. By the time the Police told him this, the Council offices were closed.
 38. On 25 June, Mr X rang the Council. He says the Council were not helpful and would not tell him what had happened to his trailer. The Council gave him the number of their vehicle removal contractor, but he says they would also not confirm what had happened to his trailer.
 39. On 26 June, Mr X visited the Council’s vehicle removal contractor in person. The contractor told him it had collected his trailer between 18 and 20 June and following instruction from the Council, it had destroyed his trailer.
 40. Mr X complained to the Council. He was not satisfied with its response and asked the Council to escalate his complaint.
 41. In September 2018, the Council responded. It said it inspected the vehicle on 5 June. It decided the trailer met the legal criteria (as defined in the Refuse Disposal (Amenity) Act 1978) to be classified as abandoned (as it was not attached to a vehicle). It said it had placed a warning notice on the trailer, but Mr X did not contact the Council to claim the trailer and prevent enforcement action. Because it did not receive any contact, it removed and disposed of the trailer.
 42. Mr X was not happy with the Council’s response and complained to us. He said the trailer was in a good state of repair and he did not understand how the Council had classified it as abandoned. He said the Council had not made reasonable efforts to contact him. He said his mobile telephone number, company website and email address were sign written on the trailer, but he had had no contact. He said the trailer had valid number plates which related to a taxed and insured vehicle and the Council could also have used this information to contact him. The officer fixed the enforcement notice to the road side of the trailer, which he could not see from the pavement. He said he had suffered significant financial loss, both from the loss of the trailer and its contents, and resulting loss of earnings, as he has not been able to run his street food business since June 2018.

Conclusions

43. When the Council first emailed the enforcement company to request a site visit, it told the company to fix a 7-day enforcement notice to the trailer. In making this request, the Council showed it had already made the decision to take enforcement action to remove the trailer, before it had considered the photographic evidence and information in the enforcement officer’s site visit report.

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44. The Council said its reason for deciding the trailer had been abandoned was that it was not attached to a vehicle. This reason is not in the legal guidance or in its own policy as a factor to consider when making the decision. There is no evidence it considered the factors set out in the government guidance or in its own policy when making its decision.
45. If it had considered the enforcement officer's report, photographic evidence and the factors set out in government guidance and its own policy, it would have realised that:
- the trailer displayed a number plate which related to a vehicle. A check on the DVLA database would have shown the vehicle had a registered keeper and was taxed;
 - apart from the word of the person reporting the vehicle, the Council had no evidence it had been stationary for a long period;
 - it was not significantly damaged or unroadworthy;
 - it did not have flat tyres;
 - it was not burnt out, in a poor state of repair or subject to acts of vandalism.
46. The Council failed to follow the law, government guidance and its own policy and therefore its decision to classify the trailer as abandoned was fault.
47. If a council decides a vehicle is abandoned (and the vehicle has valid number plates or is not in such poor condition it is only fit to be destroyed), the Removal and Disposal of Vehicle Regulations 1986 (amended in 2002) and government guidance say the council should try and find the owner. If a vehicle displays a number plate, it should check with the DVLA to try and find the name and address of the registered keeper. The photographs taken on the site visit and other photographs provided by Mr X as part of this investigation show the trailer was in good condition, displayed his mobile phone number and had a valid number plate.
48. Although the enforcement officer fixed an enforcement notice to the trailer, they fixed it to the road side of the trailer, not the pavement side. The Council says this gave anyone approaching the trailer the best chance of seeing it, and the law is not specific as to where notices should be placed. However, the only access door to the trailer was on the pavement side. The owner would have been more likely to see the notice had it been placed on the pavement side of the trailer. Placing the notice on the road side was another opportunity the Council missed to appropriately notify Mr X that it considered the trailer was an abandoned vehicle.
49. The Council did not make any efforts to find the owner. The photographic evidence shows Mr X's mobile telephone number, website and email address were sign written on the trailer. The enforcement notice was placed adjacent to his mobile phone number which was prominently displayed on the trailer in sign writing. It did not use these details to try and contact him. It did not use the number plate to check the DVLA database for details of the registered keeper. The Council could have used this information to try to contact Mr X, to give him the opportunity to claim the trailer and stop the enforcement action. The failure to take appropriate and proportionate action to contact Mr X is fault.
50. After it had removed the trailer, the Council had to decide what to do with it.

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51. The enforcement company emailed the Council for guidance on whether it should store the trailer or destroy it. The Council replied advising the company to destroy the trailer. It did not search the DVLA database to check if the number plates on the trailer related to a vehicle with valid road tax. The number plates did relate to a vehicle and the road tax did not expire until the end of July 2018. The Council failed to follow the law and the Regulations which says it should have stored the trailer until either it found the owner or until after the road tax expired. If it had followed the correct procedure the trailer would have been stored and not destroyed.
52. There was fault in:
- the procedure the Council followed when deciding to classify the trailer as abandoned;
 - its failure to contact the DVLA to trace the owner in line with the Regulations and government guidance;
 - its failure to make appropriate and proportionate efforts to contact Mr X using the information displayed on the trailer; and
 - its decision to immediately destroy, rather than store the trailer, contrary to the legislation and Regulations.
53. Mr X has suffered significant financial loss from the value of the trailer and its contents. He says he has also suffered a loss of earnings. We cannot quantify the loss of earnings with any certainty. The trailer was not in use at the time and we cannot know if or when Mr X would have next earned money from its use. However, the destruction of his trailer has caused him considerable distress and he has taken time and trouble to bring his complaint firstly to the Council and then to us.

Recommendations

54. To put Mr X back into the same position he would have been without the fault, within three months of the final report, the Council should arrange for an independent assessor to establish the cost of providing Mr X with a trailer of similar age, quality and fittings as the one it wrongly destroyed. The Council should then pay this sum to Mr X within one month of the outcome of the independent value assessment.
55. Within three months of the date of this report it should also:
- write to Mr X to apologise to him for the failures identified;
 - pay Mr X £500 for the distress and uncertainty caused by the loss of the trailer and for the time and trouble taken to bring his complaint;
 - carry out training to remind staff of the law, regulations, government guidance and its own policy when making decisions about abandoned vehicles;
 - review its policy as set out on its website, to clarify its duty to try and find the vehicle owner;
 - consider the report to identify if any procedural change is required to prevent a similar situation happening in the future and confirm with us the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

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56. The Council has agreed to our recommendations.

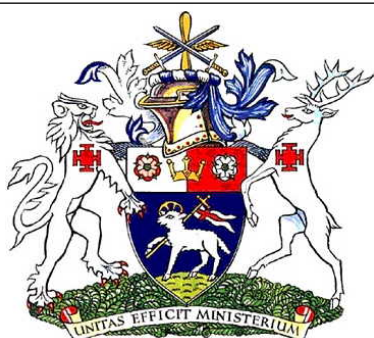
Decision

57. There was fault by the Council which caused injustice to Mr X. The Council should take the actions identified in paragraphs 54 to 55 to remedy the injustice.

Appendix B – Barnet Council’s response to LGSCO recommendations for Case ID 18009897

LGSCO recommendations for Case ID 18009897	Barnet Council’s Response
<p>1. The Ombudsman asks Barnet Council put Mr X back into the same position he would have been without the fault, and within three months of this final report, the Council should arrange for an independent assessor to establish the cost of providing Mr X with a trailer of similar age, quality and fittings as the one it destroyed. The Council should then pay this sum to Mr X within one month of the independent value assessment.</p>	<p>Evidence has been sought and received from Mr X regarding the fitting of his vehicle. At time of writing a quote is being obtained.</p>
<p>2. The Ombudsman asks that within three months of the date of this report it should also write to Mr X to apologise to him for the failures identified.</p>	<p>Once the actions recommended under point 1 have been completed a full letter of apology will be drafted and sent to Mr X. This will be completed within 3 months of the date of this report.</p>
<p>3. The Ombudsman asks that within three months of the date of this report it should also pay Mr X £500 for the distress and uncertainty caused by the loss of the trailer and for the time and trouble taken to bring his complaint</p>	<p>Mr X has been contacted and this payment has been made.</p>

LGSCO recommendations for Case ID 18009897	Barnet Council's Response
<p>4. The Ombudsman asks that within three months of the date of this report it should also carry out training to remind staff of the law, regulations, government guidance and its own policy when making decisions about abandoned vehicles;</p>	<p>Several meetings have taken place to review the law, guidance, regulations, government and policy when making decisions about abandoned vehicles. An external training provider has been identified and training sessions are being arranged for council and contractor staff.</p>
<p>5. The Ombudsman asks that within three months of the date of this report it should also review its policy as set out on its website, to clarify its duty to try and find the vehicle owner</p>	<p>The policy and procedures which clarify the Council's duty to try and find the vehicle owner is being reviewed. The Council website will be updated to reflect any changes in policy or procedure.</p>
<p>6. The Ombudsman asks that within three months of the date of this report it should also consider the report to identify if any procedural change is required to prevent a similar situation happening in the future and confirm with us the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this.</p>	<p>This report has identified procedural changes which will be reviewed and any changes will be updated on the Council's website. The ombudsman's report will be considered at the next available Constitution and General Purposes Committee meeting, taking place on 25 June 2019.</p>



Constitution and General Purposes Committee

25 June 2019

Title	Code of Conduct Allegations 2018/19
Report of	Monitoring Officer
Wards	All
Status	Public
Urgent	No
Key	No
Enclosures	Appendix A – Code of Conduct Allegations – 2018/19
Officer Contact Details	Andrew Charlwood, andrew.charlwood@barnet.gov.uk , 0208 359 2014 Salar Rida, salar.rida@barnet.gov.uk , 0208 359 7113

Summary

This report updates the Constitution and General Purposes Committee on complaints the Monitoring Officer has received about Member conduct during 2018/19.

Officer Recommendations

That the Committee note the update as set out in Appendix A

1. WHY THIS REPORT IS NEEDED

- 1.1 The Members Code of Conduct requires that the Monitoring Officer submits a report to the Committee at annual intervals to inform the Committee about complaints which have been received and not investigated and complaints which have been investigated.

2. REASONS FOR RECOMMENDATIONS

- 2.1 To comply with the constitutional requirement to report to the Committee.
- 2.2 To ensure that the Committee discharges its duty to: promote and maintain high standards of conduct for Members; review the application of the Code of Conduct for Members to Member complaints; and maintain an overview on ethical standards in general across the authority.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Not applicable.

4. POST DECISION IMPLEMENTATION

- 4.1 Not applicable

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 Barnet Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 There are no resources implications in the context of this report.

5.3 Social Value

- 5.3.1 Not applicable

5.4 Legal and Constitutional References

- 5.4.1 Members Code of Conduct – Procedure for dealing with Complaints, Section 7, Reports – states “The Monitoring Officer will submit a report to the Constitution and General Purposes Committee at annual intervals to inform the Committee about complaints which have been received during the year.”
- 5.4.2 Article 7, Terms of Reference of Committees, Forums, Working Groups and Partnerships – the terms of reference of the Constitution and General Purposes Committee includes “To consider and make recommendations to the Council on: (i) how it can satisfy the continuing duty to promote and maintain high

standards of conduct for Members; (ii) on the Code of Conduct for Members; and (iii) on ethical standards in general across the authority.”

5.4.3 The Council’s arrangements under which complaints about Member conduct are investigated and decided comply with the relevant provisions of the Localism Act 2011.

5.5 Risk Management

5.5.1 Failure to deal with Member complaints in accordance with the provisions of the Members Code of Conduct could have reputational implications for the Council.

5.6 Equalities and Diversity

5.6.1 Not applicable

5.7 Consultation and Engagement

5.7.1 Not applicable

5.8 Insight

5.8.1 Not applicable.

5.9 Corporate Parenting

5.9.1 No implications identified in the context of this report.

6. BACKGROUND PAPERS

6.1 None.

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Cllr	Date complaint received	Date acknowledged	Provisions of Code relates to	Informal resolution Yes/No Summary	Referred to formal investigation Yes/No	Investigator	Referred to Committee Yes/No	Date of Decision and Summary	Date complainant informed
Conservative Councillor	04/06/2018	04/06/2018	3 (1) Failure to treat with respect	Yes	No	Monitoring Officer	No	11/06/2018 - handled directly through the MO. Apologies made to Officer with no further action.	11/06/2018
Labour Councillor	16/10/2018	16/10/2018	Not applicable	Yes	No	Monitoring Officer	No	24/10/2018 - outside of scope of Code of Conduct, handled directly through the MO. No further action taken.	24/10/2018
All Members (38 Conservative, 24 Labour, 1 Independent)	05/11/2018	06/11/2018	Not applicable	Yes	No	Monitoring Officer	No	19/11/2018 - handled directly through the MO with no further action.	19/11/2018
Conservative Councillor	04/12/2018	04/12/2018	Not applicable	Yes	No	Monitoring Officer	No	12/12/2018 - handled directly through the MO with no further action.	12/12/2018
7 Councillors (5 Conservative, 2 Labour)	14/03/2019	14/03/2019	Not applicable	Yes	No	Monitoring Officer	No	19/03/2019 - handled directly through the MO with no further action taken.	19/03/2019
Conservative Councillor	20/03/2019	20/03/2019	3 (1) Failure to treat with respect	Yes	No	Monitoring Officer	No	28/03/2019 - handled directly through the MO. Apologies to the resident made and no further action taken.	28/03/2019
Conservative Councillor	18/04/2019	19/04/2019	Not applicable	Yes	No	Monitoring Officer	No	23/04/2019 - outside of scope of Code of Conduct, handled directly through the MO. No further action taken.	23/04/2019

**London Borough of Barnet
Constitution and General
Purpose Committee Work
Programme
October 2019 – April 2020**

Title of Report	Overview of decision	Report Of (<i>officer</i>)	Issue Type (Non key/Key/Urgent)
7 October 2019			
Constitution Review <i>Standing Item</i>	To review and approve revisions to the Constitution following the review of elements which require updating and review.	Monitoring Officer Head of Governance	Non-key
16 January 2020			
Constitution Review <i>Standing Item</i>	To review and approve revisions to the Constitution following the review of elements which require updating and review	Monitoring officer Head of Governance	Non-key
Annual Pay Policy Statement	To receive the annual review of the Council's pay policy statement together with any amendments.	Strategic HR Director	Non-key
Annual Report on Electoral Registration	To receive an Annual Report on Electoral Registration	Returning Officer Head of Electoral Services	Non-key
Annual Review of Polling Districts and Polling Places for Elections	To receive the findings of the annual review of polling districts and polling places for use at elections.	Returning Officer Head of Electoral Services	Non-key
1 April 2020			
Constitution Review <i>Standing Item</i>	To review and approve revisions to the Constitution following the review of elements which require updating and review	Monitoring officer Head of Governance	Non-key

Title of Report	Overview of decision	Report Of (<i>officer</i>)	Issue Type (Non key/Key/Urgent)
Items to be allocated			
Performance Related Pay	A report detailing the development of a performance related pay scheme for those staff assessed for two consecutive years as outstanding through the annual appraisal scheme.	Chief Executive and Head of Paid Service Strategic HR Director	Non-key
Recruitment and Retention Policy - Annual Review	To consider the use of recruitment and retention payments in line with the Recruitment and Retention Policy.	HR Strategic Director	Non-key
Information Management <i>As and when required</i>	To determine Member requests for non-committee information as specified in the Members' Information Management Policy	Director of Assurance Head of Assurance and Business Development	Non-key

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