

	<p><b>Constitution, Ethics and Probity Committee</b></p> <p><b>16 November 2015</b></p>
<p><b>Title</b></p>	<p><b>Review of the Committee System and Constitution – Survey results</b></p>
<p><b>Report of</b></p>	<p>Monitoring Officer</p>
<p><b>Wards</b></p>	<p>None</p>
<p><b>Status</b></p>	<p>Public</p>
<p><b>Enclosures</b></p>	<p>Appendix A: Member Survey results Appendix B: Officer Survey results</p>
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<p><b>Summary</b></p>
<p>This report informs the Committee of the results from a survey of all Members of the Council, and of senior officers and officers who regularly attend committee, carried out as part of a review of the introduction of the committee system, and of the Constitution, and seeks the Committee’s views on next steps for the review.</p>

<p><b>Recommendations</b></p>
<ol style="list-style-type: none"> <li>1. That the results from the surveys be noted</li>   <li>2. That the Committee indicate whether there are changes to the committee system or the Constitution which it would wish to recommend to Council in the light of the results from the surveys.</li> </ol>

## **1. WHY THIS REPORT IS NEEDED**

- 1.1** The Council adopted a new Constitution at its annual meeting on 2 June 2014, from which date it has operated the committee system form of governance. The committee system has therefore been in operation for over a year. When the system was introduced, an undertaking was given that it would be the subject of review after one year of operation.
- 1.2** This Committee has kept the operation of the Constitution in practice under constant review. At Committee meetings held on 2 September 2014, 25 November 2014, 31 March 2015, and 30 June 2015 a number of changes were proposed to ensure the smooth running of committees most of which were approved for referral to Council. These changes to the constitution were adopted by Council on 23 September 2014, 16 December 2014, 14 April 2015 and 28 July 2015 respectively. However, whilst the Constitution has been monitored and kept under review, there has not to date been a review designed to consider the operation of the committee system itself, whether the move from the executive model of governance to the committee system has achieved its aims, whether it is operating successfully in practice, how it is viewed by members of the Council and officers, or whether any fundamental changes to the system are required.
- 1.3** A review of the committee system and its operation in practice, and of the Constitution, is currently being undertaken by the Monitoring Officer, in accordance with the undertaking referred to above and her duties under Article 12 of the Constitution. As part of that review, surveys seeking the views on a number of issues of all Members of the Council, and of officers who regularly attend committee, have been carried out. This report provides the Committee with factual information about the outcomes of those surveys, in order that the Committee may indicate its views on the issues raised.

## **2. BACKGROUND**

- 2.1** Article 1 of the Council's current Constitution sets out its purpose, and therefore the general principles by which the operation of the committee system should be judged:-

“The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. provide a means of improving the delivery of services to the community;
3. enable the Council itself, or in partnership with others, to provide high quality services through making arrangements to secure continuous improvement in the way its functions are exercised; having regard to a

combination of economy, efficiency and effectiveness, as well as to statutory requirements.

4. address inequality;
5. support the active involvement of citizens in the process of local authority decision-making;
6. help councillors represent their constituents more effectively;
7. enable decisions to be taken efficiently and effectively;
8. create a powerful and effective means of holding decision-makers to public account;
9. ensure that no-one will review or scrutinise a decision in which they were directly involved in making;
10. ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions.

**2.2** Those purposes are consistent with the principles of good governance identified by the Independent Commission on Good Governance in Public Services:-

- Focusing on the organisation's purpose and on outcomes for residents and service users
- Performing effectively in clearly defined functions and roles
- Promoting values for the whole organisation, and demonstrating the value of good governance through behaviour
- Taking informed, transparent decisions and managing risk
- Developing the capacity and capability to be effective
- Engaging stakeholders and making accountability real

**2.3** The purpose of the Monitoring Officer's review of the committee system and the Constitution is to consider in general terms, whether the operation of the committee system in practice is consistent with those purposes and those general principles. In addition, it is to be noted that the Council, in taking its decision in January 2013 to call upon this Committee to develop constitutional proposals to replace the executive model with a committee system, did so "to ensure the involvement of all Members in the democratic control of the business of council". The extent to which all Members are involved in the democratic control of the business of the Council, is therefore a further measure of the success or otherwise of the committee system.

**2.4** As set out above, it is intended that the review should be informed by two surveys, one of the views of Members of the Council and one of senior officers and officers who regularly attend committee meetings (including employees of Re, CSG, and Barnet Homes). It is intended that any recommendations to this Committee, and then to the Council, as a result of

the review should take into account the results from the surveys, “best practice” on good governance (including reports from the Audit Commission, the Independent Commission on Good Governance in Public Services, and CIPFA), experience of the operation of the system in practice since June 2014, and the financial implications of various options.

### **3. THE SURVEYS**

- 3.1** Attached to this report as Appendix A and Appendix B respectively are detailed summaries of responses to the Members Survey and the officers survey.
- 3.2** 49 Members responded to the survey, which is an excellent response rate of 78%, giving a reasonable degree of confidence that the responses do represent member views across all three political parties. 25 senior officers also responded. Respondees included officers who regularly attend committee from partners such as Re, CSG and Barnet Homes, and again the response rate is a good one.
- 3.3** The following section of the report provides a high-level summary of the results from Appendices A and B:

#### **(i) Is the Committee system working well?**

55% of Members agreed that the Committee system is working well, with 25% disagreeing. The comparable figures for officers are 43% and 26%. Those who consider the system is working well outweigh those who do not. However a high proportion of Members (20%) and officers (30%) did not express a view, perhaps because, as later responses show, they consider that some meetings operate more successfully than others.

Members appear to be generally satisfied that the reports they receive give them the information they need to make decisions and that the report format is easy to understand (68% agreeing in both cases)

#### **(ii) Is the level of delegation to officers appropriate?**

This is an area where there is a stark difference of perspective, and of view, between Members and officers.

53% of Members consider that too many decisions are delegated to officers, and only 4% believe that not enough decisions are delegated. That contrasts with a 0% figure for officers considering that too many decisions are delegated, and 43% of officers who consider that not enough decisions are delegated.

Members were asked to give reasons for the views on this issue. Concerns were expressed by some respondents about adequate consultation with ward members taking place

**(iii) Opportunities for holding the administration to account**

This part of the survey asked about the referral up mechanism, Member questions at full Council, Members' items, and Motions to full Council. The majority of respondents appear to consider the current system is about right, with the referral up mechanism being the area where there is the greatest divergence of views.

**(iv) Opportunities for public participation and engagement**

This part of the survey asked about public questions and comments at Committee, and petitions. Again, the majority of both Member and officer respondents consider the current system is about right. However some Members are critical of the current system for dealing with petitions.

**(v) Do committees have clear terms of reference?**

This question asked separately about the terms of reference for full Council, and each committee. Many respondents made it clear they could comment only in respect of committees they had had experience of. The highest proportion of disagreement is in respect of the Performance and Contract Management Committee (31% of Members do not agree that it has clear terms of reference) and the Area Committees (with 29% of Members disagreeing). In all cases however, a higher proportion of Members agree that the terms of reference are clear..

**(vi) Do meetings work well?**

Again, this question invited responses for full Council and for each committee separately. Residents Forums are the meetings which work least well from both Members' and officers' perspective, 37% of Members disagreeing that they work well. 34% of Members also consider that meetings of full Council do not work well, although surprisingly no officers share that view.

**(vii) Where should performance information be reported?**

Under the current system, performance information is reported to the Performance and Contract Management Committee, with annual reports received by the relevant theme committee. Only 10% of Members, and 20% of officers, agree that performance information should be reported to the Performance and Contract Management Committee only. Most Members express the view that information should go to both Performance and Contract Management Committee and the relevant theme committee.

**(viii) Are there too many committees?**

Most Members (60%) agree that the current system is about right. But about 30% say that there are too many committees and there is scope for some to be merged. This is the second area where officers views clearly differ from those of Members. 75% of officer respondents say that there are too many committees, with the rest saying that the current system is about right.

**(ix) Are Council Procedure Rules clear?**

44% of Members and 41% of officers think that the Council Procedure Rules are clear and helpful, those views outweighing by a small margin those who think that they are confusing or unclear.

**(x) Is the current system of pre-meetings and callovers essential?**

Hardly any respondents consider that the current system is “a waste of Member and officer time”. However a fairly high proportion of Members (38%) and a very high proportion of officers (70%) say the usefulness of pre-meetings and callovers varies from committee to committee, or from time to time.

**(xi) Other issues about the committee system**

Respondents were given the opportunity to make any other comments they wished about the committee system. Issues raised by Members include:

“Theme committees need to be able to develop ideas and a greater performance monitoring and scrutinising role (while not duplicating the work of other committees)”

“The petition threshold is too weak and too low. This should be limited to Barnet residents and/or increase the number required”

“It is vital that performance indicators are reported theme committees and that any comments can go to P and R”

“I fundamentally approve of the Committee system as currently set up. I like the opportunity it gives for “backbench” members to contribute to policy making”

**(xii) Other issues about the Constitution**

Respondents were also able to raise any other issues they wished about the Constitution. A wide variety of comments were received, including the following from Members:

“The constitution, especially as it relates to full council et al, is confusing and contradictory”

“I would like to see more formal training/support for members in how the system works”

“More involvement of members in producing the reports”

“I would like us to be able to verify whether or not people who sign petitions are actually residents of the Borough before including them in the number required for consideration”.

## **REASONS FOR RECOMMENDATIONS**

**3.4** The Constitution, Ethics and Probity Committee is required under its terms of reference to proactively review and keep under review all aspects of the Constitution. This report is intended to ensure that the Committee is informed of the views of all Members of the Council on the committee system and constitutional issues, so that those views may be taken into account in any recommendations made by the Committee as a result of the current review.

### **4. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

**4.1** None considered. The recommendations in this report request the Committee to consider whether changes to the committee system or to the Constitution are required in the light of the information presented.

### **5. POST DECISION IMPLEMENTATION**

**5.1** Any recommendations for constitutional change made following this report will be reported to and will require the approval of full Council.

### **6. IMPLICATIONS OF DECISION**

#### **6.1 Corporate Priorities and Performance**

**6.1.1** The 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.

#### **6.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

**6.2.1** There are no resource implications as a result of the recommendations in this report. However the cost of any changes to the current committee system which are considered as part of the review, and the opportunity for savings, are factors which will be taken into account and reported to the Committee in due course.

#### **6.3 Legal and Constitutional References**

**6.3.1** Part 1A of the Local Government Act 2000, as amended by the Localism Act 2011, provides that a local authority must operate (a) executive arrangements (b) a committee system or (c) prescribed arrangements (that is, other

arrangements which have been prescribed by the Secretary of State). A local authority which operates a committee system must do so in conformity with the provisions contained in Chapter 3 of Part 1A of the Act.

- 6.3.2 The provisions contained in Chapter 3 give the Secretary of State a power to make regulations prohibiting the delegation of certain functions (so that the functions must be exercised by the Council itself), and provisions which enable (but do not require) a local authority operating a committee system to appoint one or more overview and scrutiny committees.
- 6.3.3 Regulations have been made under Chapter 3 dealing with the functions of Health and Wellbeing Boards, with local authority public health functions, and with health scrutiny by local authorities. Subject to those statutory provisions, a local authority operating a committee system has a wide discretion about the way in which the system should operate. In particular, the law does not prescribe the number or size of committees, what their functions or terms of reference should be, or, in most cases, by whom functions should be exercised.
- 6.3.4 Chapter 4 of Part 1A of the Local Government Act 2000, also inserted by the Localism Act 2011, prescribes the process for changing from one form of governance to another. Governance arrangements may be changed by resolution of the full Council. However, only one such change may be made in any five year period, unless approved by a referendum held in accordance with the provisions of the Act. In our case, this means that Barnet may not take a decision to change from a committee system to another form of governance (even if it wished to do so) until January 2019, except by holding a referendum which approved the proposed change prior to passing the resolution.
- 6.3.5 The Council is required by statute (Section 9P of the 2000 Act) to

“prepare and keep up to date a document (referred to ...as its constitution) which contains –

- (a) a copy of the authority’s standing orders for the time being,
- (b) a copy of the authority’s code of conduct (if any) for the time being under Section 28 of the Localism Act 2011
- (c) such information as the Secretary of State may direct, and
- (d) such other information (if any) as the authority considers appropriate”

In the case of an authority operating a committee system, the Constitution must also contain a statement as to whether the authority has resolved to have an overview and scrutiny committee (see above). These are the only statutory requirements with respect to the content of the Constitution, and the Secretary of State has not made any direction about any further information the Constitution should contain.

The Constitution must be available for inspection by the public at all



reasonable times, and a copy must be supplied, on payment of a reasonable fee, to anyone who requests it.

- 6.3.6 Article 12 of the existing Constitution provides that the Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect, and that the Constitution Ethics and Probity Committee will continue to monitor the effectiveness of the Constitution and decision making structure. Changes to the Constitution are to be approved by full Council.

#### **6.4 Risk Management**

- 5.4.1 The process of managing changes to the Constitution through the Constitution Ethics and Probity Committee ensures that the proposals are developed through Member participation and consideration.

#### **6.5 Equalities and Diversity**

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

#### **6.6 Consultation and Engagement**

- 6.6.1 None in the context of this decision.

### **7. BACKGROUND PAPERS**

None