

	<p>Constitution, Ethics and Probity Committee</p> <p>16 November 2015</p>
Title	Constitution Review
Report of	Head of Governance
Wards	None
Status	Public
Enclosures	Appendix A: Responsibility for Functions, Annex A Appendix B: Responsibility for Functions, Annex B Appendix C: Full Council Procedure Rules Appendix D: Meetings Procedure Rules Appendix E: Public Participation and Engagement Rules Appendix F: Financial Regulations
Officer Contact Details	Andrew Charlwood, Head of Governance, 020 8359 2014, andrew.charlwood@barnet.gov.uk
Summary	
This report seeks discussion and approval of revisions to the Constitution following the review of elements which require updating and review.	

Recommendations
<p>That the Committee recommend to Council that the Constitution be amended to incorporate the changes set out in this report and the track change versions attached at Appendix A to Appendix F.</p>

1. WHY THIS REPORT IS NEEDED

1.1 The Council adopted a new Constitution at their annual meeting on 2 June 2014 when a Committee System form of governance was introduced. The system has now completed five full cycles of committee meetings:

- June – July 2014;
- September – December 2014;

- January – March 2015; and
- April – May 2015
- June – July 2015

- 1.2 At the Committee meetings held on 2 September 2014, 25 November 2014 and 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.
- 1.3 Since the June meeting of the Committee, a number of other issues have been identified. Changes to improve clarity in a number of areas are proposed in section 1.4 below.

The following table represents the changes proposed to sections of the Constitution and the reasons for the changes:

No.	Section	Reference	Issue Identified	Changes Made
1	Responsibility for Functions, Annex A	Page 32-33	<p>Currently the terms of reference of Area Committees include 'Recommending the creation of Conservation Areas to Environment Committee'. This function was previously carried out by Area Environment Sub-Committees and the practical approach would be to clarify that Area Committees are best positioned to make these decisions at a local level.</p> <p>It is further recommended that the terms of reference of Area Committees be updated. This is a consequential change following Council's agreement in July 2015 that Public Participation and Engagement rules stipulate that petitions which receive between 25 and 2,000 signatures be reported directly to an Area Committee rather than a Residents Forum.</p>	<p>Amend Responsibility for Functions Annex A to amend the Area Committee terms of reference to 'Approving the creation of Conservation Areas'</p> <p>Update Responsibility for Functions Annex A to list 'consider petitions which receive between 25 and 2,000 signatures' under the terms of reference of Area Committees</p>
2	Responsibility for Functions, Annex A	Page 21	<p>The terms of reference of Policy and Resources Committee currently include '(11) To receive reports reviewing the progress of petitions considered at theme committees'. As petitions of between 2,000-7,000 signatures are referred to the relevant theme committee it appears more appropriate that the relevant theme committee receive any progress reports on actions requested. Should there be any reason to escalate a matter (eg a request for additional funding) a report would be submitted to Policy and Resources Committee as required.</p>	<p>Amend Responsibility for Functions, Annex A to delete paragraph (11)</p>
3	Responsibility for Functions, Annex A	Page 38-39	<p>The terms of reference of General Functions Committee (GFC) require updating to clarify that in addition to 'endorsing the calendar of meetings prior to annual council approval' GFC has responsibility for approving any mid-</p>	<p>Amend Responsibility for Functions, Annex A, General Functions Committee</p>

No.	Section	Reference	Issue Identified	Changes Made
			<p>year adjustments to the calendar of meetings (eg additional meetings added/deleted) which are then noted at Council meetings. Currently GFC has recently agreed that the the Head of Governance can facilitate variations in consultation with the Chairman of the General Functions Committee and Leaders of the main political groups.</p> <p>It is also recommended, on legal advice, that GFC responsibility for 'Approving premises for marriages and the formation of civil partnerships' be updated to reflect that this authority encompasses to 'Carry out functions in relation to approving premises for marriages and the formation of civil partnerships under the Marriage Act 1949, the Civil Partnership Act 2004 and the Marriages and Civil Partnerships (Approved Premises) Regulations 2005'</p>	
4	Responsibility for Functions, Annex A	Page 36-37	For clarity it is recommended that Planning Committee terms of reference be updated to include specific reference to its responsibility to 'Approve Article 4 Directions on HMOs for consultation'.	Update Responsibility for Functions, Annex A, Planning Committee.
5	Amend Responsibility for Functions, Annex A and Annex B	Page 75	<p>Council previously agreed (April 2014) to make changes to Responsibility for Functions Annex A to effect that the Performance and Contract Management Committee be authorised 'To consider reserved matters of the JVCo'. It was also agreed there should be delegated power given to the Director of Place, in consultation with the Committee Chairman for certain contractual time sensitive decisions.</p> <p>Officers have noted that the relevant officer delegation (now the Commissioning Director Growth and</p>	Amend Responsibility for Functions Annex B to include a new item under the delegated authority for the Commissioning Director for Growth and Development.

No.	Section	Reference	Issue Identified	Changes Made
			Development) needs to be reflected in Responsibility for Functions Annex B (Scheme of Delegated Authority to Officers).	
6	Responsibility for Functions, Annex B	Page 56	Paragraph 1.6 lists items which can be approved by Summary DPR including 'The fixing of fees and charges to be levied by the Council'. For clarity this should specify that this relates to fees and charges which are broadly in line (or lower) than inflation, as the relevant committees have responsibility for the fixing of fees and charges above inflation.	Amend the text in paragraph 1.6 to clarify
7	Full Council Procedure Rules	Page 80	Council Procedure Rules – Part 4, 14 is misleading in that it states that 'the motion debated will be determined by Council if there is more than one submitted: subject to: the opposition motion debated will be determined by the opposition if there is more than one debated'. For consistency and fairness it should be clarified that if the opposition submits more than one motion the opposition would determine which one is debated, and if the administration submits more than one motion the administration would determine which one is debated	Amend Council Procedure Rules – Part 4, 14
8	Meetings Procedure Rules	Page 93	Meetings Procedure Rules, Membership and Quorum requires amendment to include the Community Leadership Committee Sub-Committee which was established in September. It is recommended the table be updated to note that the Sub-Committee has a membership of 3, 3 substitute members (1 for each member), and quorum of 2. This would be consistent with the other existing Committee with 3 members (Urgency Committee)	Amend Meetings Procedure Rules, Membership and Quorum, table under 1.1
9	Meetings Procedure	Page 94	Meetings Procedure Rules, Members' Rights, 6.	Amend Meetings Procedure Rules, Members'

No.	Section	Reference	Issue Identified	Changes Made
	Rules		Members' Items on the Agenda states that Licensing Committee and Licensing Subcommittee are the exceptions to Members Item rule and are not allowed Members Items. However, it is noted that Licensing Committee can consider policy matters, and therefore should be allowed Members Items. It is also recommended that Urgency Committee be an exception to the Members Items rule as these meetings are convened for the particular purpose of transacting urgent business.	Rights, paragraph 6.1
10	Public Participation and Engagement (and Responsibility for Functions, Annex A)	Page 105-106	Public Participation and Engagement, which lists the deadlines for public questions and comments for meetings does not currently include the deadline for the public to submit issues for Residents Forum meetings (this is instead contained in Responsibility for Functions, Annex A).	Amend Public Participation and Engagement to include a new section 5 'Items and questions to Resident Forums'
11	Public Participation and Engagement	Page 103	Public Participation and Engagement– the deadline for public currently questions states 'by 10am on the second clear working day prior to the meeting'. It has been raised that this may be misleading as the deadline could be perceived as being 2 days before the meeting rather than 3 days, as is the actual deadline.	Amend Public Participation and Engagement, paragraph 2.2 to specify that the deadline is 'on the third working day prior' rather than 'on the second clear working day', and two examples of how this applies included
12	Public Participation and Engagement	Page 104-105	Legal advice is that Public Participation and Engagement Rules – Speakers at Planning Committees should be adjusted to clarify that the applicant should have the right to speak irrespective of whether an application is recommended for approval or rejection by officers. Current practice (as implied by paragraph 4.8), does not allow the applicant to speak where an application has been recommended for approval. However this does not take into account that the committee could vote against a	Amend Public Participation and Engagement, paragraph 4.3, and consequential deletion of paragraph 4.8 which becomes redundant.

No.	Section	Reference	Issue Identified	Changes Made
			<p>recommendation to approve, which could be challenged by an applicant who has not been provided the opportunity to speak.</p>	
13	Public Participation and Engagement	Page 107-108	<p>The wording in the Petitions section of Public Participation and Engagement does not clearly set out the various bodies responsible for considering petitions in accordance with thresholds, and the process for consideration of petitions. Minor amendments are recommended to this section to clarify.</p>	Updated section 7 Petitions of Public Participation and Engagement
14	Finance Regulations	Page 116-118	<p>Paragraph 4.3.9 currently states 'Policy and Resources Committee must approve changes to fees and charges that are significantly different from inflation...' Council subsequently agreed that this responsibility should be within the remit of the relevant Theme Committee/ Planning/ Licensing Committees, and reported to Policy and Resources Committee, which was subsequently incorporated into the Constitution (Responsibility for Functions, Annex A). Updates to Finance Regulations are required to reflect this change, and to clarify that 'significantly different from inflation' means above inflation by 2% or more.</p> <p>Further amendments are recommended to clarify that:</p> <ol style="list-style-type: none"> 1) Policy and Resources Committee approval is required for all capital additions to the capital programme. Capital additions should also be included in the quarterly budget monitoring report to Performance and Contracts Committee for noting. 2) In the area of Budget Monitoring – all forecasted overspends/additions must, following reporting to the 	Updated paragraphs 4.4.3, 4.3.8 and 4.3.9 in Finance Regulations

No.	Section	Reference	Issue Identified	Changes Made
			Chief Finance Officer (section 151 officer), be submitted to the Policy and Resources Committee for approval.	
15	Finance Regulations	Page 129	<p>For clarity, it is recommended that Financial Regulations include reference to the Assurance Assistant Director and CAFT authorised powers to:</p> <ul style="list-style-type: none"> <li data-bbox="779 507 1482 603">i) Act as 'Enforcement Officers' as defined and set out within the requirements of the Disabled Persons Parking Badges Act' 2013. <li data-bbox="779 609 1482 737">ii) Request and share information obtained under the 'Prevention of Social Housing Fraud Act' 2013 for the purposes of housing fraud investigation. 	Amended Financial Regulations to include new paragraphs 5.3.14 and 5.3.15.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Constitution, Ethics and Probity Committee are required under their terms of reference to proactively review and keep under review all aspects of the Constitution. These proposals are recommended to ensure the smooth running of the Council.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 None considered. The options proposed in this report have been put forward as a result of experience so far in operating the Constitution. The Committee are to consider whether changes are required.

4. POST DECISION IMPLEMENTATION

- 4.1 The recommendations will form part of a report to Full Council on 8 December 2015 to make final approval.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 Barnet London Borough 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 There are no resource implications as a result of these proposals.

5.3 Legal and Constitutional References

- 5.3.1 Council's Constitution, Responsibilities for Functions, Annex A – the Constitution, Ethics and Probity Committee terms of reference includes responsibility to “proactively to review and keep under review all aspects of the Council's Constitution so as to ensure that it remains current and fit for purpose, and to make recommendations thereon to the Council”.

5.4 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.

5.4.2 The proposed amendment to the Responsibility for Functions relating to the introduction of limitations on the referral mechanism will support the Council in ensuring that urgent decisions can be taken.

5.5 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.

5.6 Consultation and Engagement

5.6.1 None in the context of this decision.

6. BACKGROUND PAPERS

6.1 None