

Public Questions and Comments – Special Constitution, Ethics and Probity Committee – 19 October 2017

Item No and Resident	Public Comment and Response
<p>Item 7 – Constitution Review</p> <p>Mr Tony Mason</p>	<p><u>Comment</u></p> <p>C1. I have read the documentation provided, and the monitoring officer should be congratulated for this <u>first draft</u> at making the wording of the LBB constitution documents less confusing, more understandable and more readable.</p> <p>C2. I note Para 4.1 states: <i>“Subject to the committee’s approval, the recommendations will form part of a report to Full Council on 31 October 2017 to make final approval”</i>. It is my view that this first draft (as presented here) is <u>insufficient</u> to be passed direct to the Full Council for vote on 31 Oct 2017, particularly as para 1.7 lists 6 items for deletion, yet the underlying logic for deleting each of these items is not fully explained. For example: it is proposed to delete the Article 23 <i>“Management of Assets, Property and Land Rules”</i>, from the constitution but there is no explanation to justify this deletion from the constitution, or an explanation of how the material in this document is to be converted relevant Policies and Procedures. It is my view that simply removing the existing Article 23 from the constitution, without agreement of the ARG, and without converting it to an alternative form (such as mandatory Policies and Procedures) will only create additional problems for LBB.</p> <p><u>Response</u></p> <p>The decision-making thresholds contained in the current Management of Assets, Property and Land Rules (Table A) has been transferred to the revised constitution (Article 10). The remainder of these Rules will be retained and maintained by the Estates Team as departmental procedures. Such procedures need not be kept within the Constitution itself as it is not a library for policy documents.</p>

Question Number	Agenda Item Number	Raised By	Questions	Answers
1.	Item 7 – Constitution Review	Mr Tony Mason	<p>Items identified for removal. Items identified removal in Para 1.7 have not been properly explained:</p> <p>a. Why are the items identified for removal in Para 1.7 not fully explained in this document?</p> <p>b. Is it the recommendation the Monitoring Officer to completely eliminate the existing Article 23 that relates to the Management of Asset Property and Land rules from the constitution? There is no adequate explanation for this recommendation, nor is there any suggestion that relevant items from the Article 23 might be re-purposed as mandatory Policies & procedures related to the same topic</p> <p>Are there any other items not listed in para 1.7 that are being removed from the Constitution without proper identification and oversight?</p>	<p>Reasons for removal have been given in outline in section 1.7 of the report. The detailed changes have been retained by the Governance Service as tracked-changes documents and are listed as background documents in the report to the Committee. Background documents are available for inspection on request.</p> <p>As set out in the response to the written comment above, the decision-making thresholds contained in the current Management of Assets, Property and Land Rules (Table A) has been transferred to the revised constitution (Article 10). The remainder of these Rules will be retained and maintained by the Estates Team as departmental procedures.</p> <p>No – all detailed changes are available to Members and the public on request, whether these be deletions, additions or transfers from one document to another. Detailed changes to sections that are being retained are set out on pages 16 – 24 of the agenda and the deleted sections are listed in paragraph 1.7.</p>

Question Number	Agenda Item Number	Raised By	Questions	Answers
2.	Item 7 – Constitution Review	Mr Tony Mason	<p>Additional items for inclusion. This is a major review of both the wording and also the content of the LBB Constitution (by removing specific sections)</p> <p>a. Has the LBB constitution been reviewed against recognised good practice applicable to all local councils and with special attention paid to any good practice applicable to Councils that are Commissioning authorities? (there is no indication that this has taken place)</p> <p>b. Why is there no “Glossary of Terms” or “Definitions” included as part of the Constitution? A large number of technical terms are used in the Constitution, for example the term “Governance” is not defined. Relevant terms need to be called out and properly defined in the context with which they are used. This is standard practice (for example, see current article 23).</p>	<p>Most local authority constitutions are based on DETR New Council Constitutions Guidance which was issued when the Local Government Act 2000 came into force. Most constitutions are then updated incrementally over time to be updated to reflect local circumstances or changes in legislation. Often constitutions become overly complex, unwieldy and difficult to navigate. Some councils, including Barnet, are modernising the format of their constitutions to make them more informative and accessible for Members, officers and residents alike. All councils are to some extent commissioning councils and this fact by itself does not require changes or additions to the current constitution.</p> <p>Considerable effort has been made to write the revised constitution in plain English. Table A in Article 10 has a glossary of definitions (see page 80) in relation to land and property transactions. The large number of technical terms are not referred to specifically and so officers are unable to identify whether a glossary of terms is required or not. In terms of local authority governance, the Constitution and Schemes of Delegated Authority (see here) set out the formal decision-making framework as so are key components of the governance and assurance framework.</p>

Question Number	Agenda Item Number	Raised By	Questions	Answers
			<p>Other</p> <p>c) Para 5.1.1: Why does the revised constitution not include (or reference) a master list of relevant legislation? There should be a full and comprehensive list of legislation that impacts LBB operations and decision making, that is easily accessible from the Constitution. This list of legislation needs to include legislation that gives rights to</p> <p>a. Local residents: such as DPA / GDPR Rights (e.g. Subject Access Requests, right to correct, etc.), Public Right to Order Disposal (PROD), etc., etc.</p> <p>b. LBB Operations: such as The Openness of Local Government Bodies Regulations 2014, particularly Part 3, item 7 see: http://www.legislation.gov.uk/uksi/2014/2095/regulation/7/made (which impact recording of decision whether by Councillors or delegated to Council Officers as well as participation of local residents in Council Meeting meeting).</p>	<p>You are correct to draw attention to the fact that the Council must operate within the law and this is so stated within the constitution. However to go on to identify specific elements of the law would be problematic. The extent of local government law is encyclopedic; the encyclopedia is in fact 4 volumes and can be found in a law library. The Council's constitution is compliant with current legislation and will be updated as and when new legislation comes into force to ensure that council decision-making is legal.</p>