



## Constitution, Ethics and Probity Committee

**8 January 2018**

<b>Title</b>	<b>Constitution Review</b>
<b>Report of</b>	Monitoring Officer Head of Governance
<b>Wards</b>	N/A
<b>Status</b>	Public
<b>Enclosures</b>	<p>Appendix A – Members Planning Code</p> <p>Appendix B – Members Planning Code (Tracked)</p> <p>Appendix C – Members Licensing Code</p> <p>Appendix D – Members Licensing Code (Tracked)</p> <p>Appendix E – Access to Information Rules</p> <p>Appendix F – Access to Information Rules (Tracked)</p> <p>Appendix G – Code of Conduct for Member-Officer Relations</p> <p>Appendix H – Code of Conduct for Member-Officer Relations (Tracked)</p> <p>Appendix I – Code of Corporate Governance (Revised)</p> <p>Appendix J – Code of Corporate Governance (Current)</p> <p>Appendix K – HR Regulations</p> <p>Appendix L – HR Regulations (Tracked)</p> <p>Appendix M – Financial Regulations</p> <p>Appendix N – Financial Regulations (Tracked)</p> <p>Appendix O – Contract Procedure Rules</p> <p>Appendix P – Contract Procedure Rules (Tracked)</p>
<b>Officer Contact Details</b>	Andrew Charlwood, Head of Governance, 020 8359 2014, <a href="mailto:andrew.charlwood@barnet.gov.uk">andrew.charlwood@barnet.gov.uk</a>

### Summary

The Monitoring Officer has undertaken a review of the Constitution with the aim of to simplify it in plain English and in a way which avoids duplication and unnecessary complexity and detail. A special meeting of the Committee took place on 19 October 2017 and considered revised Articles. These were approved and subsequently adopted by Council on 31 October 2017. This report presents the revised Section 2 supporting documents for the committee to consider.

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

**1. WHY THIS REPORT IS NEEDED**

**Constitution Review**

- 1.1 As reported to the Committee in June and October, the Monitoring Officer has undertaken a comprehensive review of the Constitution to simplify it and re-draft in plain English. The revised Articles were considered by the Committee and reported to Full Council in October.
- 1.2 Following the adoption of the revised Articles, the following part 2 supporting documents have now been revised and are enclosed for consideration:
- Members Planning Code
  - Members Licensing Code
  - Access to Information Rules
  - Code of Conduct for Member-Officer Relations
  - Code of Corporate Governance
  - HR Regulations
  - Financial Regulations
  - Contract Procedure Rules
- 1.3 In relation to the Financial Regulations and Contract Procedure Rules, officers from the service areas have provided a summary of the changes as set out in the table below. In relation to the other sections, the changes are as per the tracked changes documents enclosed as appendices.

## Financial Regulations

No.	Section	Reference	Issue Identified	Changes Made
1	Introduction  Responsibilities  Financial Management		<p>Introduction and Status of Financial Regulations needed to be merged and updated.</p> <p>Needs to be updated due to increased Contractor and Partner working also needed to update due to recent Constitution update</p> <p>Section heading needs amending to include Financial Planning</p> <p>Clarity on the virement process and Central Contingency</p> <p>Updates needed on legislation</p>	<ol style="list-style-type: none"> <li>1. Delete reference to 'Status of Financial Regulations' section</li> <li>2. Additional paragraphs added into Introduction to outline the purpose of the Financial Regulations</li> <li>3. Specific reference to Section 114 of Local Government Finance Act 1988 added</li> <li>4. Deleted further references throughout the document to Section 151 officer</li> <li>5. Responsibilities section re-written</li> <li>6. Reference to contractors and partners added as the Council's Financial Regulations apply to everyone acting on behalf of the authority</li> <li>7. Additional wording added regarding compliance with the Financial Regulations</li> <li>8. Amend heading to 'Financial Planning and Financial Management'</li> <li>9. Paragraph added discussing the capital programme and budget</li> <li>10. Clarity added on the virement process</li> <li>11. Values added to Central Contingency paragraph</li> <li>12. Use of reserves statement added</li> <li>13. 'Authorisation of Non-Budgeted Expenditure' paragraph to allow for Emergency Payments</li> <li>14. Closing of Accounts amended to include reference to the Pension Fund Accounts</li> <li>15. Statement of Accounts amended to include reference to</li> </ol>

No.	Section	Reference	Issue Identified	Changes Made
	Financial Administration		<p>Section heading needs amending to include Systems and Procedures</p> <p>Additional section added to the Financial Regulations to cover Risk Management and Control of Resources</p>	<p>International Standard on Auditing 260</p> <p>16. Treasury Management Framework legislation updated</p> <p>17. Pension Fund Management legislation updated</p> <p>18. Internal Audit, Corporate Anti-Fraud Team (CAFT) and Risk Management removed and added to new section within Financial Regulations</p> <p>19. Additional paragraph added under 'Income' stating that the Council will charge for all services, where allowable, and have charging policies in place</p> <p>20. Additional paragraph added under Invoicing and Debt Recovery regarding regular review of outstanding debts and credit note procedures</p> <p>21. Additional paragraph added under 'Investments, Borrowing, Capital Financing &amp; Trust Accounts' stating the role of the Chief Finance officer with regards to investment</p> <p>22. Payments in Advance section updated to include notification of payments of £250,000 or over being made at Performance and Contract Management Committee</p> <p>23. Reference to the Director of HR being responsible for all payments to staff and for allowances to elected members added.</p> <p>24. 'Taxation' section added</p> <p>25. Added new paragraph regarding 'Internal Controls' and the requirements</p>

No.	Section	Reference	Issue Identified	Changes Made
	<p>NEW Risk Management and Control of Resources</p> <p>NEW Trading Accounts</p> <p>NEW External Arrangements</p>		<p>Risk Management and Control of Resources has been added</p> <p>Changes in the way that the Council is developing to a commissioning model need to be reflected therefore this section has been added</p> <p>Changes in the way that the Council enters into partnerships have been added</p>	<p>26. 'Internal Audit' section has been updated for legislation changes and further summarised</p> <p>27. 'Corporate Anti-Fraud Team' section has been summarised</p> <p>28. 'Risk Management' section has been amended to make reference to the Audit Committee reviewing the Risk Policy Statement</p> <p>29. 'External Audit' section added to lay out the requirements of the External Auditor</p> <p>30. References to trading accounts and accounting principles added</p> <p>31. Partnership working and the Council's involvement added</p> <p>32. Conduct and approvals of such partnerships have been added</p> <p>33. Partnership Budgets added</p> <p>34. 'External Funding' paragraph added</p> <p>35. 'Work for Third Parties' added</p> <p>36. 'Alternative Delivery Models' added covering Local Authority Trading Companies, Joint Ventures</p> <p>37. 'Transparency' added</p>

## Contract Procedure Rules

No.	Section	Reference	Issue Identified	Changes Made
1	Contract Procedure Rules	See changes made	The Contract Procedure Rules have been reviewed and a number of amendments are proposed to remove unnecessary operational detail and complexity.	<ol style="list-style-type: none"> <li>1. Delete 'Introduction' section.</li> <li>2. Amend 'Application' section to incorporate information removed from deleted 'Information Governance' and 'Contract Monitoring' sections making it clear that detail is within the Procurement Toolkit which must be adhered to.</li> <li>3. Delete 'Regulation and Legislation' and 'Roles and Responsibilities' sections, moving detail to Procurement Toolkit and some to 'Application' section.</li> <li>4. Amend proposed 2.1, 3.5 and 4.1 to clarify application of relevant legislation.</li> <li>5. Amend phrasing in 'Procurement method' section to make clearer.</li> <li>6. Amend 'Single Tender Action' section to make clear that procurement advice should be sought and to delete some detail.</li> <li>7. Delete 'Information Governance' section and move detail to Procurement Toolkit (see point 2 above).</li> <li>8. Amend 'Acceptance' and 'Contracts Signing and Sealing' sections to streamline and remove reference to Monitoring Officer.</li> <li>9. Shorten 'Contract Monitoring' section and move detail to Procurement Toolkit (see point 2 above).</li> <li>10. Amend 'Extensions and Variations' and 'Waivers' sections to clarify and simplify in line with legislation.</li> <li>11. Update number references throughout. Reference throughout to Article 10 of the Constitution which now contains threshold information.</li> </ol>

## **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 The Committee could retain the current Constitution un-amended. This is not recommended as the current structure and format of the Constitution requires review and updating to ensure that it is easy to understand and interpret.

## **4. POST DECISION IMPLEMENTATION**

- 4.1 Subject to the committee's approval, the recommendations will form part of a report to Full Council on 30 January 2018 to make final approval.

## **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 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.

## 5.5 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 The currently adopted Constitution can be accessed here:  
<http://barnet.moderngov.co.uk/ecCatDisplay.aspx?sch=doc&cat=13581&path=0>

6.2 Full Council, 31 October 2017, Report of the Constitution, Ethics and Probity Committee, Constitution Review:  
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=162&MId=9159&Ver=4>