



Constitution, Ethics and Probity Committee

22 March 2018

Title	Constitution Review
Report of	Monitoring Officer Head of Governance
Wards	N/A
Status	Public
Enclosures	Appendix A – Contents of the Constitution Appendix B – Financial Regulations Appendix C – Financial Regulations (Tracked) Appendix D – Contract Procedure Rules Appendix E – Contract Procedure Rules (Tracked) Appendix F – Members Licensing Code Appendix G – Members Licesning Code (Tracked) Appendix H – Article 9 (Chief Officers) Appendix I – Article 9 (Chief Officers) (Tracked)
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Summary

The Monitoring Officer has undertaken a review of the Constitution with the aim of simplifying 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. A further meeting took place on 8 January 2018 where some of the revised Section 2 supporting documents were considered and approved. These were approved and subsequently adopted by Council on 30 January 2018. This report includes the remaining Section 2 supporting documents which will conclude the review and redrafting of the whole Constitution.

Recommendations

- 1. 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 I.**
- 2. That the Committee recommend to Council the deletion of the Budget and Policy Framework Rules as these have been subsumed into the revised Financial Regulations.**

1. WHY THIS REPORT IS NEEDED

- 1.1 As reported to the Committee in June, October and January, 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 and some of the Section 2 supporting documents, the following further supporting documents have now been revised and are enclosed for consideration:
 - Contents of the Constitution
 - Financial Regulations
 - Contract Procedure Rules
 - Members Licensing Code
- 1.1 The new General Data Protection Regulation which comes into force 25 May 2018 will introduce a new category of statutory officer – the Data Protection Officer. As such, Article 9 (Chief Officer) is required to be updated to reflect the new post and associated responsibilities.
- 1.2 In addition to the changes referred to at 1.2 and 1.3 above, a number of additional housekeeping or other minor amendments are proposed as per the table below which the Committee are requested to consider. Any items agreed will be reported to the next meeting of Council with the associated tracked changes versions.

No.	Section	Reference	Issue Identified	Change Proposed
1	HR Regulations	2.1.4	<p>The Constitution currently states that Chief Officer Appointments Panel will make all chief officer appointments except for the Head of Paid Service (as this is a decision reserved for Full Council). There will occasionally be a requirement to appoint a chief officer on an interim basis (e.g. for maternity cover). In these circumstances, it is recommended that the Chief Executive be given authority to make interim chief officer appointments for up to a year following consultation with the Leader.</p> <p>In addition, it is recommended that chief officer appointments made by the Chief Officer Appointments Panel are reported to Full Council for noting.</p>	<p>Amend section 2.1.4 to include the following wording:</p> <p>“The Chief Executive has authority to make interim Chief Officer appointments for a period of up to a year following consultation with the Leader.</p> <p>Chief Officer appointments made by the Chief Officer Appointment Panel will be reported to Full Council for information.”</p>
2	Article 7 – Committees Sub-Committees Area Committees and Forums and the Local Strategic Partnership	Terms of Reference of Area Planning Committees	<p>A Member has proposed that applications to demolish buildings on the Council’s Local List be determined by the relevant Area Planning Committee. The proposal would only affect a small number of planning applications each year, but would ensure that the public have opportunity to make representations against demolition before Members make the final decision.</p>	<p>Add to the terms of reference of Area Planning Committees:</p> <p>“Applications to demolish buildings on the Council’s Local List.”</p>

No.	Section	Reference	Issue Identified	Change Proposed
3	Article 9 – Chief Officers	Section 9.1	Previous versions of the Constitution have given discretion to Chief Officers to refer matters that are technically within their delegated authority, but may be controversial, significant or sensitive, the ability to refer the matter to Members for decision. Chief Officers have requested that this provision be reinstated.	Amend section 9.1 b) i) to include a new sentence on limits of delegation as follows: “Discretion to Refer Matters to Members: Where a Chief Officer believes that a matter that is within their delegated authority is significant or sensitive they have the discretion to refer it to Members for decision.”
4	Article 4 – The Full Council	Section 4.1	Full Council is the supreme decision-making body. Occasionally, there is a requirement for an urgent decision to be taken, or there is decision which falls within the terms of reference of a committee, but is so significant that it requires all Members to be aware of and determine. As such, it is proposed that Article 4 be amended to enable a decision to be referred to Full Council for determination for those reasons.	Amend section 4.1 to include: “Make decisions on matters normally reserved to committees (except for planning and licensing matters) where an urgent decision is required or where the matter is so significant that it requires all Members to determine. Determination of whether a matter is urgent or significant will be made by Mayor and Chairman of relevant committee in consultation with Leader and relevant chief officer.”
5	Article 3 – Residents and Public Participation	Section 3.5 – Issues for Residents Forums	Currently Article 3 does not prescribe speaking times for residents addressing Residents Forums on issues raised. Governance Officers have recommended that a time limit of three minutes be introduced to be consistent with other speaking arrangements.	The Chairman will determine issues in the following way: 1. Residents will have the opportunity to discuss the issue raised for up to three minutes. <i>Note: additional wording in bold</i>

No.	Section	Reference	Issue Identified	Change Proposed
6	Article 3 – Residents and Public Participation	3.3 – Comments to Committee	There is a discrepancy in Article 3 whereby a member of the public who is unable to attend can nominate someone to ask a supplemental question on their behalf, but there is no similar right to send a substitute to make a public comment. It is recommended that this right be added for consistency.	Add to section 3.3: Residents making public comments are able to send a substitute if they are unable to attend a committee meeting.
7	Council Procedure Rules	9 – General Provisions for Motions and Amendments	Section 9 of the Council Procedure Rules outlines general provisions for dealing with motions and amendments. Section 9.3 only refers to Motions. In practice, this has been interpreted as applying to all items before Council (motions, committee reports and reports of officers). Amending section 9.3 as proposed will ensure that all scenarios are covered.	Amend section 9.3 as follows: A Member may amend a Motion in their name or report by submitting the amendment in writing to the Head of Governance by 10.30am the working day before the meeting.

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 22 May 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>
- 6.3 Full Council, 30 January 2018, Report of the Constitution, Ethics and Probity Committee, Constitution Review:
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=162&MId=9161&Ver=4>