

## ANNEX C

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Meeting	Special Committee (Constitutional Review)
Date	27 June 2012
<b>Subject</b>	<b>Standards Arrangements</b>
Report of	Director of Corporate Governance (Monitoring Officer)
Summary	This report sets out recommendations for a replacement of the current Standards Committee, for the Committee to note the new regulations regarding pecuniary interests and amendments to the Code of Conduct for Members for approval / recommendation to Council.

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Officer Contributors	Chidilim Agada – Business Governance Officer
Status (public or exempt)	Public
Wards Affected	Not applicable
Key Decision	No
Reason for urgency / exemption from call-in	Not applicable
Function of	Council
Enclosures	Appendix A – Action Note from the Special Committee (Constitutional Review) of 9 May 2012 – (not included) Annex D to the Council report - Code of Conduct for Members with amendments (including amendments made by the Committee)
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## **1. RECOMMENDATION (to Council)**

- 1.1 That the monitoring/advisory role of the current Standards Committee and the role of satisfying the council's continuing duty to promote and maintain high standards of conduct for Members and ethical standards in general be transferred to the Special Committee (Constitution Review).**
- 1.2 That the name of the Special Committee (Constitution Review) be changed to the Constitution and Ethics or any other name as agreed by the Committee in order to reflect the additional role of the Special Committee (Constitution Review) as reflected in 1.1 above.**
- 1.3 That the Committee considers whether to appoint persons who are Independent Members of the existing Standards Committee as the two 'independent persons', with the statutory role of giving views on any complaint about the conduct of a member of the authority, as detailed in paragraphs 9.8 of the report or whether there should be a recruitment of such independent persons through public advertisement.**
- 1.4. That the Committee notes the new regulations regarding pecuniary interests as detailed in paragraphs 9.10 to 9.12 of the report and that the required revisions be made to Barnet's Members' Code of Conduct to reflect those changes and other changes agreed at the last meeting of the Committee on 9 May 2012.**
- 1.5 That the amendments to the Code of Conduct for Members be approved / recommended to Council.**
- 1.6 That the Head of Governance makes the necessary revisions to the Council's Constitution.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Special Committee (Constitution Review) 13 March 2012 – agreed that a further report be brought to the next meeting of the Committee on the establishment of new arrangements for the investigation and determination of allegations of a breach of the Code of Conduct for Members and satisfying the continuing duty to promote and maintain high standards of conduct for Members.
- 2.2 Special Committee (Constitution Review) 9 May 2012 – agreed that recommendations be made to Council in relation to a replacement to conduct the monitoring/advisory role of the current Standards Committee.
- 2.3 Council on 15 May 2012 – agreed the recommendations made by Special Committee (Constitution Review) of 9 May 2012.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 Under the Council's Corporate Plan for 2010/11 to 2014/15, one of the corporate priorities is 'Better services with less money'. This report contributes to the key objective within this priority "To improve the effectiveness and transparency of

decision making within the Council". The information in this report relates to the corporate governance arrangements around the Council's duty to promote and maintain high standards of conduct for Members and ethical standards.

#### **4. RISK MANAGEMENT ISSUES**

- 4.1 The provisions of the Localism Act 2011 has significant impact on the future of the Code of Conduct and the Council's continuing duty to promote and maintain high standards of conduct for Members. The Council by making relevant changes in view of the Localism Act 2011 mitigates the risk that (i) the Council will be unprepared for the changes and/or (ii) the Council will not continue to perform its significant responsibilities to the requisite standard.

#### **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 There are no direct equalities or diversity issues arising from this report. However, the decision making processes of the Council, as enshrined within the Constitution, needs to be transparent and accessible to all sectors of the community. The regular review of the Constitution will help ensure that this is the case and ensure the Council is meeting its equality obligations.

#### **6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

- 6.1 None arising from this report. Any changes to existing arrangements will be met from existing resources.

#### **7. LEGAL ISSUES**

- 7.1 These are dealt with within the report.

#### **8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)**

- 8.1 Article 9 of the Council's Constitution sets out the terms of reference for the current Standards Committee.
- 8.2 Article 12, paragraph 12.03 (a) – one of the functions of the Monitoring Officer is to maintain an up-to-date version of the Constitution and ensure that it is widely available for consultation by members, staff and the public.
- 8.3 Part 3, Section 2 of the Council's Constitution details the functions of the Special Committee (Constitution Review) which are "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".

#### **9. BACKGROUND INFORMATION**

- 9.1 Special Committee (Constitution Review) on 13 March, 2012 considered recommendations made by the Standards Committee on 27 February 2012 for future arrangements for the investigation and determination of allegations of a

breach of the Code of Conduct for Members and satisfying the Council's continuing duty to promote and maintain high standards of conduct for Members.

- 9.2 Special Committee (Constitution Review) on 13 March 2012 agreed that a further report be brought to the next meeting of the Committee based on the discussions and proposals made by the Committee.
- 9.3 Special Committee (Constitution Review) on 9 May 2012 agreed that recommendations be made to Council that the decision in relation to a replacement to conduct the monitoring/advisory role of the current Standards Committee be deferred to the next meeting of the Special Committee with a view that the Special Committee (Constitution Review) adopt the role of satisfying the Council's continuing duty to promote and maintain high standards of conduct for Members and ethical standards in general.
- 9.4 Council on 15 May 2012 agreed that the decision in relation to a replacement to conduct the monitoring/advisory role of the current Standards Committee be deferred to the next meeting of the Special Committee with a view that the Special Committee (Constitution Review) adopt the role of satisfying the Council's continuing duty to promote and maintain high standards of conduct for Members and ethical standards in general.
- 9.5 The Committee is asked to consider whether it could act as a suitable replacement for conducting the monitoring/advisory role of the current Standards Committee taking into account the view expressed by the Committee at its meeting on 9 May 2012.
- 9.6 If the Committee is able to come to a positive conclusion regarding taking on this role, then the Committee is also asked to consider a name change for the Special Committee (Constitution Review) to reflect the Committee's additional role of satisfying the Council's continuing duty to promote and maintain high standards of conduct for Members and ethical standards. A suggested new name is the Constitution and Ethics Committee.
- 9.7 The Localism Act 2011 (Commencement No.6 and Transitional, Savings and Transitory Provisions) Order (The Order) has now been made bringing the new arrangements for the standards and conduct of members into force on 1 July 2012.
- 9.8 The Order allows a local authority, if it so chooses, to appoint a person who is currently the independent chairman or member of the existing Standards Committee as its 'independent person', with the statutory role of giving views on any complaint about the conduct of a member of the authority. The Order allows such an appointment if that person (a) is not a member or co-opted member of the standards committee of the relevant authority on 1st July 2012; but (b) has held such a post at any time during the 5 years ending on 30th June 2012.
- 9.9 The Commencement Order also puts in place measures to ensure that any complaints about a member's conduct not resolved by 1 July 2012 will be taken forward to a conclusion. Until 1 July 2012, any complaints arising will be dealt with by the local elements of the old arrangements except that the Standards

Committee will not have any power of suspension. If not resolved by 1 July 2012, the complaint will be resolved using the new arrangements.

- 9.10 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 have also been made and the regulations come into force on 1 July 2012.
- 9.11 The new arrangements include requirements about the registration and disclosure of pecuniary interests which are specified in regulations under the 2011 Act. Members having such disclosable pecuniary interests must register and disclose them, and their involvement in any business of the authority connected with those interests is limited. Failure to comply with the arrangements on disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of a fine of up to £5,000 and disqualification from office for up to five years.
- 9.12 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 specify a Member's disclosable pecuniary interests as pecuniary interests covering the Member's 'employment, office, trade, profession or vocation', any 'sponsorship' of the member, including contributions towards their election expenses, any 'contracts' between the Member and the authority, any 'land' the Member has an interest in and lies within the area of the authority, any 'licences' the Member holds to occupy land in the area, any 'corporate tenancies', and certain 'securities' the Member may hold.
- 9.13 **The Committee is also asked to consider and make recommendations to the Council for adoption of the Barnet Members' Code of Conduct, with the amendments as detailed in Appendix B to the report, as agreed at the Committee's meeting on 9 May 2012.**