

PART 1 ——— DECISION MAKING

Part 1

INTRODUCTION TO THE CONSTITUTION

What is the Council's Constitution?

The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to choose.

The Constitution is divided into the following sections:

Part 1- Introduction to the Constitution

Part 2- Articles. These 15 Articles that set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What's in the Constitution?

Article 1 of the Constitution commits the Council, working as a community leader in partnership with others, to providing high quality services that address inequalities, through continuous improvement and outlines governance arrangements that deliver efficient, open and accountable decision-making.

Articles 2-~~15~~ 13 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Full Council (Article 4)
- Chairing the Council (Article 5)
- The Leader (Article 6)
- Committees, Sub-Committees, Area Committees, Forums and Local Strategic Partnership (Article 7)
- ~~Overview and Scrutiny Committees (Article 6)~~
- ~~The Executive (Article 7)~~
- ~~Regulatory and other Committees (Article 8)~~
- ~~Area Committees and Forums and Local Strategic Partnerships (Article 9)~~
- Joint arrangements (Article ~~10~~ 8)
- Chief Officers (Article ~~11~~ 9)
- Decision making (Article ~~12~~ 10)
- Finance, contracts and legal matters (Article ~~13~~ 11)
- Review and revision of the Constitution (Article ~~14~~ 12)
- Suspension, interpretation and publication of the Constitution (Article ~~15~~ 13)

Part 3- Responsibilities for Functions

Part 4- Council and Meeting Procedure Rules, Public Participation and Engagement rules, Access to Information Rules, Financial Regulations, Contract and Asset Land and property Rules

Part 5- Codes, Protocols and Handbooks

Part 6- Members Allowances Scheme

How the Council operates

The Council is composed of 63 councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a Local Code of Conduct for Members to ensure high standards in the way they undertake their duties.

Decision making Structure

The Local Government Act 2000 and statutory instruments (secondary legislation) specify the local authority functions that are the distinct and quite separate responsibility of the Council, ~~and of the Executive. Neither body can become involved with taking decisions on the functions of the other, with certain exceptions referred to below.~~ The Local Government and Public Involvement in Health Act 2007 and associated statutory instruments to it, and the Localism Act 2011 have further impacted on how the Council's decision-making structure operates.

The Localism Act permits authorities to change their governance arrangements from a cabinet system to a committee system following the passing of a resolution. Such a resolution was passed by Barnet Council on 21st January 2014. The Council will cease operating a cabinet system following the next annual meeting of the council following the resolution, ~~and replace it with a committee system in which decisions are either made by the Full Council or by a Committee of the Council, in which parties are represented in proportion to their overall strength on the Council. A structure chart of the Committee system is appended.~~

~~The 2000 Act does not permit any other bodies in the formal decision-making structure other than those described below.~~

COUNCIL

All Councillors meet together as the full Council. Meetings of the Council are normally open to the public.

Council Functions

The Council's functions are in broad terms:

- planning and enforcement;
- licensing and regulation;
- a limited number of highway matters mainly concerned with public footpaths and bridleways;
- appeals against decisions;
- staffing;
- electoral management;
- appointments to other bodies;
- some other minor functions.

These functions may be exercised by the full Council at its meetings or delegated to committees or officers. They cannot be delegated to an individual Councillor.

Council functions are delegated to relevant Council Committees and Sub-committees (see Part 3 of this constitution for details) and to officers.

In addition, the full Council has the power to approve the budget and statutory policy framework, ~~but there are limitations imposed by the legislation, and included in the Constitution, on how this can be exercised and how disagreements with the Executive are to be resolved. This is the only control the Council can exert over the functions of the Executive.~~

Part of the Council meeting is set aside for debate on policy development in which all Councillors are able to take part.

All Councillors are permitted to serve on committees discharging Council functions.

THE EXECUTIVE

~~All other functions of the local authority are the responsibility of the Executive, which is the Leader and Cabinet totalling 10 members (the maximum permitted by the Act) including a deputy leader appointed to the Executive by the Leader. The Council elects a Councillor to the position of Leader and the Leader's term of office is for four years (unless he/she is otherwise removed or stands down) starting at the Annual Meeting after the election of the whole Council. Substitute or deputy cabinet members are not permitted to participate as Executive decision makers.~~

~~Executive functions may be exercised by:~~

- ~~• the Cabinet itself;~~
- ~~• Cabinet Committees (on which only Cabinet Members can vote or serve, although non-voting co-opted persons are allowed);~~
- ~~• individual Cabinet Members;~~
- ~~• Area Committees (provided they are constituted on a ward basis);~~
- ~~• Officers;~~
- ~~• joint arrangements with other local authorities.~~

~~The Leader has sole responsibility for setting the Executive delegation arrangements and limits.~~

~~The Executive is responsible for the preparation of the budget and the statutory policy framework for submission to the Council. Otherwise, the Executive is not subordinate to the Council in discharging its functions and cannot be directed by the Council as to how to discharge them.~~

~~The Executive is responsible for developing the policy framework and budget and, following Council approval where necessary, for implementing it by running those services within the Council's direct control. It is therefore the part of the Council that is responsible for most day-to-day decisions.~~

~~When key decisions are to be discussed or made, notification is published at least 28 days before. If these decisions are to be discussed with council officers at a meeting of the Executive, this will generally be open for the public to attend, except where personal or confidential matters are being discussed. The Executive has to make decisions that are in line with the Council's overall policies and budget. If it wishes to make a decision that is outside the budget or policy framework, this must be referred to the full Council to decide~~

~~The Council meeting also assists the Executive in the development of policy. The Council holds the Executive to account by appointing non-Executive Councillors to Overview and Scrutiny Committees. Non-Executive Councillors are also able to question the Leader and members of the Cabinet, and have the opportunity to comment on and question in writing the work of the Cabinet. The information in these processes is normally made public.~~

Urgent and Emergency Decisions

~~Decisions taken by committees or officers the decision takers who have powers within the Constitution on both Council and Executive functions are subject to limitations and conditions imposed in the Constitution, including financial restrictions.~~

~~In exceptional circumstances, Some of these are waived for urgent decisions may need to be taken urgently and alternative procedures are set out in the~~

Constitution [in Section 3 Responsibility for Functions](#) (e.g. where urgent action is required but might be delayed by following the normal procedures).

In an emergency (e.g. where immediate action is needed to protect life or property or to maintain a critical service) most of the restrictions are removed.

OVERVIEW AND SCRUTINY

~~The functions of Overview and Scrutiny Committees are specified in the 2000 Act and are and can only be:~~

- ~~• policy development and review to assist the Council and the Executive;~~
- ~~• scrutinising the decisions and performance of the Executive and the Council, and other public bodies in the area; and~~
- ~~• calling-in for reconsideration key decisions taken by the Executive but not yet implemented. Key decisions are those significant in financial terms or in their effect on communities comprising two or more wards. The Constitution provides for the call-in process to be operated by the Business Management Overview and Scrutiny Committee and all Executive decisions can be called in, not just key decisions. This enables it to consider whether the decision is appropriate. It can recommend that the Executive reconsider the decision.~~

~~Members of the Cabinet cannot be members of Overview and Scrutiny Committees.~~

~~In addition to its own Overview and Scrutiny Committees, from time to time Barnet will be a member of a pan London and other Overview and Scrutiny Committees over a wider geographical area.~~

~~They allow citizens to have a greater say in Council matters by holding investigations into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. They may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.~~

AREA SUB-COMMITTEES AND FORUMS

In order to give local citizens a greater say in Council affairs there are two Area Planning Sub-Committees dealing with planning applications. In addition, there are three Area **Environment** Sub-Committees for the three parliamentary constituencies (Finchley and Golders Green; Hendon and Chipping Barnet) that look after issues such as highways, transport, town centre management and regeneration, refuse collection, recreation and leisure facilities, litter and recycling.

Residents Forums also meet in the same local constituency areas and are for local issues citizens want to raise.

The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the Council.

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3: [Aand the Public Participation Rules in Part 4](#). Some of these are legal rights, whilst others depend on the Council's own processes.

Where members of the public use specific council services, for example as a parent of a school pupil or as a council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- be treated equally
- vote at local elections if they are registered
- contact their local councillor about any matters of concern to them
- obtain a copy of the Constitution
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed
- petition to request a referendum on a mayoral form of executive
- speak at a residents forum as outlined in this Constitution and to comment on Council plans and proposals before decisions are made
- ~~contribute to investigations by the Overview and Scrutiny committees~~
- ask a question and speak at most meetings, but not meetings of full Council
- ~~find out, from the Advance Notice of Key Decisions, what major decisions are to be discussed by the Executive or decided by the Executive or officers, and when~~
- ~~attend meetings of the Executive where key decisions are being discussed or decided~~
- see reports and background papers, and any record of decisions made by the Council and Executive its Committees
- complain to the Council if:
 - the Council has not done something it promised to do
 - the Council has treated anyone unfairly or impolitely
 - the Council has not provided a service within the time set

- another organisation providing services on behalf of the Council has not done so properly
- there is any other justifiable complaint

A leaflet with further information about complaints is available from Barnet libraries and Barnet On-line.

- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Local Code of Conduct for Members; and
- inspect the Council's accounts and make their views known to the external auditor.
- submit a petition to the Council if they live, work or study in the authority's area and are concerned about a Council service or a decision that is about to be made.

The Council welcomes participation by its citizens in its work.

Citizens have the right to attend all meetings held in public. A weekly list of meetings is available on the Council's Website "Barnet On-line" at www.barnet.gov.uk.

Citizens also have the right to inspect agendas and reports to these meetings and to take copies. These documents are also available at Hendon Library, Barnet House Reception, Building 2 Reception, North London Business Park and on the Council's Website "Barnet On-line" at www.barnet.gov.uk. Further information is available from the contact officer named on each agenda

For further information telephone the Governance Service 020 8359 2000.

Explanatory Notes

1. Throughout the Constitution are references to 'Working Day'. For the purposes of the Constitution, a working day is defined as any day, Monday to Friday inclusive, excluding Public Holidays, finishing at 11pm.

2. There are also references to documents, motions, requests, questions, emails, and letters ~~and faxes~~ being received on a specified number of 'clear working days' before a meeting. For the purposes of this definition clear working days do not include the date of the despatch of the document, motion, request, question, emails, or letter ~~or fax~~ or the day of the meeting.