

	<p>Constitution, Ethics and Probity Committee</p> <p>30 June 2015</p>
<p>Title</p>	<p>Constitution Review</p>
<p>Report of</p>	<p>Head of Governance</p>
<p>Wards</p>	<p>None</p>
<p>Status</p>	<p>Public</p>
<p>Enclosures</p>	<p>Appendix A: Article 7 – Committees, Sub-Committees, Area Committees and Forums and the Local Strategic Partnership</p> <p>Appendix B: Responsibility for Functions</p> <p>Appendix C: Responsibility for Functions, Annex A – Membership and Terms of Reference of Committees, Sub-Committees and Partnership Boards</p> <p>Appendix D: Responsibility for Functions, Annex A – Scheme of Delegated Authority to Officers</p> <p>Appendix E: Meetings Procedure Rules</p> <p>Appendix F: Public Participation and Engagement Rules</p> <p>Appendix G: Financial Regulations</p> <p>Appendix H: Contract Procedure Rules</p> <p>Appendix I: HR Regulations</p>
<p>Officer Contact Details</p>	<p>Andrew Charlwood, Head of Governance, 020 8359 2014, andrew.charlwood@barnet.gov.uk</p>

<p>Summary</p>
<p>This report seeks discussion and approval of revisions to the Constitution following the review of elements which require updating and review.</p>

Recommendations

That the Committee recommend to Council that the Constitution be amended to incorporate the changes set out in this report and the track change versions attached at Appendix A to Appendix I.

1. WHY THIS REPORT IS NEEDED

- 1.1 The Council adopted a new Constitution at their annual meeting on 2 June 2014 when a Committee System form of governance was introduced. The system has now completed four full cycles of committee meetings:
- June – July 2014;
 - September – December 2014;
 - January – March 2015; and
 - April – May 2015
- 1.2 At the Committee meetings held on 2 September 2014, 25 November 2014 and 31 March 2015, a number of changes were proposed to ensure the smooth running of committees most of which were approved for referral to Council. These changes to the constitution were adopted by Council on 23 September 2014, 16 December 2014 and 14 April 2015 respectively.
- 1.3 Since the March meeting of the Committee, a number of other issues have been identified. Changes to improve clarity in a number of areas are proposed in section 1.4 below.

1.4 The following table represents the changes proposed to sections of the Constitution and the reasons for the changes:

No.	Section	Reference	Issue Identified	Changes Made
A	Article 7 (Committees, Sub-Committees, Area Committees and Forums and the Local Strategic Partnership)	Page 25	It is proposed to amend Article 7 to make it explicit that any motion proposing to establish a sub-committee must include a reference to the powers that will be delegated by the parent committee and proposals for the membership composition of the sub-committee.	Amend Article 7 as outlined
B	Responsibility for Functions, Members Rights to Refer Matters to Parent Body	Page 27	<p>Section 6 of Responsibility for Functions refers to Members Rights to Refer Matters to Parent Body. Paragraphs 6.3 to 6.8 of the Responsibility for Functions provides that a specified number of Members of a committee or sub-committee may refer a decision to Full Council or the relevant committee. Reasons for the referral should be specified.</p> <p>As currently drafted, the referral mechanism does not take into account whether a decision is urgent or significant. Changes are proposed to include an urgency provision and limitation on the types of decisions that can be referred to Full Council or the relevant committee.</p>	<p>Added a new section 6.5 and re-numbered subsequent sections</p> <p>Added a new section 7.1 and re-numbered subsequent sections</p>
B	Responsibility for Functions, Pension Fund Compliance Statement Responsibility for	Page 27	The Pension Fund Compliance Statement currently sits within the Responsibility for Functions, the format of which is inconsistent with other committee's terms of reference (which are set out in Annex A of Responsibility for Functions). It is proposed to include the responsibilities of the	<p>Delete Pension Fund Compliance Statement from Responsibility for Functions</p> <p>Add responsibilities of the Pension Fund Committee and Local Pension Board to</p>

No.	Section	Reference	Issue Identified	Changes Made
C	Responsibility for Functions, Annex A (Membership and Terms of Reference of Committees, Sub-Committees and Partnership Boards)	Page 37	There has been a lack of clarity in the new Committee System regarding which committee (Environment Committee or Area Committees) is responsible for approving the annual programme of highways and footways works, it is proposed that the terms of reference of the Environment Committee be amended to clarify that the responsibility sits within their remit.	Add wording in the terms of reference of the Environment Committee in Responsibility for Functions, Annex A to clarify that the committee is responsible for approving the annual programme of highways and footways works
C	Responsibility for Functions, Annex A (Membership and Terms of Reference of Committees, Sub-Committees and Partnership Boards)	Page 37	<p>Following a review of processes relating to Residents Forums and Area Committees, it has become evident that, in line with the current constitutional provision that a further response will be given in 20 days, forum chairmen and residents often expect updates on issues discussed at the forum.</p> <p>It is proposed that more authority is given to Forum chairmen to provide instruction on how issues should be managed (i.e. closed or follow-up action required)</p>	<p>Delete reference to Residents Forums dealing with petitions as petitions will be proposed to be dealt with at Area Committees.</p> <p>Delete a reference that 'Matters must not relate to planning or licensing issues' as this is referred to elsewhere in the terms of reference.</p> <p>Add text which details the powers of Residents Forum chairmen to deal with issues considered at the Forum.</p>
C	Responsibility for Functions, Annex A (Membership and Terms of Reference of	Page 37	CIPFA have recommended the removal of the requirement that Independent Members of the Audit Committee be appointed for a period co-terminus with the Council. This ensures that there would be some continuity in the membership of the committee	<p>Amend the membership column of the Audit Committee terms of reference to delete "co-terminus with Council".</p> <p>Amend the Audit Committee terms of</p>

No.	Section	Reference	Issue Identified	Changes Made
	Committees, Sub-Committees and Partnership Boards)		<p>in the event of a change in political balance, or a significant change in the membership of the committee. It would also address the issue of an independent member standing down during their term office.</p> <p>Officers are proposing a minor amendment to the terms of reference of the Audit Committee as the Audit Annual Report and Annual Internal Audit Opinion are covered by the same agenda item. It is proposed to delete reference to the Audit Annual Report.</p> <p>The Public Sector Internal Audit Standards - Attribute Standards 1110 Organisational Independence recommend including in the Audit Committee's terms of reference approving revisions to the Internal Audit Charter and approving decisions relating to the appointment and removal of the Chief Audit Executive</p>	<p>reference to delete reference to the Audit Annual Report</p> <p>Add to the Audit Committee terms of reference:</p> <ul style="list-style-type: none"> • To approve revisions to the Internal Audit Charter; and • To approve decisions relating to the appointment and removal of the Chief Audit Executive
C	Responsibility for Functions, Annex A (Membership and Terms of Reference of Committees, Sub-Committees and Partnership Boards)	Page 37	<p>The Terms of Reference of the Health and Well-Being Board need to reflect the correct reference to the partner organisations, relevant strategies and the Better Care Fund pooled funding arrangements.</p> <p>Following the conclusion of the Council's Senior Management Review, council officer post titles have been updated in the membership column of the Board's terms of reference.</p>	Amend the Terms of Reference of the Health and Well-Being Board to reflect the partnership work undertaken, correct references to the Better Care Fund, Health & Wellbeing Strategy and NHS England and make reference to the Board's role in exploring partnership work across North Central London.

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			<p>It is proposed to add the wording to the terms of reference to reflect that the Board have an increasing role in exploring partnership work across North Central London where appropriate.</p> <p>The Health and Well-Being Board on 18th September 2014 resolved that Mr Chris Miller, Independent Chair of the Adults and Children’s Safeguarding Boards, be invited to attend future Health & Well-Being Board meetings as a non-voting Observer with full speaking rights.</p>	<p>Update post titles in accordance with new structure and responsibilities.</p> <p>Add to the Terms of Reference in membership column, appointment of Independent Chair of the Adults and Children’s Safeguarding Boards as a non-voting Member of the Health and Well-Being Board.</p>
C G	Responsibility for Functions, Annex A Financial Regulations	Page 37 Page 113	<p>Following approval by the Constitution, Ethics & Probity Committee (30 March 2015) and Full Council (14 April 2015) that the approval of fees and charges should be the responsibility of theme committees and not the Policy & Resources Committee further minor amendments are required to theme committees terms of reference (Responsibility for Functions, Annex A) and the Financial Regulations to remove reference to fees and charges.</p>	<p>Delete from theme committees terms of reference in Responsibility for Functions, Annex A the following wording: “...fees and charges proposals and...”</p> <p>Amend section 4.4.1 of the Financial Regulations</p>
D	Responsibility for Functions, Annex B (Scheme of Delegated Authority to Officers)	Page 73	<p>The Deputy Chief Operating Officer has authority to approve grants to the voluntary sector up to £5,000. The Edward Harvist Trust Charity allows grants to be awarded to individuals as well as the voluntary sector. It is proposed to make a minor change to the authority delegated to the Deputy Chief</p>	<p>Amend the delegated authority to the Deputy Chief Operating Officer as follows:</p> <p>“Approving the issuance of grants to the voluntary sector and individuals for amounts £5,000 and below”</p>

No.	Section	Reference	Issue Identified	Changes Made
			Operating Officer to enable him/her to approve grants to individuals as well as voluntary sector organisations	
F	Public Participation and Engagement Rules	Page 107	Following a review of processes relating to Residents Forums and Area Committees, officers are proposing that petitions which receive between 25 and 2,000 signatures be reported directly to an Area Committee rather than a Residents Forum. The proposed revisions will enable petitions to be debated in a cross-party committee which has decision-making powers. This ensures that petitions are debated in a decision-making committee and provide clarity on decision routes.	Delete section 6.6 and 6.7 of the Public Participation and Engagement Rules. Amend section 6.8. Re-number subsequent sections.
E	Meetings Procedure Rules	Page 97	Amend quorum of Urgency Committee to reduce from 3 to 2.	Amend Meetings Procedure Rules to reduce quorum of Urgency Committee from 3 to 2
E	Meetings Procedure Rules	Page 97	In quorum section, change current reference to 'Remuneration Committee' and replace with 'Chief Officer Appointment Panel'	Amend Meetings Procedure Rules as stated
E	Meetings Procedure Rules	Page 97	In order to ensure that Meetings Procedure Rules are compliant with the Openness Regulations 2014, it is proposed to add the following wording, agreed by Council on 12 July 2011, to the Rules: "Council agreed to allow discreet, unlit, non-disruptive filming and recording of Council and Committee meetings by members of the public, from the public gallery"	Create new section in Meetings Procedure Rules to include the wording agreed by Council

No.	Section	Reference	Issue Identified	Changes Made
F	Public Participation and Engagement Rules	Page 107	When public questions are submitted and members of the public do not state which agenda item the question refers to, it can be difficult for the committee chairman and officers to ascertain which agenda item the question(s) relate to. It is proposed to add wording to require the member of the public submitting the question(s) to specify which agenda item it relates to.	Add the following wording to section 2.1: "Questions must outline which agenda item they are in connection with."
F	Public Participation and Engagement Rules	Page 107	Due to the short timescales for receiving and processing public questions, officers are suggesting a minor amendment to the deadline for submitting questions. It is proposed that the deadline be brought forward to 10am on the second clear working day before the meeting, in line with the rules which apply to the publication of committee agendas (i.e. 5-clear working days before the meeting)	Revise sections 2.2 and 3.2 to include "clear" before "working day".
G	Financial Regulations	Page 113	<p><u>Making changes to the Budget</u> Additional words have been added to further clarify the requirements on approval for virements (4.4.3). This has been added to eliminate the possibility of any misunderstanding and to mitigate the queries and questions that arise and cause unnecessary delays.</p> <p><u>Central Contingency</u> Allocations from Central Contingency (4.4.9, 4.4.10, 4.4.11) have been updated to change the approvals</p>	<p>Amend section 4.4.3</p> <p>Update sections 4.4.9, 4.4.10 and 4.4.11 to delete "Performance & Contract</p>

No.	Section	Reference	Issue Identified	Changes Made
			<p>over £250K by Performance and Contracts Management Committee to the Policy and Resources Committee. This change is required because the Performance and Contracts Management Committee do not have any decision-making authority over financial matters as this is within the remit of the Policy and Resources Committee.</p> <p><u>Balances and Reserves</u> A paragraph has been added to clarify the responsibilities of the section 151 officer in relation to the movements of reserves. These responsibilities have always been in place, but have not been explicitly itemised in the Financial Regulations.</p> <p><u>Assets</u> The council's de minimis threshold for assets changed to £50,000 six years ago as evidenced in the accounting policies of the council (published in the Statement of Accounts each year). The incorrect amount of £10,000 still appears in the Financial Regulations</p>	<p>Management Committee” and replace with “Policy and Resources Committee”</p> <p>Add new sections 4.4.12 and 4.4.13 and re-number subsequent sections</p> <p>Amend section 5.6.4</p>
H	Contract Procedure Rules	Page 139	The procedure for accepting contracts for individual placements for Children / Adults is currently not clear enough. Both Children’s and Adults have an accepted framework of providers who they look to for individual placements; this is not mentioned in	Add a paragraph at 11.2 in the Contract Procedure Rules

No.	Section	Reference	Issue Identified	Changes Made
			<p>the Contract Procedure Rules. This change would provide an accurate mechanism to award individual placements for Children / Adults.</p>	
I	HR Regulations	Page 157	<p>Following a senior management review, Lead Commissioner posts were deleted and replaced with Commissioning Directors. Post titles have been updated to reflect this.</p> <p>Council on 14 April 2015 agreed that the functions of the Remuneration Committee be merged with the functions of the General Functions Committee, except for the appointment of Chief Officers via a Chief Officer Appointment Panel. The HR Regulations have been updated to reflect these changes.</p> <p>The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 introduced new arrangements for dealing with disciplinary cases involving the council's three statutory officers – the Head of Paid Service, the Monitoring Officer and Chief Finance Officer. The council are required to amend their standing orders to reflect the new regulations.</p>	<p>Delete old post titles and replace with new titles.</p> <p>Delete reference to the Remuneration Committee and replace with General Functions Committee or Chief Officer Appointment Panel.</p> <p>Amend section 2.1.7 to comply with the new regulations.</p>

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 None considered. The options proposed in this report have been put forward as a result of experience so far in operating the Constitution. The Committee are to consider whether changes are required.

4. POST DECISION IMPLEMENTATION

- 4.1 The recommendations will form part of a report to Full Council on 28 July 2015 to make final approval.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 Barnet London Borough 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”.
- 5.3.2 The Openness of Local Government Bodies Regulations 2014 provides new rights for people to record and film council meetings. It is proposed to amend the Council's Constitution to comply with these rights.

5.3.3 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 introduced new arrangements for dealing with disciplinary cases involving the council's three statutory officers – the Head of Paid Service, the Monitoring Officer and Chief Finance Officer. The council are required to amend their standing orders to reflect the new regulations.

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.

5.4.2 The proposed amendment to the Responsibility for Functions relating to the introduction of limitations on the referral mechanism will support the Council in ensuring that urgent decisions can be taken.

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 Public Sector Internal Audit Standards: <http://www.cipfa.org/policy-and-guidance/standards/public-sector-internal-audit-standards>