

	<p style="text-align: center;">Council</p> <p style="text-align: center;">4 April 2016</p>
<p style="text-align: right;">Title</p>	<p>Report of the Constitution Ethics and Probity Committee – Constitution Review and Amendment to Members Scheme of Allowance 2016-17</p>
<p style="text-align: right;">Report of</p>	<p>Head of Governance</p>
<p style="text-align: right;">Wards</p>	<p>All</p>
<p style="text-align: right;">Status</p>	<p>Public</p>
<p style="text-align: right;">Enclosures</p>	<p>Annex 1 – Report to Constitution Ethics and Probity Committee, 17 March 2016</p> <p>Annex 1A – Decisions of the Constitution Ethics and Probity Committee, 17 March 2016</p> <p>Appendix A: Article 9</p> <p>Appendix B: Responsibility for Functions</p> <p>Appendix C: Responsibility for Functions, Annex A</p> <p>Appendix D: Meetings Procedure Rules</p> <p>Appendix E: HR Regulations</p> <p>Appendix F: Public Participation and Engagement</p> <p>Appendix G: Members Allowance Scheme 2016/17</p>
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Summary

The Constitution, Ethics and Probity Committee at its meeting of 17 March 2016 considered a report on the Constitution, reviewing various sections. Only Full Council may amend the Constitution and therefore Council are recommended to approve the various recommendations of the Committee that would alter the Constitution.

The Committee also considered a report on 'The Recruitment of Independent Persons to the Standards Committee' asking the Committee to take the next steps in implementing the decision of Full Council on 8 December 2015 to establish a Standards Committee, including the recruitment of a pool of up to four Independent Persons. This report included a recommendation to set the level of remuneration for the Independent Persons, for Full Council approval. The recommendation as approved by Constitution, Ethics and Probity Committee involves an amendment to section 6 of the Members Allowance Scheme 2016-17 which was approved by Council on 1 March. The revised Scheme is attached as Appendix G. This amendment is recommended for Full Council approval.

Recommendations

- 1. That Council approve the recommendations contained in the report from the Constitution Ethics & Probity Committee at Annexe 1A, and the track change versions attached at Appendix A to Appendix F.**
- 2. That the Monitoring Officer be authorised to implement these revisions and publish a revised Constitution.**
- 3. That Council approve the proposed remuneration for the Independent Persons of the Standards Committee and approve the amendments to the Members Allowance Scheme as contained in Appendix G.**

1. WHY THIS REPORT IS NEEDED

- 1.1 The Council adopted a new Constitution at the annual meeting on 2 June 2014 when a Committee System form of governance was introduced. At the end of 2014 and in 2015 a number of changes were proposed to the Constitution to ensure the smooth running of committees. These were considered by the Constitution, Ethics and Probity (CEP) Committee on and adopted by Full Council.
- 1.2 Following a further cycle of meetings some additional changes have been proposed to address inconsistencies and ensure correct processes are clearly set out. These were considered and agreed by CEP Committee meeting held on 17 March 2016. The report to the Committee (Annex 1) and decisions of the Committee (Annex 1B) sets out the proposed changes agreed by the Committee for recommendation to Full Council for adoption. The actual changes to the sections of the Constitution are then set out in Appendices A to G (as amended following consideration by the Committee on 17 March 2016).
- 1.3 Council approved the Members Allowance Scheme for 2016/17 at the meeting held on 1 March 2016. The proposed remuneration of the Independent

Persons to be appointed to the Standards Committee, as recommended by Constitution, Ethics and Probity Committee, requires an amendment to section 6 of the Members Allowance Scheme, as attached at Appendix H. This is recommended for Council approval.

- 1.4 Council are requested to note that the General Functions Committee which took place on 21 March 2016 did not consider a report on the senior management structure and the deletion of the post of Strategic Director of Commissioning. Consequently the proposed amendments to Responsibility for Functions, Annex B (Scheme of Delegated Authority to Officers) have been removed from the appendices and those changes will come forward for CEP Committee and Full Council approval at the appropriate time.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Constitution, Ethics and Probity Committee (CEP) is required under its terms of reference to proactively review and keep under review all aspects of the Constitution. The proposals contained in Appendices A to G were discussed by that Committee and are now recommended to ensure the smooth running of the Council.

- 2.2 Section 28 of the Localism Act 2011 the Council is required to appoint at least one Independent Person to give a view on complaints against members, including whether to investigate a complaint for alleged breach of the Council's Code of Conduct. CEP Committee has approved recommendations to take forward recruitment of a pool of Independent Persons. One of the recommendations considered by CEP Committee on 17 March was the level of remuneration for the Independent Persons. CEP Committee recommended the level of remuneration be:

"Payment on case by case basis:

- A fee of £127 where the views of the Independent Person have been sought but the case is not progressed to Committee;
- A fee of £200 where the views are sought and the case is referred to Standards Committee;
- A fee of £250 where the Independent Person has to sit as Chairman of a Standards Committee."

- 2.2.1 This requires Council approval as it requires an amendment to Members Scheme of Allowance 2016/17. The proposed amendments are attached in Appendix H.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Options were put forward to the Committee and the attached report reflects the options chosen (as amended by the Committee) for recommendation to Council following discussion and debate.
- 3.2 The option of not changing the Constitution was not recommended as a number of issues had been identified that required amendment or clarification to ensure that the Council operated effectively and in accordance with its statutory requirements.

4. POST DECISION IMPLEMENTATION

- 4.1 The Monitoring Officer will make arrangements for any changes agreed to be actioned, together with minor drafting and housekeeping changes. The revised Constitution will be published online and for existing hard copies issued to be revised and replaced.
- 4.2 The Constitution Ethics and Probity Committee will continue to proactively keep the Constitution under review and may make further recommendations in the next municipal year.

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 Payments to Independent Persons will be met from the existing Members Allowances budget.

5.3 Legal and Constitutional References

- 5.3.1 Council Constitution, Responsibilities for Functions, Functions of Full Council, Paragraph 1.2: "Only the Council will adopt and change the Constitution, except where otherwise provided in the Constitution or by resolution of the Council".
- 5.3.2 Council Constitution, Responsibilities for Functions, Functions of Full Council, Paragraph 1.10: "Adopting the Members Allowances Scheme"

- 5.3.3 Council Constitution, Responsibilities for Functions – the Constitution, Ethics and Probity Committee terms of reference includes 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”.
- 5.3.4 Council Constitution, Chief Officers “The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available for consultation by Members, staff and the public”.
- 5.3.5 Constitution, Ethics and Probity Committee Committee’s terms of reference includes ‘To have responsibility for overseeing the Council’s governance arrangements’.
- 5.3.6 By S28 Localism Act 2011 the Council is required to appoint at least one Independent Person to give a view on complaints against members, including whether to investigate a complaint for alleged breach of the Council’s Code of Conduct. The Council may call upon the services of an Independent Person from another Council if necessary.
- 5.3.7 By S28(8)(b) of the Localism Act the Council may not appoint a person (or close associate of a person) who has been an officer, member or co-opted member of the Council within the 5 years prior to the appointment.
- 5.3.8 By S28(8)(c) of the Localism Act appointment of an Independent Person must be approved by Full Council.
- 5.3.9 As a result of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 the independent person will also have a role in relation to the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer. At least two independent persons must be invited to join any disciplinary panel in this respect. The Council may not pay the independent person more money in respect of this role than is paid in relation to their Member conduct role.
- 5.3.10 There is a statutory requirement to ensure that the post is brought to the attention of the public – S 28(8)(c)(i).
- 5.3.11 There is no statutory limit on the term of appointment.

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 submitted to Council 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 Report of Constitution Ethics and Probity Committee, 17 March 2016, agenda item 7, The Recruitment of Independent Persons to the Standards Committee
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CIId=589&MIId=8393&Ver=4>
- 6.2 Report of Council, 1 March 2016, agenda item 12.1, Report of the Monitoring Officer: Members Allowance Scheme 2016/17
<http://barnet.moderngov.co.uk/ieListMeetings.aspx?CommitteeId=162>