

	<p>Constitution, Ethics and Probity Committee</p> <p>30 June 2016</p>
<p>Title</p>	<p>Constitution Review</p>
<p>Report of</p>	<p>Monitoring Officer Head of Governance</p>
<p>Wards</p>	<p>None</p>
<p>Status</p>	<p>Public</p>
<p>Enclosures</p>	<p>Appendix A: Contract Procedure Rules Appendix B: Meetings Procedure Rules Appendix C: Responsibility for Functions – Annex A</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>	

<p>Recommendations</p>
<p>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 C.</p>

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 been in operation for two municipal years.
- 1.2 The Constitution, Ethics and Probity Committee has met regularly over that period to ensure that they discharge their responsibility to proactively 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.

- 1.3 Since the Committee last met on 9 May 2016 a number of changes have been identified to ensure that the Constitution is updated in accordance with new legislative requirements and best practice.

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
1	Contract Procedure Rules	Page 9	In section 1.2 which relates to failure to comply with the Contract Procedure Rules, the Rules refer to the post of 'Chief Internal Auditor'. This post does not exist in the council's management structure and consequently the post title needs to be updated.	Amend section 1.2 to delete 'Chief Internal Auditor' and replace with 'Head of Internal Audit'
2	Contract Procedure Rules	Page 9	Update required to include recently introduced regulations.	Amend section 1.4 to add "...the Concessions Contracts Regulation 2016..."
3	Contract Procedure Rules	Page 22	Addition of wording to clarify responsibilities relating to the maintenance of a contract register	Amend section 5.1.13 to add the wording '...service area/delivery unit...'
4	Contract Procedure Rules	Page 22	Insertion of a new section 6.2 relating to Concession Contracts value calculation.	Add a new section 6.2 as follows: "For Concession Contracts the estimated value will be the total turnover of the concessionaire generated over the duration of the contract (net of value added tax) in consideration for the works and services which are the object of the concession contract and the supplies incidental to such works and services."
5	Contract Procedure Rules	Page 23	Requirement to correct contract value (to ensure clarity in the presentation and consistency of figures in the CPRs) and insertion of SMEs (Small Medium Size Enterprises)	In section 8.2 delete '£10,000' and change to '£9,999' and add 'SMEs' to the narrative text

No.	Section	Reference	Issue Identified	Changes Made
6	Contract Procedure Rules	Page 24	Requirement to update procurement threshold.	Amend section 8.9 to delete '€750,000' and replace with '£589,148'
7	Contract Procedure Rules	Page 25	New section required to ensure that the Rules are compliant with the Concession Contracts Regulations 2016.	New section 10 as per tracked changes in Appendix A
8	Contract Procedure Rules	Page 26	Ensure that the Rules are compliant with Information Management requirements.	Add a new section 11.2 with the following wording: Insertion of new wording: To ensure compliancy with Information Management requirements all procurement activity must include the completion of the Information Management questionnaire by the supplier. This will be made available for all activity conducted through the procurement portal however for lower values beneath £9,999 it is the service area/delivery units responsibility to ensure that the questionnaire is completed by suppliers awarded procurement contracts Renumber subsequent sections
9	Contract Procedure Rules	Page 27	Update section 12.2 to correct wording.	Amend the final sentence of section 12.2 as follows: Update correction to last sentence: "At the point of child/adult placement the Authority does not require a contract, however, once placement has been made the Authority should instruct legal to issue a contract to the New Provider"

No.	Section	Reference	Issue Identified	Changes Made
10	Contract Procedure Rules	Page 31	Create a new section 17.6 to include references to Concession Contracts.	Create a new section 17.6 with the following wording: “Concession Contract” means a services concession contract or a works concession contract as defined in The Concession Contracts Regulations 2016. They are contracts for pecuniary interest which consist either solely in the right to exploit the services or works that are the subject of the contract or in that right together with payment.
11	Contract Procedure Rules	Page 32	Clarify requirement to ensure that consideration is given to local suppliers for minor contracts.	Amend section 17.23 to add the following wording at the end of the last sentence: “The Council requires that consideration is given to local suppliers for requirements less than £9,999”
12	Contract Procedure Rules	Pages 32 – 33	Inclusion of new wording to include the government definition of an SME.	Add a new section 17.24 to include the definition of SME as set out in Appendix A
13	Contract Procedure Rules	Pages 34 – 35	Inclusion of a new column to refer to supplier notification method and contract.	Add a new column titled ‘Supplier Notification Method and Contract’ as set out in Appendix A
14	Meetings Procedure Rules	Page 42	To ensure that officer responsibilities relating to speakers at planning committees are correctly reflected in the Meetings Procedure Rules a change is proposed to remove reference to Governance Officer and replace with Planning Case Officer to reflect current responsibilities and practice.	Amend section 7.5 to refer to delete ‘Governance Officer’ and replace with ‘Planning Case Officer’

No.	Section	Reference	Issue Identified	Changes Made
15	Meetings Procedure Rules	Page 42	Planning committee procedures require a minor amendment to clarify that when more than two requests (rather than three as currently drafted) the speakers should decide amongst themselves who will address the committee.	Amend section 7.5 to delete 'three' and replace with 'two'
16	Meetings Procedure Rules	Page 43	Following the changes made to Planning Committee Procedure Rules in May 2016, there is a requirement to introduce arrangements to enable the transfer of speaking rights in the event that an application is referred to the parent committee or deferred.	Amend section 7.12 to delete 'approval' and replace with 'consideration'. Add the following wording at the end of the section: Speaking rights are also automatically transferred in the event where an application has been deferred to a future meeting of an Area Planning Committee or the Planning Committee.
17	Responsibility for Functions, Annex A	Pages 53 – 54	<p>In relation to the Local Plan and associated planning policy documents, the current wording in the Constitution does not define Local Plan related documents. There is a lack of clarity about which documents should be approved and adopted by committees (either the Policy & Resources Committee or Planning Committee) and which ones should be approved by committee prior to a decision being taken by full Council.</p> <p>The proposed changes clarify Local Plan and related documents.</p> <p>The changes clarify that emerging Development Plan Documents should be approved by Policy &</p>	<p>In the terms of reference of the Policy & Resources Committee, delete the following wording:</p> <p>“Approve development of statutory Local Plan and related documents and Neighbourhood Plans (for adoption by Full Council)”</p> <p>and replace with the following wording:</p> <ul style="list-style-type: none"> • “Approve emerging statutory Local Plan Development Plan Documents (Council to approve submission to the Secretary of State and full adoption)

No.	Section	Reference	Issue Identified	Changes Made
			<p>Resources and at what stages they should be referred to Council for decision.</p> <p>Likewise with Neighbourhood Plans. They should only be referred to Council for adoption.</p> <p>For Development Plan Documents the Council is required to approve submission to the Secretary of State and adoption by the Council.</p> <p>For Neighbourhood Plans the Council is required to approve adoption</p>	<ul style="list-style-type: none"> • Approve and adopt Local Development Scheme, Statement of Community Involvement, Supplementary Planning Documents and Planning Briefs • Approve emerging Neighbourhood Plans (for adoption by Council)”
18	Responsibility for Functions, Annex A	Page 71	<p>The Planning Committee has a clear role in designating neighbourhood areas and neighbourhood forums. The Committee should also consider other elements of neighbourhood planning such as emerging Neighbourhood Development Orders and Community Right to Build Orders. The current wording is vague on how Planning Committee considers Neighbourhood Development Orders and Community Right to Build Orders.</p>	<p>In the terms of reference of the Planning Committee, delete “...and considering Neighbourhood Development Orders” after “Designating neighbourhood areas and neighbourhood forums for the purposes of neighbourhood planning”</p> <p>In the terms of reference of the Planning Committee add “Approve and confirm Neighbourhood Development Orders and Community Right to Build Orders”</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 26 July 2016 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 None