

## **Decisions of the Constitution, Ethics and Probity Committee**

16 November 2016

Members Present:-

Councillor John Marshall (Chairman)  
Councillor Melvin Cohen (Vice-Chairman)

Councillor Richard Cornelius	Councillor Joan Scannell
Councillor Ross Houston	Councillor Ammar Naqvi (In place of Councillor Dr Devra Kay)
Councillor Barry Rawlings	

Apologies for Absence  
Councillor Dr Devra Kay

### **1. MINUTES OF LAST MEETING**

**RESOLVED** that the minutes of the meeting held on 30 June 2016 be approved as a correct record.

### **2. ABSENCE OF MEMBERS (IF ANY)**

An apology for absence had been received from Councillor Dr Devra Kay who was substituted for by Councillor Ammar Naqvi.

The Committee noted that Councillor Alison Moore had incorrectly been listed as a committee member on the agenda and the committee member was Councillor Ross Houston. The Head of Governance advised Members that the committee membership would be updated accordingly.

### **3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)**

None.

### **4. REPORT OF THE MONITORING OFFICER (IF ANY)**

None.

### **5. PUBLIC QUESTION AND COMMENTS (IF ANY)**

Andrew Dismore AM asked supplementary questions arising from the answers provided to public questions in advance of the meeting. The Chairman and officers provided answers to supplementary questions at the meeting.

**6. MEMBERS' ITEMS (IF ANY)**

None.

**7. CONSTITUTION REVIEW**

The Committee received a public comment from Andrew Dismore AM in relation to item 1.5, section 9 (Public Participation and Engagement Rules).

During the debate on the Constitution Review report Councillor Barry Rawlings MOVED a motion in relation to item 1.5, section 9 (Public Participation and Engagement Rules) which proposed that councillors, MP's and Assembly Members are not permitted to submit items and questions for Residents Forums. He proposed that this amendment be removed from the list of Constitution amendments. Upon being put to the VOTE the motion was declared LOST. Votes were recorded as follows:

In Favour	3
Against	4
Abstentions	0

**RESOLVED** that the Committee recommend to Council that the Constitution be amended to incorporate the changes set out in the table below and the track change versions attached at Appendix A to Appendix P.

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
1	Public Participation and Engagement Rules	Page 36	Add 'or' after 'the relevant Director'... and also add 'for information' at the end of the paragraph.	Agreed as per report
2	Public Participation and Engagement Rules	Page 36	At the end of the paragraph add:  The address of the Head of Governance is as follows: Head of Governance London Borough of Barnet Building 2, North London Business Park Oakleigh Road South N11 1NP	Agreed as per report

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3	Public Participation and Engagement Rules	Page 37	The authority's e-petition facility can be found here: <a href="https://barnet.moderngov.co.uk/mgEPetitionListDisplay.aspx?bcr=1">https://barnet.moderngov.co.uk/mgEPetitionListDisplay.aspx?bcr=1</a>	Agreed as per report
4	Public Participation and Engagement Rules	Page 37	Add: 'E-petitions submitted on external websites can be accepted by the council. However, petitions hosted on external websites will need to be submitted by the lead petitioner to the Head of Governance in order for the petition to be accepted.	Agreed as per report
5	Public Participation and Engagement Rules	Page 37	Add: <ul style="list-style-type: none"> <li>• 'it relates to a named individual or could reveal the identity of a person;</li> <li>• it does not relate to the functions of the council;</li> <li>• it is not clear in what it is asking the council to do;</li> <li>• it is repetitive or deals with an issue that has previously been resolved;</li> <li>• relates to functions that have separate processes for appeal or challenge, such as, but not limited to: council tax banding, non-domestic rates, school admission arrangements etc...'</li> </ul>	Agreed as per report subject to the addition of: <ul style="list-style-type: none"> <li>• it relates to a safeguarding matter</li> </ul>
6	Public Participation and Engagement Rules	Page 37	The Head of Governance will make a ruling on whether or not to accept a petition, taking into consideration grounds for rejection as laid out above.  In such an occasion where a petition is rejected, the Head of Governance (or his/her	Agreed as per report

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			representative) will write to the lead petitioner and explain the reasons for rejection.							
7	Public Participation and Engagement Rules	Page 37	Amend wording to read:  “Petitions will be acknowledged within 10 working days. The acknowledgement will include information on how the petition will be progressed.”	Agreed as per report						
8	Public Participation and Engagement Rules	Pages 37 – 39	<p>7.10 Petitions will be reported to the forums below using the following procedures:</p> <table border="1" data-bbox="802 981 1225 2047"> <thead> <tr> <th data-bbox="802 981 994 1055">Signatures</th> <th data-bbox="994 981 1225 1055">Forum and Procedure</th> </tr> </thead> <tbody> <tr> <td data-bbox="802 1055 994 1167">0-24</td> <td data-bbox="994 1055 1225 1167">No action required.</td> </tr> <tr> <td data-bbox="802 1167 994 2047">25 – 1,999 Signatures</td> <td data-bbox="994 1167 1225 2047"> <p>The petition will be reported to Residents Forum to which the issue relates. Where the petition relates to a borough-wide issue, the matter will be reported to the Residents Forum for the constituency area in which the lead petitioner resides.</p> <p>The Lead Petitioner will</p> </td> </tr> </tbody> </table>	Signatures	Forum and Procedure	0-24	No action required.	25 – 1,999 Signatures	<p>The petition will be reported to Residents Forum to which the issue relates. Where the petition relates to a borough-wide issue, the matter will be reported to the Residents Forum for the constituency area in which the lead petitioner resides.</p> <p>The Lead Petitioner will</p>	Agreed as per report
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25 – 1,999 Signatures	<p>The petition will be reported to Residents Forum to which the issue relates. Where the petition relates to a borough-wide issue, the matter will be reported to the Residents Forum for the constituency area in which the lead petitioner resides.</p> <p>The Lead Petitioner will</p>									

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				<p>be given three minutes to present the petition to the Forum. Following the presentation the Residents Forum Chairman will decide to:</p> <ul style="list-style-type: none"> <li>• Take no action;</li> <li>• Refer the matter to a chief officer to respond to within 20 working days; or</li> <li>• Refer the matter to the relevant Area Committee (if funding is required)</li> </ul>	
			2,000 – 6,999 Signatures	Where the petition relates to the functions and responsibilities of an Area Committee (as detailed in Responsibility for Functions, Annex A) it will be reported to	

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				<p>the relevant Area Committee.</p> <p>Where the petition relates to the matters outside the functions and responsibilities outside of the remit of an Area Committee, the petition will be reported to the relevant Theme Committee.</p> <p>The Lead Petitioner will be given five minutes to present the petition to the committee. Following the presentation the Chairman and Committee Members have an opportunity to ask the Lead Petitioner questions. After the debate the Committee will decide to:</p> <ul style="list-style-type: none"> <li>• Take no action</li> </ul>	

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				<ul style="list-style-type: none"> <li>Refer the matter to a chief officer to provide a written respond to Lead Petitioner within 20 working days; or</li> <li>Instruct an officer to prepare a report for a future meeting of the Committee on the issue(s) raised with a recommended course of action</li> </ul>	
			7,000 plus Signatures	<p>The petition will be considered by Full Council and the following process will be followed:</p> <ul style="list-style-type: none"> <li>Lead Petitioner is given</li> </ul>	

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				<p>five minutes to present the petition;</p> <ul style="list-style-type: none"> <li>• Council Members have an opportunity to ask questions of the Lead Petitioner then debate the item.</li> <li>• The relevant Committee Chairman will respond to the issues raised in the petition and outline the decision route (if any) he/she proposes to take</li> </ul>	
			7.11 Petitions are required to be received 15 days before the Residents Forum, relevant		



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			<p>committee meeting or Full Council.</p> <p>7.12 Any hard copy petition received will be published on the Council's website via the Council's e-petition facility and processed by the Council as documented in this section. Updates or responses to petitions will be published on the e-petitions section of the website once an officer has responded or a Forum, Committee or Full Council has received a petition.</p>	
9	Public Participation and Engagement Rules	Page 35	<p>Add a new section 5.3 as follows and re-number subsequent sections:</p> <p>"5.3 Councillors, MPs and Assembly Members are not permitted to submit items and questions for Residents Forums, but may be called on to comment on issues. Such comments will be invited entirely at the discretion of the Residents Forum chairman."</p>	Agreed as per report
10	Public Participation and Engagement Rules	Page 35	<p>Add new wording as follows:</p> <p>"At Residents Forums items and questions will be considered in order of receipt. Where a resident has submitted more than one item or question, their second item or question will be considered after all other residents have presented their first item.</p>	Agreed as per report

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			Issues will continue to be determined in this way until all issues have been considered.”	
11	Public Participation and Engagement Rules	Page 37	<p>Add a new section 7.5 as follows:</p> <p>“Petition signatures must be from Barnet residents otherwise they will not count towards the overall signature total. Petitions signatories must provide addresses to enable them to be verified against the Electoral Register.”</p> <p>Add a new restriction in section 7.6 that:</p> <p>“A petition will not be accepted if:...</p> <ul style="list-style-type: none"> <li>• it does not contain the address of signatories;”</li> </ul>	Agreed as per report subject to the deletion of the following wording: “...against the Electoral Register.”
12	HR Regulations	Page 43	<p>Amend section 2.1 (Officer Employment Procedure Rules) of the HR Regulations to read:</p> <p>Sections 2.1.3 to 2.1.5 are subject to the following restriction:</p> <p>*No vacant posts at Assistant Director level or above shall be advertised or recruited to without prior Committee approval and all new posts at Assistant Director level or above shall be created by committee decision (<i>General Functions Committee, Policy and Resources Committee or Urgency Committee</i>) and not by delegated powers.</p>	Agreed as per report

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
13	Responsibility for Functions	Page 53	<p>Add a new section 6.11 (and re-number the subsequent section) to add:</p> <p>“The seventh exception is that Members Items may not be referred to the parent committee or Council”</p>	Agreed as per report
14	Responsibility for Functions, Annex A, Terms of Reference of Committees, Sub-Committees and Partnership Boards	Page 71	<p>Add at end of point 6:</p> <p>“...which relate to the functions of the committee as outlined in (2) above.”</p>	Agreed as per report
15	Responsibility for Functions, Annex A, Terms of Reference of Committees, Sub-Committees and Partnership Boards	Pages 63, 64, 67, 71 and 72	<p>Amend the terms of reference of the Environment Committee, Housing Committee and Licensing Committee to clarify the functions that sit within each committees remit as set out in the revised Responsibility for Functions, Annex A document.</p>	Agreed as per report
16	Responsibility for Functions, Annex A, Terms of Reference of Committees, Sub-Committees and Partnership Boards	Page 75	<p>Amend the terms of reference of the Planning Committee to include:</p> <p>“To consider for approval fees and charges for those areas under the remit of the Committee.”</p>	Agreed as per report
17	Responsibility for Functions, Annex A, Terms of Reference of Committees, Sub-Committees and Partnership Boards	Page 84	<p>Amend the terms of reference of the Local Pension Board to include the following:</p> <ul style="list-style-type: none"> <li>• “To submit an annual budget to the Pension Fund Committee for approval.</li> </ul>	Agreed as per report

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		Page 83	<ul style="list-style-type: none"> <li>• To submit an annual report on the work of the Board to the Pension Fund Committee.</li> <li>• To submit an annual report on the work of the Board to Full Council.</li> <li>• To report any breach of compliance or other significant issues to Full Council.”</li> </ul> <p>Amend the terms of reference of the Pension Fund Committee to include the following:</p> <ul style="list-style-type: none"> <li>• To approve the annual budget of the Pension Fund Board.</li> </ul>	
18	Article 10 – Decision Making	Page 94	<p>Amend Article 10 to include a new wording as follows:</p> <p>“10.06 Decision making by Officers</p> <p>Chief officers have delegated authority to make decisions in accordance with the powers delegated by Council via Responsibility for Functions, Annex B (Scheme of Delegated Authority to Officers) and the Schemes of Delegation maintained by Chief Officers and published on the council’s website.”</p>	Agreed as per report
19	Article 11 – Finance, Contracts, Land	Page 96	Amend section 11.05 (Common Seal of the Council) to read:	Agreed as per report

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
	Disposal and Legal Matters		"The Common Seal of the Corporation shall be kept in a safe place by the Records Officer."	
20	Article 11 – Finance, Contracts, Land Disposal and Legal Matters	Pages 95 – 96	Amend sections 11.03 and 11.04 to remove delete references to 'Head of Legal' and replace with 'Monitoring Officer'	Agreed as per report
21	Article 11 – Finance, Contracts, Land Disposal and Legal Matters	Page 96	Amend section 11.05 to refer to the 'Records Officer' and not the 'Deeds Officer'	Agreed as per report
22	Article 9 – Chief Officers	Pages 99 – 100	Delete 'Strategic Director for Commissioning' from Sections 9.01 b), 9.01 d) of Article 9 – Chief Officers	Agreed as per report
23	Responsibility for Functions, Annex B, Scheme of Delegated Authority to Officers	Pages 112 and 122	Delete references to Strategic Director for Commissioning and associated functions and responsibilities from Responsibility for Functions, Annex B, Scheme of Delegated Authority to Officers	Agreed as per report
24	Article 12 – Review and Revision of the Constitution	Page 130	Amend section 12.03 (a) to include the following wording:  "Where minor amendments to the Constitution are required, the Monitoring Officer is authorised to make the necessary changes following consultation with the Chairman of the Constitution, Ethics and Probity Committee."	Agreed as per report

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
25	Article 13 – Suspension, Interpretation and Publication of the Constitution	Page 131	<p>Amend Article 13 to include only the following wording – delete all other wording and sections:</p> <p>“13.01 Suspension of the Constitution</p> <p>(a) Limit to suspension. The Articles of this Constitution may not be suspended. Any of the Rules within the Constitution may be suspended by the full Council”</p>	Agreed as per report
27	Meetings Procedure Rules	Page 135	<p>Amend section 2.1 to delete the following wording:</p> <p>“If a meeting is adjourned, the substitution will carry forward into any subsequent adjourned meetings to consider the outstanding item(s).”</p>	Agreed as per report
28	Meetings Procedure Rules	Page 139	<p>Add wording at the end of section 7.11 as follows:</p> <p>“It is not permissible for a substitution to be made which enables a member of the public to make two representations in respect of a single household.”</p>	Agreed as per report
29	Licensing Code of Practice	Page 152	<p>Amend section 6.3 as follows:</p> <p>“6.3 Members wishing to speak at a hearing before a Licensing Sub-Committee or to have his/her representations</p>	Agreed as per report

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			<p>considered in respect of Licensing matters must also:</p> <p>A. Comply with the deadlines for making valid representations applicable to all other parties; OR</p> <p>B. Advise the Chairman, Head of Governance or Governance officer appointed to the sub-committee of their wish to speak as a representative of an interested party who has made a valid representation as soon as possible and at least 15 minutes before the commencement of the meeting of the sub-committee.</p> <p>C. Not seek, or accept, or appear to seek or accept, preferential treatment.”</p>	
30	Council Procedure Rules	Page 166	<p>Add the following wording to the end of section 23.5:</p> <p>“Members should advise the Head of Governance by 10.30am on the second working day before the meeting if they wish their Motion to be voted on at the meeting.”</p>	Agreed as per report
31	Management of Assets, Property	Page 173	Delete section 3.3 of the Management of Assets,	Agreed as per report

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	and Land Rules		<p>Property and Land Rules as follows:</p> <p>“The procedures associated with these Rules are as detailed in the Management of Asset, Property and Land Procedures.”</p>	

**8. ANY OTHER ITEM(S) THAT THE CHAIRMAN DECIDES ARE URGENT**

None.

The meeting finished at 7.58 pm