

	<p style="text-align: center;"><b>Constitution, Ethics and Probity Committee</b></p> <p style="text-align: center;"><b>29 June 2017</b></p>
<b>Title</b>	<b>Constitution Review</b>
<b>Report of</b>	Monitoring Officer Head of Governance
<b>Wards</b>	N/A
<b>Status</b>	Public
<b>Enclosures</b>	<p>Appendix A – Procedure for Handling Complaints (Tracked Changes)</p> <p>Appendix B – Procedure for Handling Complaints (Revised)</p> <p>Appendix C – Responsibility for Functions – Annex B (Scheme of Delegated Authority to Officers)</p> <p>Appendix D – Full Council Procedure Rules (Tracked Changes)</p> <p>Appendix E – Full Council Procedure Rules (Revised)</p> <p>Appendix F – Officer Code of Conduct</p> <p>Appendix G – Financial Regulations (Internal Audit and CAFT elements only)</p>
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<b>Summary</b>	
<p>This report seeks discussion and approval of revisions to the Constitution following the review of elements which require updating and review.</p>	

Recommendations
<p><b>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 G.</b></p>

## **1. WHY THIS REPORT IS NEEDED**

### **Current Review**

- 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 over three 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 16<sup>th</sup> March 2017 a number of changes have been identified to ensure that the Constitution is updated in accordance with new legislative requirements and best practice.

### **Proposed Review**

- 1.4 The Committee are requested to note that the Monitoring Officer has been undertaking a comprehensive review of the Constitution. The review is intended to simplify the Constitution in plain English and in a way which avoids duplication and unnecessary complexity and detail. The Constitution should be a straightforward explanation of how the Council works in practice. At present the Constitution, like many others, is very lengthy and is difficult to navigate.
- 1.5 The review will consolidate many of the sections into the Articles thereby enabling relevant information to be found in one place. For example, the functions of Full Council are included in Responsibility for Functions – it is proposed that these are transferred into Article 4 (The Full Council). A similar approach is proposed in relation to the terms of reference of committees as detailed in Responsibility for Functions, Annex A.
- 1.6 The revised Constitution will be reviewed by this Committee and Full Council in due course.

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	25A Members Code of Conduct – Procedure for Dealing with Complaints	See 'changes made'	On 23 May 2017 Annual Council adopted a revised Members Code of Conduct. Following the adoption of the revised Code, the Monitoring Officer has reviewed and updated the associated procedure for dealing with complaints to ensure that it is fit for purpose and up to date.	<ol style="list-style-type: none"> <li>1. Delete section 1 (Introduction).</li> <li>2. Delete section 2 (The Members Code of Conduct).</li> <li>3. Delete section 3 (The Independent Person).</li> <li>4. Revised the section titled 'Making an Allegation' to refer to the Monitoring Officer rather than a specific named individual.</li> <li>5. Revised the section titled 'Assessment of an allegation' to clarify the role of the Monitoring Officer and the procedure to be followed</li> <li>6. Amendments to the section titled 'The investigation'.</li> <li>7. Delete the section titled 'Where the Monitoring Officer/Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct'.</li> <li>8. Delete the section titled 'Where the Monitoring Officer/Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct'.</li> <li>9. Delete a paragraph from the section titled 'Appeals'.</li> <li>10. Amend the section titled 'Reports' to change the requirement from the six-monthly report to the Committee to an annual report.</li> </ol>
2	Responsibility for Functions, Annex B (Scheme of Delegated Authority to Officers)	Delegated Authority for the Commissioning Director Adults & Health (Director of Adult Social Services)	An Internal Audit report into Safeguarding Statutory Responsibilities identified that within Responsibility for Functions, Annex B there is no reference to the statutory responsibilities of the Director of Adult Social	Amend the Delegated Authority for the Commissioning Director Adults & Health (Director of Adult Social Services) to include a reference to the Care Act 2014.

No.	Section	Reference	Issue Identified	Changes Made
			Services under the Care Act 2014. It was recommended that Annex B be updated to include reference to the Care Act 2014.	
3	Council Procedure Rules	See 'changes made'	The Monitoring Officer has reviewed the Council Procedure Rules and is proposing a number of amendments to remove unnecessary complexity and detail	<ol style="list-style-type: none"> <li>1. Delete section 2, 16 (Motions for the Adjournment) as this provision is not used in practice.</li> <li>2. Amend section 6 (Variation) to give only the Mayor the discretion to vary the order of business.</li> <li>3. Amend section 7 (Suspension of Procedure Rules) to clarify the wording.</li> <li>4. Delete the heading 'Rules that apply to the whole of council meetings'</li> <li>5. Delete the provision in section 9 (General provision for motions and amendments) that enables a motion to be referred to a committee for consideration. Members are able to add matters for debate to committee agendas via the Members Items mechanism.</li> <li>6. Delete section 9.4.</li> <li>7. Delete provision 10.3 (relating to the submission of amendments after 10.30am on the day of the council meeting) from section 10 (Alternations to motions or amendments)</li> <li>8. Delete section 11 (Withdrawal of business items and amendments)</li> <li>9. Delete from section 12 (Motions which may be moved without notice) the following provisions as they are irrelevant: 12.14; 12.15; and 12.16</li> <li>10. Delete section 13 (Motions which may be moved during</li> </ol>

No.	Section	Reference	Issue Identified	Changes Made
				<p>debate and closure motions)</p> <p>11. Delete section 14 (Division and voting)</p> <p>12. Amend section 15 (Voting)</p> <p>13. Amend section 20 (Rules of debate) to clarify the wording in section 20.4</p> <p>14. Amend section 22 (Motions) to add restrictions in section 22.1 about debating general national issues and remove the provisions at section 23.5 and 23.6 relating to the referral of motions to committees.</p> <p>15. Delete section 26 (Procedure for Policy and Resources budget report)</p>
4	Officer Code of Conduct	Introduction	The Officer Code of Conduct does not refer to the Nolan Principles (7 Principles of Public Life). The principles have been added to the Code.	Amend the introduction to include the Nolan Principles.
5	Financial Regulations	Internal Audit  Corporate Anti-Fraud Team (CAFT)	The Financial Regulations as currently drafted do not make explicit the rights of the Corporate Anti-Fraud Team to access all of the types of information that they require to discharge their duties to prevent and detect fraud. A number of changes are proposed to confirm these rights of access.	<p>1. Amend section 5.2.5 to strengthen the wording relating the right of Internal Audit to access systems, databases, etc.</p> <p>2. Delete section 5.2.14 as this is not a responsibility of the Chief Internal Auditor</p> <p>3. Delete the word 'Assistant' in section 5.3.1 as the Assurance Director is responsible.</p> <p>4. Amend section 5.3.5 to update the responsibilities of Investigation Officers.</p> <p>5. Add a sentence to section 5.3.6 to strengthen the powers of the Assurance Director</p> <p>6. Amend section 5.3.9 to state that the Assurance Director will</p>

No.	Section	Reference	Issue Identified	Changes Made
			<p>In addition, a number of housekeeping changes are proposed including removing a number of matters contained in the Financial Regulations that can be transposed into the Assurance Group Scheme of Delegation.</p>	<p>maintain a scheme of delegation. Delete sections 5.3.10 to 5.3.16 as these will be transferred into the scheme of delegation.</p> <ol style="list-style-type: none"> <li>7. Add a new section 5.3.10 to confirm the rights of CAFT officers to clarify rights of access to records.</li> <li>8. Amend new section 5.3.11 to strengthen the provisions.</li> </ol>

## **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 Subject to the committee's approval, the recommendations will form part of a report to Full Council on 25 July 2017 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.