

	<h2>Special Constitution, Ethics and Probity Committee</h2> <h3>19 October 2017</h3>
<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>	Appendix A – Introduction and Summary to the Constitution Appendix B – Article 1, The Constitution Appendix C – Article 2, Members of the Council Appendix D – Article 3, Residents and Public Participation Appendix E – Article 4, The Full Council Appendix F – Article 5, The Mayor and Chairing the Council Appendix G – Article 6, The Leader Appendix H – Article 7, Committees, Forums, Working Groups and Partnerships Appendix I – Article 8, Joint Arrangements Appendix J – Article 9, Chief Officers Appendix K – Article 10, Decision Making Appendix L – Article 11, Finance, Contracts and Legal Matters Appendix M – Article 12, Review and Revision of the Constitution Appendix N – Full Council Procedure Rules Appendix O – Full Council Procedure Rules (Tracked)
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<b>Summary</b>	
The Monitoring Officer has undertaken a review of the Constitution with the aim of to simplify it in plain English and in a way which avoids duplication and unnecessary complexity and detail. This report presents revised Articles for consideration.	

## **Recommendations**

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

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

#### **Constitution Review**

- 1.1 As reported to the Committee in June 2017, the Monitoring Officer has undertaken a comprehensive review of the Constitution. The Constitution should be a straightforward explanation of how the Council works in practice. The current Constitution is very lengthy and it is not easy to find a way around the current 31 documents which together make up the Constitution. This revised version is an attempt to simplify the Constitution in plain English and in a way which avoids duplication and unnecessary complexity and detail
- 1.2 The part of the Constitution which explains how the Council works is called the Articles. These Articles have been revised and updated, but more importantly other relevant information which is currently scattered around other documents in the Constitution has been moved into the relevant Article. Consequently, specific information should be easier to find as it will be in the same place.
- 1.3 During consultation with the Committee Chairman and the Leader several changes to the Constitution have been proposed and other changes will require further consideration. Detailed changes are set out in this report and the associated appendices.

#### **Format of the Constitution**

- 1.4 The Constitution will be in two Parts. Part 1 will comprise the Articles which currently number 13, but reducing to 12, together with an Introduction and Summary.
- 1.5 The current Articles and relevant supporting documents run to 136 pages; all relevant information is now moved within the revised Articles which run to 50 pages.
- 1.6 In addition there will be a Part 2 of the Constitution which will include the key supporting documents such as Standing Orders for Full Council, Contract Procedure Rules and Finance Regulations. These supporting documents (currently 20, but reducing to 12) are in the process of review with leading officers and will be reported to the Committee in due course.

#### **Deletions**

- 1.7 A significant amount of current detail is proposed for deletion. Deleted sections will be retained for reference and audit purposes. The information in

these sections has either been moved into the Articles or has been deleted because it is unhelpful and possibly confusing for Members, residents and officers accessing the Constitution on the council's website. Deleted sections are as follows:

- Responsibility for Functions
- Responsibility for Functions, Annex A (Membership and Terms of Reference of Committees, Sub-Committees and Partnership Boards)
- Responsibility for Functions, Annex B (Scheme of Delegated Authority to Officers)
- Meeting Procedure Rules
- Public Participation and Engagement Rules
- Management of Assets, Property and Land Rules

### **Amendments**

- 1.8 There are several substantive changes proposed to the Articles within the current Constitution and these are as follows:
- Introduction and Summary – *Shortened (1 page)*
  - The Constitution (Article 1) – *Updated (1 page)*
  - Members of the Council (Councillors) (Article 2) – *All information relating to Members now in one section (4 pages)*
  - Residents and Public Participation (Article 3) – *All information relating to residents and public participation now in one section (7 pages)*
  - The Full Council (Article 4) – *All now in one section (2 pages)*
  - The Mayor and Chairing the Council (Article 5) – *Updated (1 page)*
  - The Leader (Article 6) – *Updated (1 page)*
  - Committees, Forums, Working Groups, and Partnerships (Article 7) (*Shortened Terms of Reference – 52 pages reduced to 20*)
  - Joint Arrangements (Article 8) – *Updated (1 page)*
  - Chief Officers (Article 9) – *Updated (5 pages) (Decision making power to £165k for individual matter but not to include key decisions)*
  - Decision making (Article 10) – *Revised, updated and new (4 pages)*
  - Finance, Contracts and Legal Matters (Article 11) – *(2 pages)*
  - Review and Revision of the Constitution (Article 12) – *Updated (2 pages)*

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	Introduction and Summary to the Constitution	See 'changes made'	In consultation with Members and officers, the Monitoring Officer has undertaken a review of the Constitution to simplify and clarify the document. Detailed changes proposed are set out in the 'changes made' section.	<ol style="list-style-type: none"> <li>1. Revised text throughout the Article to remove unnecessary wording and clarify language.</li> <li>2. Renamed Sections 1 and 2 and sections contained therein.</li> <li>3. Delete 'citizens' and replace with 'residents'.</li> <li>4. Revised wording to highlight that Members have a duty to all residents, not just those living in their ward.</li> <li>5. Amended the 'Decision Making Structure' section to simplify the content.</li> <li>6. Delete section on 'Urgent and Emergency Decisions' as covered in revised Article 7 (Committees, Forums, Working Groups and Partnerships)</li> <li>7. Delete section on 'Area Committees and Forums' as covered in revised Article 7 (Committees, Forums, Working Groups and Partnerships)</li> <li>8. Amended the 'The Council's Staff' section to clarify that officers give advice to committees and Members.</li> <li>9. Amend section on 'Residents Rights' to refer to revised Article 3 (Residents and Public Participation)</li> <li>10. Delete section on 'Explanatory Notes' as unnecessary.</li> <li>11. Delete diagram of committee structure appended as unnecessary.</li> </ol>
2	Article 1 – The Constitution	See 'changes made'		<ol style="list-style-type: none"> <li>1. In section 1.3 delete 'citizens' and replace with 'residents'.</li> <li>2. Delete 'address inequality' as this is not a purpose of the constitution.</li> <li>3. Amend section 1.4 to state that the Council may amend the Constitution.</li> <li>4. Move Article 13 (Suspension, Interpretation and Publication</li> </ol>

No.	Section	Reference	Issue Identified	Changes Made
				of the Constitution) into a new section 1.5 of Article 1 and delete current Article 13.
3	Article 2 – Members of the Council		Incremental changes to the procedures for referrals between committees have resulted in the procedure rules being lengthy and complex. Amendments are proposed to condense the rules and clarify the circumstances when agenda items/decisions may be referred.	<ol style="list-style-type: none"> <li>1. Amend section 2.1 to clarify the language.</li> <li>2. Amend section 2.3 (a) to clarify the language relating to the 'Key roles' of councillors including the deletion of the section which starts 'Champion the causes...' as this is perfunctory.</li> <li>3. Amend section 2.3 (b) to delete the section relating to scrutiny of performance as this is covered in the preceding bullet point (relating to participating in decision-making).</li> <li>4. In section 2.3 (b) delete 'authority' and replace with 'council'.</li> <li>5. Delete duplicated text in Section 2.3 (b).</li> <li>6. Amend the title of section 2.3 (c) to 'Access to Information as the sections covers Members rights of access to council information.</li> <li>7. In section 2.3 (c) delete 'Councillors' and replace with 'Members'</li> <li>8. In section 2.3 (c) add a requirement for officers to keep Ward Members informed of matters affecting their Ward.</li> <li>9. In section 2.3 (d) delete 'Councillors' and replace with 'Members' and add 'Vice-Chairman'</li> <li>10. Move content relating to referrals from Responsibility for Functions (proposed to be deleted) and create a new section 2.4 (d). Revise section 2.4 (d) to simplify the rules relating to referrals between committees. <i>Note:</i> sections copied from Responsibility for Functions have been copied and retained and deleted tracked changes for reference.</li> <li>11. Add wording in section 2.1 (e) to restrict urgent decisions from being referred and to clarify that the referral must be made before the decision is taken</li> </ol>

No.	Section	Reference	Issue Identified	Changes Made
				<ul style="list-style-type: none"> <li>12. Move content from Meetings Procedure Rules into Article 2 and add a new section 2.5 (f). Revise wording to simplify the rules relating to Members Items'. Sections copied from Responsibility for Functions have been copied and tracked change deleted for reference.</li> <li>13. Move content relating to Members rights to address planning committees from the Planning Committee Procedure Rules (currently section 7 of Meeting Procedure Rules). Revise wording to delete unnecessary content and duplication.</li> <li>14. Move content relating to councillor's rights to attend and speak at committees or sub-committees when they are not a member (currently section 9 of Meeting Procedure Rules). Retain content un-amended. Add new wording to confirm Members rights to remain in the meeting room when committees that they are not a member of consider exempt business.</li> </ul>
4	Article 3 – Residents and Public Participation	See 'changes made'	In relation to proposed change 7., introducing a new section 3.4 (Public Questions and Comments – Procedure at Committee) is proposed to try and ensure that members of the public who wish to make a comment have an opportunity to address the committee. If a large number of supplementary questions are taken before comments,	<ul style="list-style-type: none"> <li>1. Revised text throughout the Article to remove unnecessary wording and clarify language.</li> <li>2. Delete references to 'citizens' and replace with 'residents'.</li> <li>3. Delete section 3.1 (a) (i) relating to voting and petitions</li> <li>4. Amend section 3.1 to refer to clarify that only residents can petition the council.</li> <li>5. Move section 2 (Public Questions) of the Public Participation and Engagement Rules into Article 3. Create new section 3.2 titled 'Questions to a committee'.</li> <li>6. Move section 3 (Public Comments) of the Public Participation and Engagement Rules into Article 3.</li> <li>7. Add a new section 3.4 titled 'Public Questions and</li> </ul>

No.	Section	Reference	Issue Identified	Changes Made
			<p>there is a risk that the 30 minutes for questions and comments will end before a resident has an opportunity to make a comment which would disenfranchise them.</p>	<p>Comments – Procedure at Committee’ to clarify the order in which public comments and supplementary questions will be managed at a committee meeting.</p> <ol style="list-style-type: none"> <li>8. Amend section 3.5 to refer to ‘issues’ for residents’ forums as this is consistent with the terminology currently used by Members and officers in relation to matters considered at the forums.</li> <li>9. Amend section 3.5 to clarify the meaning of the Six-Month Rule in the context of residents’ forums.</li> <li>10. Amend the wording in section 3.6 relating to petitions to clarify that certain petitions will be treated as ‘letters of representation’ and will be outside of the normal petition procedures.</li> <li>11. Amend section 3.7 to clarify and simplify the rules relating to speaking at planning committees including to reflect that the Governance Service will take over management of the registering speakers.</li> </ol>
5	Article 4 – The Full Council	See ‘changes made’	<p>In relation to proposed change 4. there has been an inconsistency of practice relating to officer appointments to external bodies. The revised text clarifies the position in respect of both Members and officer.</p>	<ol style="list-style-type: none"> <li>1. Revised text throughout the Article to remove unnecessary wording and clarify language Amend the wording in section 4.1 to simplify the language.</li> <li>2. Move the functions of Full Council listed in section 1 of Responsibility for Functions into Article 4.</li> <li>3. Add a new responsibility for Full Council to approve Member and officer appointments to outside bodies and external organisations on the recommendation of the Group Secretaries or Chief Executive</li> <li>4. Delete the definition of the policy framework in section 2 as the explanation is not required.</li> <li>5. Delete section 4.4 (Responsibility for Functions) as this</li> </ol>

No.	Section	Reference	Issue Identified	Changes Made
				<p>simply refers to other sections of the constitution.</p>
6	Article 5 – The Mayor and Chairing the Council	See ‘changes made’		<ol style="list-style-type: none"> <li>1. Amend the wording in section 5.1 to clarify that the Deputy Mayor should also be appointed by Council and to clarify their term of office.</li> <li>2. Add a new section 5.2 to ensure that the election of the Mayor and Deputy Mayor is the first item of business transacted at the annual council meeting.</li> <li>3. In section 5.3 delete the provision that states that the Mayor will appoint a deputy.</li> <li>4. Add wording to section 5.3 to provide that the Mayor may write letters of condolence and congratulation on behalf of the Council.</li> </ol>
7	Article 6 – The Leader	See ‘changes made’		<ol style="list-style-type: none"> <li>1. Amend section 6.1 to clarify wording.</li> </ol>
8	Article 7 – Committees, Forums, Working Groups and Partnerships	See ‘changes made’	<p>The Council is required to adopt a Brownfield Land Register and consider new applications to it. Changes are proposed to enable this before the deadline of 31 December 2017.</p> <p>A best practice review the Local Pension Board has taken. Following the review is recommended that the membership be increased from 5 to 7 (to be in line with</p>	<ol style="list-style-type: none"> <li>1. Delete ‘Sub-Committees’, ‘Area Committees’, ‘Forums’ and ‘the Local Strategic’ from the Article title</li> <li>2. Revise the wording in section 7.1 to make more succinct.</li> <li>3. Delete references to ‘Panels’ and replace with ‘working groups’.</li> <li>4. Delete section on ‘Additional Sub-Committees and Panels’.</li> <li>5. Amend section 7.2 to refer to delete references to parent committees making appointments to sub-committees.</li> <li>6. Delete section on Area Committee and Forums as these are included in the terms of reference of committees detailed later in the Article.</li> <li>7. Delete unnecessary text from section 7.4 on the Local Strategic Partnership.</li> <li>8. Review and shortening of terms of reference of all committees to improve clarity (including revisions to the terms of reference</li> </ol>



No.	Section	Reference	Issue Identified	Changes Made
			<p>other local authorities membership). In addition, the Board has detailed terms of reference which specify the role of the Board, appointment process, composition of the Board, periods of office for Board members, frequency of meetings, accountability and reporting, etc. Rather than include these detailed terms of reference in the Constitution, it is proposed to refer to these as being separately adopted.</p>	<p>and remit of Area Committees and a rationalisation of the terms of reference of the General Functions Committee).</p> <ol style="list-style-type: none"> <li>9. Add new responsibilities to the terms of reference of the Planning Committee and Area Planning Committees in relation to a Brownfield Land Register.</li> <li>10. Revise the membership of the Local Pension Board to increase from 5 to 7.</li> <li>11. Include the following committee procedures in this Article moved from Meetings Procedure Rules (proposed to be deleted): Substitute Members – Rules; Quorum – Rules; Chairmen of Meetings; Minutes; Urgent Business</li> <li>12. Amend Urgency provisions to remove the ability for the Chief Executive to take a decision normally reserved for a committee.</li> <li>13. Delete text relating to the conclusion time for Residents Forums as these now take place at 7.00pm and no longer have an Area Committee which follows immediately after.</li> </ol>
9	Article 8 – Joint Arrangements	See ‘changes made’		<ol style="list-style-type: none"> <li>1. Delete ‘References’ to legislation as these are not required.</li> <li>2. Delete unnecessary text relating to delegations to joint committees being listed in Responsibility for Functions as this is no longer required.</li> </ol>
10	Article 9 – Chief Officers	See ‘changes made’		<ol style="list-style-type: none"> <li>1. Add wording to 9.01 (a) to clarify that the Chief Executive as Head of Paid Service appoints all staff except Chief Officers.</li> <li>2. Update the list of Chief Officers to reflect the senior management structure approved by the General Functions Committee implemented in June 2017.</li> <li>3. Updated wording relating to the powers delegated to officers to simply the language and clarifies financial limits to delegations.</li> <li>4. Updated list of Statutory Officers.</li> </ol>

No.	Section	Reference	Issue Identified	Changes Made
				<ol style="list-style-type: none"> <li>5. Delete the section titled 'Other Chief Officers' as these are listed in the 'Chief Officers' section above.</li> <li>6. Delete references in 9.4 (b) as these are no longer required.</li> <li>7. Amend 9.3 (b) delete 'Chief Operating Officer' and replace with 'Assistant Chief Executive' to reflect the new senior officer structure.</li> <li>8. Delete sections from section 9.3 relating to the functions of the Monitoring Officer relating to 'contributing to corporate management' and 'restrictions on posts' as these are covered elsewhere or are statutory provisions.</li> <li>9. Delete references at the end of section 9.3 as these are no longer required.</li> <li>10. Delete sections from section 9.4 relating to the functions of the Chief Finance Officer relating to 'contributing to corporate management' as this are covered elsewhere.</li> <li>11. Delete section 9.8 on other chief officers as this is no longer required.</li> </ol>
11	Article 10 – Decision Making	See 'changes made'		<ol style="list-style-type: none"> <li>1. Delete section on 'Responsibility for decision making' as no longer required.</li> <li>2. Amend section 10.2 to refer to decisions taken by Full Council.</li> <li>3. Amend section 10.3 to refer to decision-making by committees and revise the wording to improve clarity. Include new text to state that: i) all committee reports will be in the name of the Chairmen apart from Planning and Licensing Committees; and ii) that Chairmen will clear all committee reports apart from Planning and Licensing Committees.</li> <li>4. Add a new section 10.4 (Decision Making by Chairmen of Theme Committees Jointly with Chief Officers) to give a new power to Chairmen of theme committee to make decisions</li> </ol>

No.	Section	Reference	Issue Identified	Changes Made
				<p>jointly with chief officers with a value of between £165K and £500K.</p> <ol style="list-style-type: none"> <li>5. Amend section 10.5 to clarify the circumstances where a written record report is required.</li> <li>6. Insert Table A detailing authorisation limits in relation to land and property transactions previously included in the Management of Assets, Land and Property Rules.</li> </ol>
12	Article 11 – Finance, Contracts and Legal Matters	See ‘changes made’		<ol style="list-style-type: none"> <li>1. Delete ‘References’ as these are no longer required.</li> <li>2. Amend sections 11.3 and 11.4 to delete ‘Monitoring Officer’ and replace with ‘Assistant Chief Executive’ as the senior responsible officer.</li> <li>3. Amend section 11.4 on authentication of documents to improve clarity and confirm the financial threshold for documents which require the Seal to be attested.</li> <li>4. Delete wording in section 11.4 relating to authorised officers as this is covered in section 11.5.</li> <li>5. Minor amendments to 11.5 to include the Assistant Chief Executive as they are a senior responsible officer.</li> <li>6. Delete text relating to the ‘Facsimiles of Common Seal’ as no longer required.</li> <li>7. Delete section on ‘Disposal of land and real property’ as no longer required.</li> </ol>
13	Article 12 – Review and Revision of the Constitution			<ol style="list-style-type: none"> <li>1. Amend text to clarify some of the wording.</li> </ol>
14	Full Council Procedure	See ‘changes made’		<ol style="list-style-type: none"> <li>1. Amend Part 4, Business for Debate, 15. to remove Motions for the Adjournment and replace with a procedure for debating</li> </ol>

No.	Section	Reference	Issue Identified	Changes Made
	Rules			<p>more than two motions if time permits at the end of the meeting.</p> <ol style="list-style-type: none"> <li>2. Amendments to clarify the wording in sections 6 (Variations), 7 (Suspension of Rules), 9 (General Provisions for Motions and Amendments).</li> <li>3. Deletion of sections 13 (Motions which may be moved during debate and closure motions) and 14 (Division and Voting) which are no longer required.</li> <li>4. Clarification of wording in section 22.1 to clarify that Motions must relate to Barnet specific issues.</li> <li>5. Revisions to the wording in sections 23.5 and 23.6 to shorten and clarify the language.</li> <li>6. Delete section 26 relating to Procedure for Policy and Resources Committee Budget Report as not required.</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 The Committee could retain the current Constitution un-amended. This is not recommended as the current structure and format of the Constitution requires review and updating to ensure that it is easy to understand and interpret.

## **4. POST DECISION IMPLEMENTATION**

- 4.1 Subject to the committee's approval, the recommendations will form part of a report to Full Council on 31 October 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 The currently adopted Constitution can be accessed here:  
<http://barnet.moderngov.co.uk/ecCatDisplay.aspx?sch=doc&cat=13581&path=0>

6.2 Tracked changes versions have been retained for audit purposes and are available for inspection on request.