

	<p>Constitution and General Purposes Committee</p> <p>24 July 2018</p>
<p>Title</p>	<p>Constitution Review</p>
<p>Report of</p>	<p>Monitoring Officer Head of Governance</p>
<p>Wards</p>	<p>N/A</p>
<p>Status</p>	<p>Public</p>
<p>Enclosures</p>	<p>Appendix A – Article 3: Residents and Public Participation (Tracked)</p> <p>Appendix B – Article 7: Committees, Forums, Working Groups and Partnerships (Tracked)</p> <p>Appendix C – Article 9: Chief Officers</p>
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<p>Summary</p>	
<p>Following the comprehensive review of the Constitution which was completed in May 2018 a number of housekeeping amendments are proposed as set out in the report and appendices.</p>	

<p>Officers Recommendation</p>
<p>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 C.</p>

1. WHY THIS REPORT IS NEEDED

- 1.1 The terms of reference Committee include 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”.
- 1.2 Detailed changes and the reason for them are as set out in the table below:

No.	Section	Reference	Issue Identified	Changes Made
1	Article 3 (Residents and Public Participation)	Section 3.7 – Requests to Speak at Planning Committees	<p>The Constitution currently allows public speaking in circumstances that appear to undermine the legislative provisions for the making and confirming of Tree Preservation Orders as currently set out in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.</p> <p>Regulation 6 states that objections and representations to an Order must be made in writing within a specified time period and include particular information; and that only if compliance with the stated requirements could not reasonably have been expected, may any other objections or representations be taken into account.</p> <p>Regulation 7 states that the Council must consider duly made objections and representations before deciding whether to confirm an Order.</p> <p>As such, the current provision which allows the public to speak on items on a planning committee agenda, which may include the making or confirmation of a Tree Preservation Order, potentially puts the Council in a position of considering objections or representations that have not been 'duly made' as defined by the Regulations. Failure to adhere to statutory</p>	<p>Add the following wording to Section 3.7:</p> <p>“Public speaking arrangements do not apply to an item relating to the making / confirmation of a Tree Preservation Order as this would be contrary to the legislative procedure for making objections and / or representations.”</p>

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			requirements could result in legal challenge to the validity of a Tree Preservation Order confirmed in such circumstances.	
2	Article 7 (Committees, Forums and Partnerships)	Terms of Reference of the Constitution & General Purposes Committee	The terms of reference of the Constitution & General Purposes Committee currently include: "Approving premises for marriages and the formation of civil partnerships." In most local authorities this function is delegated to the Statutory Proper Officer for Births, Deaths and Registrations. It is proposed that Members delete this from the terms of reference of the committee and thereby delegate authority to the statutory proper officer for licensing of premises for births, death and marriages.	Remove from the terms of reference of the Constitution & General Purposes Committee: "Approving premises for marriages and the formation of civil partnerships"
3	Article 7 (Committees, Forums and Partnerships)	Terms of Reference of the Constitution & General Purposes Committee	The former General Functions Committee agreed a comprehensive Member Development Programme for the period 2018 – 2022. To achieve charter status for the Programme it is important that Members retain oversight of delivery of the Programme. As such it is recommended that Member Development be added to the terms of reference of the Constitution & General Purposes Committee.	Add to the terms of reference of the Constitution & General Purposes Committee: "Member Development"
4	Article 7 (Committees,	Terms of Reference	As part of a wider review of Children's Services governance arrangements, officers	Delete the current terms of reference of the Children's Partnership Board and replace with the updated version

No.	Section	Reference	Issue Identified	Changes Made
	Forums and Partnerships)	of the Children's Partnership Board	have undertaken a review of the terms of reference Children's Partnership Board have been updated. These amended terms of reference were considered and agreed at the meeting of the Board held on 17 May 2018. Members are requested to approve incorporating the amended terms of reference into Article 7 as set out in the tracked changes version.	recommended by the Board
4	Article 9 – Chief Officers	Section 9.4	The Chief Finance Officer has recommended that Article 9 (Chief Officers) be amended to include within the responsibilities of the Functions of the Chief Finance Officer / Section 151 Officer to support the Local Pension Board and Pension Fund Committee	Article 9 (Chief Officers), section 9.4 add: “ Pensions Governance. The Chief Finance Officer will provide support to the Pension Fund Committee and Local Pension Board.”

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 Constitution needs to be kept under review to ensure that it complies with legislation and best practice.

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 July 2018 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 and General Purposes Committee terms of reference includes responsibility "To 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 and General Purposes 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>