



Constitution and General Purposes Committee

17 January 2019

Title	Constitution Review
Report of	Monitoring Officer Head of Governance
Wards	Not Applicable
Status	Public
Urgent	No
Key	No
Enclosures	Appendix A – Article 9 (Chief Officers) (Tracked) Appendix B – Article 9 (Chief Officers)
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Summary

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 appendix.

Officers 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 and Appendix B.

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 9 (Chief Officers)		<p>The responsibilities of the Monitoring Officer have previously been updated within Article 9. Further amendments are recommended to take account of the 'Chief Legal Advisor' role which has a focus on 'client side' management of the HB Public Law contract with support from Commercial Services.</p>	<p>Amend the functions of the Chief Legal Advisor and Monitoring Officer in section 9.3 as follows:</p> <p>(a) Maintaining the Constitution</p> <p>The Monitoring Officer, assisted by the Head of Governance will maintain an up-to-date version of the Constitution and will ensure that it is available for consultation by Members, officers and the public.</p> <p>(b) Ensuring lawfulness and fairness of decision-making</p> <p>After consulting with the Head of Paid Service, Assurance Director, and the Chief Finance Officer the Monitoring Officer will report to the Full Council if s/he considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission would give rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.</p> <p>(c) Ensuring lawfulness and fairness of council operating procedures</p> <p>After consulting with the Head of Governance and the relevant senior line manager the Monitoring Officer will report to the Head of Paid Service, Assurance Director, and the Chief Finance Officer any council process or procedure which s/he considers would give rise to unlawfulness or if any such process or procedure would give rise to maladministration.</p> <p>(d) Managing the relationship with Harrow & Barnet Public Law</p> <p>As Chief Legal Advisor within the council, responsibility to manage the strategic 'client side' relationship with Harrow & Barnet Public Law to ensure the council continues to be</p>

No.	Section	Reference	Issue Identified	Changes Made
				<p>provided with a legal service which meets its needs and to advise the Head of Paid Service and Assurance Director where any risks are identified.</p> <p>(e) Attending Full Council and Policy & Resources Committee</p> <p>As Chief Legal Advisor & Monitoring Officer attending and advising at Full Council and Policy & Resources Committee.</p> <p>(f) Supporting the Constitution and General Purposes Committee</p> <p>The Monitoring Officer, assisted by the Head of Governance will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Constitution & General Purposes Committee.</p> <p>(g) Conducting investigations.</p> <p>The Monitoring Officer will conduct or appoint Officers or others to conduct investigations into allegations of breach of the Member Code of Conduct. Then s/he or they will make reports and recommendations in respect of such allegations in accordance with the procedure for handling complaints against Members.</p> <p>(h) Providing legal advice.</p> <p>The Monitoring Officer will provide advice to Members, Chief Executive, Chief and Senior Officers as may be requested or necessary to discharge the statutory duties of the Monitoring Officer and covering inter alia the scope of powers and authority to take decisions and maladministration.</p> <p>(i) Register of Members Interests.</p> <p>The Monitoring Officer, assisted by the Head of Governance will keep and maintain the Register of Members Interests and</p>

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				ensure its availability to the public.
2.	Article 9 (Chief Officers)		<p>Article 9 (Chief Officers) in section (b) details chief officers (i.e. those officers who are part of the Council Management Team). Section (c) details chief officers who also have a statutory designation and includes the following posts: Head of Paid Service; Monitoring Officer; Chief Finance Officer / Section 151 Officer; Director of Children’s Services; Director for Adult Social Services; and Director of Public Health. However, the statutory officers list is not exhaustive and local authorities are required to make appointments to several other statutory posts as follows: Electoral Registration Officer; Registrar for Births Deaths and Marriages; Data Protection Officer; Local Authority Designated Officer (LADO); and Chief Internal Auditor</p>	<p>The title of section (c) should be amended to: Statutory Chief Officers</p> <p>Add the following section 9.1 (d):</p> <p>(d) Statutory Officers</p> <p>The Council will appoint officers to the following statutory posts:</p> <ul style="list-style-type: none"> • Electoral Registration Officer • Registrar for Births Deaths and Marriages • Data Protection Officer • Local Authority Designated Officer (LADO) • Chief Internal Auditor
3.	Article 9 (Chief Officers)		<p>Article 9 (Chief Officers) in section (b) details chief officers (i.e. those officers who are part of the Council Management Team). The Chief Executive is currently consulting on a revised senior management structure which will delete the post of Assistant Chief Executive. Subject to this Committee agreeing elsewhere on the agenda:</p> <ul style="list-style-type: none"> • the Director of Assurance will become part of the Council Management Team; • other directors will become ‘Executive Directors’ rather than ‘Commissioning Directors’. 	<p>Amend the list of Chief Officers as follows:</p> <ul style="list-style-type: none"> • Delete Assistant Chief Executive; • Change designation of ‘Strategic Directors’ to ‘Executive Directors’; and • Add Director of Assurance

Amendments by the Monitoring Officer

No.	Section	Reference	Issue Identified	Changes Made
4.	Article 7 (Terms of Reference of		HB Public Law have requested that the terms of reference of the Policy & Resources Committee be amended to clarify that they are approving fees and charges within their remit and noting the fees and charges approved by other committees. These changes will result in Article 7 linking to sections 2.3.6 to 2.3.8 of the Financial Regulations	<p>Amend item (4) of the terms of reference of the Policy & Resources Committee to include the wording highlighted in bold italics:</p> <p><i>“To determine fees and charges for services which are the responsibility of the committee and to note decisions taken by theme committees, the Planning Committee and Licensing Committee on fees and charges within the remit of those committees.”</i></p> <p>Add to the terms of reference of theme committees and Planning Committee the following wording in bold italics:</p> <p><i>“To consider for approval fees and charges for those areas under the remit of the Committee.”</i></p>
5.	Article 10 (Decision Making)		<p>The title of section 10.4 is was:</p> <p>Decision making by Theme Committee Chairmen jointly with Chief Officers</p> <p>This was incorrect as the narrative states the decision making is by chief officers in consultation with theme committee chairman. The title of section 10.4 has been amended to correct this.</p>	<p>Amend the title of section 10.4 to:</p> <p><i>“Decision making by Chief Officers jointly with Theme Committee Chairmen.”</i></p>
6.	Article 2 (Members of the Council (Councillors))		<p>Section 2.3 (f) relates to Members Items. The wording as currently drafted states that Members Items are not permitted for the licensing, planning and urgency committees. The text should in fact read licensing sub-committees as this is the body which is quasi-judicial in nature. It should not include the licensing committee which deals with policy matters and should be able to receive Members</p>	<p>Amend the wording at section 2.3 (f) as follows:</p> <p><i>“This rule does not apply to planning, licensing and urgency committees planning committee, area planning committees, urgency committee and licensing sub-committees. The referral of a motion from Full Council to a committee will not count as a Member’s Item for the purposes of this rule.</i></p>

No.	Section	Reference	Issue Identified	Changes Made
			Items in the same way as other committees.	

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Constitution and General Purposes 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 30 January 2019 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 Social Value

- 5.3.1 None in the context of this decision

5.4 Legal and Constitutional References

- 5.4.1 Council's Constitution, Article 7 - 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".

5.5 Risk Management

- 5.5.1 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.

5.6 **Equalities and Diversity**

5.6.1 The decision making processes of the Council, as enshrined within the Constitution, need to be transparent and accessible to all sectors of the community

5.7 **Corporate Parenting**

5.7.1 None in the context of this decision

5.8 **Consultation and Engagement**

5.8.1 None in context of this decision

5.8 **Insight**

5.8.1 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>