



Constitution and General Purposes Committee

7 October 2019

Title	Constitution Review
Report of	Monitoring Officer Head of Governance
Wards	Not Applicable
Status	Public
Urgent	No
Key	No
Enclosures	Appendix A – Article 2 (Members of the Council) Appendix B – Article 3 (Residents and Public Participation) Appendix C – Article 7 (Committees, Forums, Working Groups and Partnerships) Appendix D – Full Council Procedure Rules
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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 Recommendation

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 Appendices A to D.

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 Proposed
1.	<p>Article 2 (Members of the Council); and</p> <p>Article 7 (Committees, Forums, Working Groups and Partnerships)</p>	<p>Section 2.3 (g); and</p> <p>Terms of Reference of Area Planning Committees Committee</p>	<p>Article 2 currently allows Members to call-in a planning application recommended for approval or refusal which affects their ward for determination by a planning committee. There is a risk that Members who have called-in a planning application may be perceived to have pre-determined position in relation to that application. It is therefore recommended that Members who have called-in a planning application do not sit on the committee which determines that application. Substitute Members can be utilised as required. The Member calling-in the application would be able to address the committee in accordance with the existing provisions in Section 2.3 (h) (Member Requests to Speak at Planning Committees).</p>	<p>Amend Article 2 and Article 7 to include the following wording:</p> <p><i>“Members who have called-in a planning application should not sit on the committee which determines that application.”</i></p>
2.	<p>Full Council Procedure Rules</p>	<p>Section 1 (a)</p>	<p>Article 4, section 4.1 details that a function of Full Council is:</p> <p>Electing the Leader of the Council, the Mayor and Deputy Mayor</p> <p>Full Council Procedure Rules state that one of the matters to be determined at the Annual Council meeting is:</p> <p>Electing a Mayor and noting the appointment of the Deputy Mayor;</p> <p>The two sections are inconsistent. Appointment of the Deputy Mayor is a</p>	<p>Amend section 1 (a) of the Full Council Procedure Rules to:</p> <p><i>(iii) Electing a Mayor and Deputy Mayor</i></p>

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			<p>function of the Full Council and the Full Council Procedure Rules need to be amended accordingly.</p>	
3.	Article 3 (Residents and Public Participation)		<p>At the Committee meeting held on 9 April 2019 a resident submitted the following written public comment and addressed the Committee. A minute extract from the meeting is below:</p> <p>Mr Levy addressed the Committee, in relation to his public comment submitted below</p> <p>Constitution Review (Appendix B)</p> <p>“I have found that where the Chairman of a Residents Forum instructs an officer to provide information within 20 days (item 3.5), it is currently often unsatisfactory because;</p> <p>i) if information is not provided within 20 days, it can then be very protracted to obtain the information because then officers have no further deadline to fulfil; and if this provision is used to obtain a response or part response to a tabled question that was not provided in time for the printed response/meeting, then;</p> <p>ii) other interested residents will not see the response and will have to inquire separately to obtain the information;</p>	<p>Amend section 3.4 to add the following wording in bold italics:</p> <p>“...in the six months preceding the date of the forum. <i>An exception is that where the Chairman has agreed that an issue raised at a previous Forum meeting should be reported back with a detailed response in which case the resident who raised the original issue (or their nominated deputy) will be invited to address the Forum for up to 3 minutes.</i>”</p> <p>1. Having considered the issues the Chairman can take the following actions:</p> <ul style="list-style-type: none"> • note the issue and take no action • instruct that an appropriate named officer contact the resident within 20 working days to provide an additional response <i>and that this response be published in the meeting documents available on the website.</i> • instruct that Ward Members are notified of the issue. • decide that the issue be referred to the next meeting of an Area Committee for consideration, subject to the issue being within the terms of reference of an Area Committee

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			<p>iii) the resident loses the opportunity to address the Forum with the light of the deferred response until six months have elapsed, which may mean waiting for another 9-12 months.</p> <p>I am therefore seeking that the following text be considered for insertion into the Constitution, Appendix B, 3.5:</p> <ol style="list-style-type: none"> 1. After "within 20 days to provide an additional response", add "; if this occurs or if an officer has undertaken to follow up with such full response, this response shall also be printed in the final draft and published minutes of that Forum, captioned as a NOTE, within the minuting of that agenda item" 2. At end of paragraph beginning "The Six Month rule", add "An exception is that where additional time following a Residents Forum is required to provide a full response to an issue tabled at a particular Forum, the same resident will promptly be advised that (s)he may speak for 3 minutes in response to that response at any subsequent Residents Forum for the same area within the six month period following the said Forum, or appoint another Barnet resident to do so, other than a Councillor, MP or Assembly Member. At least three 	

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			<p>working days' notice must be given of such intention to speak; the original issue and proceedings to date shall be appear in full in the agenda and noted as a deferred item; and the Chairman will determine the issue in the same manner as other issues at the Forum, see below, save that (s)he shall seek to avoid duplication within the six-month period."</p> <p>Following Mr Levy's representation, the Committee agreed that the proposal is referred to officers for consideration and that a report with proposed amendments is brought back to the next meeting of the Committee (Action: Head of Governance)</p> <p>Wording to give effect the amendments requested by the resident have been drafted and included in Article 3 for the Committee to review.</p>	

4.	Article 3 (Residents and Public Participation)	Section 3.5	Under the current petition procedures detailed in Article 3, residents who present a petition to an Area Committee have up to five minutes to address the committee. This is inconsistent with other provisions for resident engagement namely: questions to committees (section 3.2); issues for residents' forums (section 3.4); and speaking at planning committees (section 3.6). Officers recommend that the time allowed for the lead petitioner to present a petition at an Area Committee is made consistent with the other provisions for resident engagement and be changed from five minutes to three minutes.	<p>Amend section 3.5 as follows:</p> <table border="1" data-bbox="1361 263 2177 1356"> <tr> <td data-bbox="1361 263 1563 1356">2,000 – 6,999 Signatures</td> <td data-bbox="1563 263 2177 1356"> <p>Where the petition relates to the functions and responsibilities of an Area Committee it will be reported to 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 three minutes to present the petition to the committee.</p> <p>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"> • Take no action • Refer the matter to a chief officer to provide a written respond to Lead Petitioner within 20 working days; or • 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 </td> </tr> </table>	2,000 – 6,999 Signatures	<p>Where the petition relates to the functions and responsibilities of an Area Committee it will be reported to 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 three minutes to present the petition to the committee.</p> <p>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"> • Take no action • Refer the matter to a chief officer to provide a written respond to Lead Petitioner within 20 working days; or • 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
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5.	Article 2 (Members of the Council)	Section 2.3 (f) (Members Items for the Agenda)	In relation to Members Items which relate to requests for CIL funding from the Area Committee Budget any Member from within	<p>Amend 2.3 (f) as follows:</p> <p>Any Member, within the Area Committee constituency,</p>		

			<p>the Area Committee constituency can submit a funding request. A Member has raised concerns with this and asked whether the Constitution can be amended to only allow Councillors to apply for scheme with relate to their own wards. The Committee are requested to consider this proposal and the associated amendment to give effect to it.</p>	<p>A Member will be permitted to have one matter only (with no sub-items) on the agenda for an Area Committee where the Member is submitting a request for CIL funding to an Area Committee Budget relating to their Ward.</p>
6.	Article 2 (Members of the Council)	Section 2.3 (e) (Member' Rights to Refer Matters to Parent Body)	<p>Provisions exist to allow the Chairman or the Members of an Area Planning Committee to refer matters to the Planning Committee. Governance Officers have reported variations in practice across the three Area Planning Committees in this regard. In some cases, referrals are made before the voting process on the officers' recommendation commences and in others after. The Monitoring Officer has consulted with the Leader and Chairman of the Planning Committee on the voting procedure and both have agreed the voting procedure below:</p> <ol style="list-style-type: none"> 1. Chairman asks Members to vote on the recommendation of the Planning Officer within the Report to Committee. No further discussion on the agenda item should now take place after the Chairman commences the voting process. 2. If the vote is in favour of the recommendation of the Planning Officer then the application is either approved or refused in accordance with the 	<p>Amend 2.3 (e) to as follows:</p> <p>The Chairman or three Members of an Area Planning Committee may refer an item to the Planning Committee for determination by indicating before the vote is taken that they wish to refer the item and providing reasons for the referral. If there is a proposal to refer any matter to the Planning Committee the referral must take place before voting on the officers' recommendations commences.</p>

			<p>recommendation.</p> <p>3. If Members vote not to agree the recommendation of the Planning Officer then a Member should move the opposing resolution to approve/refuse the application, and this needs to be seconded.</p> <p>The Member moving this resolution must provide reasons in the form of clear and relevant planning consideration(s). The Committee then vote on the motion.</p> <p>4. In any situation where the mover of the motion opposing the recommendation of the Planning Officer is not able to provide a proper reason for the motion in the form of a relevant planning consideration or the Chairman is of the view that the reason given is not appropriate (with advice from the Lawyer present if required) or the Committee appear to be undecided with regard to voting on the motion then the Chairman should move that the matter be deferred to the next meeting for clarification.</p> <p>The voting procedure above will be disseminated to all Members and Substitute Members on the four planning committees. The Constitution amendment proposed supplement the guidance and provide clarity on voting procedures in relation to referrals.</p>	
7.	Article 3 (Residents and Public	New section 3.7 and renumber subsequent	A Member has raised concerns that recent changes to Article 3 might have an adverse impact on residents, community groups and	Requests to speak on Assets of Community Value listings

	Participation)	sections	<p>asset owners when the Council decides requests to list Assets of Community Value (ACV) at the Community Leadership & Libraries Committee (or Sub-Committee). It has been proposed that rules which are similar to those for planning committees are put in place for determinations of ACV. The associated Constitution amendments have been drafted for consideration.</p>	<p>Requests to speak about an application to list an Asset of Community Value should be submitted to the relevant Governance Officer by 10am on the third working day prior to the meeting.</p> <p>In addition to any Councillor and the Asset Owner (or their representative) two residents may speak. Such speakers shall be one for and one against the listing application unless there is no resident wishing to speak against the listing application in which case two residents may speak in favour of the listing, or no resident in favour in which case two residents may speak against the listing application.</p> <p>At the meeting, each speaker will have a time period of up to 3 minutes to address the committee or sub-committee. Committee or sub-committee members will then have the opportunity to question the speaker.</p>
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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 October 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>