



## Constitution and General Purposes Committee

12 January 2023

|                                |   |
|--------------------------------|---|
| <b>Title</b>                   | <b>Governance Review – Project Update</b>   |
| <b>Report of</b>               | Executive Director of Assurance   |
| <b>Wards</b>                   | All   |
| <b>Status</b>                  | Public  |
| <b>Urgent</b>                  | No  |
| <b>Key</b>                     | No  |
| <b>Enclosures</b>              | None  |
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### Summary

A motion was passed at the July Council meeting which requested officers to review the Council's governance arrangements to:

- Move to an Executive system
- Introduce an overview and scrutiny function; and
- Strengthen opportunities for public participation.

This report provides the Committee with an update on the project and progress made to adopt the new system in May 2023.

### Officers Recommendation

**That the Committee note and comment on the progress of the Governance Review project as set out in the report.**

## 1. Why this report is needed

- 1.1 In May 2014, the Council changed its governance arrangements in accordance with the provisions of the [Localism Act 2011](#) (which amended the Local Government Act 2022) which permitted local authorities to move away from an Executive system and back to a Committee System. For eight years the council has operated under a 'Committee System of Governance.'
- 1.2 On 26 July 2022, Council passed a motion instructing officers to undertake a review of the council's governance arrangements to:
- Move to a Cabinet System
  - Introduce an Overview & Scrutiny function; and
  - Strengthen opportunities for public participation.
- 1.3 The motion resolved that a Member Working Group should be set up to facilitate the development of the proposals. It was noted in the motion that delivering the new Administration's significant transformation and change programme would require more regular, timely and efficient decision-making which may not be well-served by an old-style traditional committee system where there can be long periods between committee cycles.
- 1.4 Following this motion, officers attended a meeting with Labour Members on 30 August 2022 setting out the available governance models and key features, some design principles, and the change process to move to a new governance arrangement. The session was co-delivered by the Head of Governance and Chief Executive of the Centre for Governance and Scrutiny (CfGS) to enable Members to gain relevant information on any formal changes to governance arrangements. The Opposition Group received a similar briefing on 12 December 2022.
- 1.5 After the resolution at Council in July, officers started work on the review of current formal governance arrangements and the steps required to make a legal change to a different governance system, comprising of an all-out change from one governance option to another under the Localism Act 2011. A decision will be made at the Annual Council meeting in May 2023 with the new system operational thereafter.
- 1.6 An overview of the project structure and workstreams was reported to the Committee on 6 October 2022. A further update on the workstreams is set out below.

### Decision-Making

- 1.7 This workstream covers: the legal amendments to the Constitution to reflect new governance model; detailed arrangements for governance and decision-making (including Cabinet Forward Plan and Advanced Notice of Executive decisions); review and update Chief Officers Schemes of Delegation (following the adoption of the new Constitution); reviewing Area Committee arrangements; proposed new overview and scrutiny arrangements; and reviewing the Members Allowances Scheme. This workstream is being led by the Monitoring Officer and has input from a Cross-Party Sub-Working Group.
- 1.8 The Committee agreed at the 6 October 2022 meeting that the detailed Constitution amendments can be reported from the Cross-Party Sub-Working Group to Full

Council for approval (rather than via this Committee and then to Council as is the usual process). Constitution amendments will therefore be reported to Council meetings on 24 January 2023, 8 March 2023 and to an Extraordinary Council meeting on 2 May 2023 (if required).

- 1.9 It should be noted that the new constitution will be based on a model constitution rather than amending Barnet's current (Committee System) constitution. This will ensure that we adopt a legally compliant constitution which is based on an Executive model.
- 1.10 The following Constitution sections are proposed to be reported to Council on 24 January 2023:
- Article 1 – The Constitution
  - Article 2 – Members and The Council
  - Article 3 – The Full Council
  - Article 4 – The Mayor
  - Article 5 – Decision Making
  - Article 6 – The Executive
  - Access to Information Procedure Rules
  - Members Licensing Code
- 1.11 Work has been progressing on the following sections:
- Article 7 – Officers
  - Terms of Reference of Council
  - Terms of Reference of Committees
  - Terms of Reference of Portfolio Holders
  - Terms of Reference of Cabinet
  - Council Procedure Rules
  - Committee Procedure Rules
  - Contract Procedure Rules
  - Financial Regulations
- 1.12 Work will shortly start on the following sections:
- Health & Wellbeing Board Procedure Rules
  - Budget and Policy Procedure Rules
  - HR Regulations
  - Members Code of Conduct
  - Members Planning Code
  - Protocol for Member Officer Relations
  - Code of Corporate Governance
  - Members Allowances Scheme
- 1.13 The Committee are requested to note that in relation to some of the codes and protocols listed above, there are not proposed to be substantial changes to the existing constitution sections.
- 1.14 Officers are also working on a list of documents which are required to support the new system including:

- Cabinet Forward Plan (Key Decision Schedule)
- Exempt Item Notice
- Late Item Notice
- Cabinet Report Templates
- Chief Officers Schemes of Delegation
- Calendar of Meetings
- Church and Parent Governor Recruitment (for scrutiny committee dealing with education matters)

### **Governance Staffing**

- 1.15 A restructure of the Governance Service will be required to support the functions and structure of an Executive system. This workstream will include developing and finalising the new service structure to provide effective support for council, executive, overview and scrutiny, committees, and boards. Initial staff proposals have been drafted and a consultation document has been prepared. Engagement with staff and trade unions will take place as required during the consultation period. The new structure will need to be in place to support the new arrangements ahead of May 2023. This workstream is being led by the Head of Governance.

### **Engagement**

- 1.16 The Motion agreed by Council in July 2022 requested that opportunities to strengthen public participation be examined as part of the review. This workstream includes:
- Reviewing public participation options and undertaking a formal public consultation on the options to report to the Constitution Review Working Group;
  - Identifying best practice for public participation and engagement in overview and scrutiny;
  - Identifying and managing synergies with the Community Participation Strategy Review; and
  - Training for Members and officers
- 1.17 The public consultation will run from 14 December 2022 to 25 January 2023: [Public Participation at Council Committee Meetings Consultation | Engage Barnet](#) The findings from the consultation will be used to inform recommendations on public participation options prior to changes being recommended to Full Council on 8 March 2023.
- 1.18 This workstream will deliver a Communications and Engagement Plan to communicate key messages to Members, officers, and the public. This will include promoting the public consultation and sending key messages out via the Council's communications channels at key points in the project. Internet and intranet pages have been created and these will be regularly updated.
- 1.19 In addition, training modules are being developed for Members and officers to ensure that they are familiar with key elements of the new governance system in advance of it becoming operational.
- 1.20 This workstream is being led by Senior Governance Officers and the Deputy Head of Communications

## Culture

- 1.21 The review has also been looking at elements of organisational culture to identify lessons learnt from governance issues at other local authorities and how the council can embed the new governance system. This workstream has the following elements: preparing staff for the change (Council Management Team (CMT), the corporate Senior Management Team (SMT), the Governance Service and other officers), including roles and responsibilities and Member/Officer relations (e.g. with Executive and Non-Executive Members); developing a series of actions following CMT and SMT workshops to review the Centre for Governance & Scrutiny Risk and Resilience Framework and lessons learnt from recent Public Interest / Best Value Reviews. This workstream will be led by the Head of Governance.

## Member Oversight

- 1.22 Progress against all workstreams will be regularly reported to the Governance Review Cross-Party Working Group and this committee. The Constitution Review sub-Working Group will meet as required to review detailed amendments to the Constitution documents

## Key Milestones

- 1.23 The table below outlines key future milestones and timeline for updating to the committee on progress and key decision points:

|   |                            |   |
|---|----------------------------|---|
| Full Council                                    | 26 Jul 2022                | Motion by Leader of the Council instructing officers to undertake a review of governance arrangements                                       |
| Labour Group workshop – governance arrangements | 30 Aug 2022                | Present available governance models and key features, some design principles and the change process to move to a new governance arrangement |
| Constitution & General Purposes Committee       | 6 Oct 2022                 | Progress update   |
| Public Consultation                             | 14 Dec 2022 to 25 Jan 2023 | Public consultation on opportunities for public participation via the constitution  |
| Constitution & General Purposes Committee       | 12 Jan 2023                | Progress update   |
| Council Meeting                                 | 24 Jan 2023                | Report Constitution amends for agreement  |
| Council Meeting                                 | 8 March 2023               | Report Constitution amends for agreement  |
| Constitution & General Purposes Committee       | Date TBC March/April 2023  | Progress update   |
| Extraordinary Council Meeting                   | 2 May 2023                 | Report final Constitution amends for agreement  |
| New Governance Team structure                   | April 2023                 | New Governance Team structure go live   |

|                                   |                  |  |
|-----------------------------------|------------------|--|
| Publication of new provisions     | TBC May 2023     | Publish resolution of the new provisions ( <a href="#">s.9KC LGA 2000</a> )                |
| Constitution Review working group | TBC Apr/May 2023 | Monthly member working group to review different elements of the Constitution for revision |
| Annual Council                    | 23 May 2023      | New constitution takes effect and formal change to Executive governance system             |

## 2. Reasons for recommendations

2.1 See section 1.2 above.

## 3. Alternative options considered and not recommended

3.1 The Council could choose to retain their current governance arrangements (i.e. a Committee System), but this is not recommended as it is contrary to the Motion passed at Council on 26 July 2022.

## 4. Post decision implementation

4.1 Timeline have been developed for each of the workstreams and are in the process of being implemented.

4.2 The implementation timetable is as set out in the table above.

## 5. Implications of decision

### 5.1 Corporate Priorities and Performance

5.1.1 The current corporate plan (Barnet Plan 2021-2025) was adopted in March 2021. Following the May 2022 elections, the council now has a new administration and a new corporate plan, consistent with the new administration's priorities will be brought forward shortly.

### 5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 The Administration have indicated that the new governance system should be cost neutral in respect of Members Allowances and Governance Service staffing. However, there will be costs associated with delivering the change and these are currently being collated but will include: officer time; facilitated workshops with Council Management Team and the Corporate Senior Management Team; additional staff capacity in the Governance Service to support the team during period of change; and legal costs associated with reviewing the Constitution. A detailed breakdown of project costs is as follows:

- Facilitated CMT workshop (CfGS – Governance Risk and Resilience Framework) – £1,500
- Consultancy support for SMT Workshops X6 – £8,700

- Estimated cost of support from HBPL Lawyers and Trainee Solicitor – £20,054

5.2.2 Cost will be met from existing Assurance budgets or the Transformation Reserve.

### 5.3 Legal and Constitutional References

5.3.1 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" and "To have responsibility for overseeing the Council's governance arrangements."

5.3.2 The law allowing the move to an executive system is the Local Government Act 2000 section 9K under this sections A local authority may cease to operate its existing form of governance, and start to operate a different form of governance.

5.3.3 A resolution of a local authority is required in order for the authority to make a change in governance arrangements.

As soon as practicable after passing such a resolution a local authority must—

(a) secure that copies of a document setting out the provisions of the arrangements that are to have effect following the resolution are available at its principal office for inspection by members of the public, and

(b) publish in one or more newspapers circulating in its area a notice which—

(i) states that the authority has resolved to make a change in its governance arrangements,

(ii) states the date on which the change is to have effect,

(iii) describes the main features of the change,

(iv) states that copies of a document setting out the provisions of the arrangements that are to have effect following the resolution are available at the authority's principal office for inspection by members of the public, and

specifies the address of the authority's principal office.

The change has to be implemented at annual Council

### 5.4 Insight

5.4.1 N/A

### 5.5 Social Value

5.5.1 N/A

### 5.6 Risk Management

5.6.1 Risks are being managed via the Governance Review project. Any escalated risks will be reported to Members via this committee as required.:

## 5.7 Equalities and Diversity

- 5.7.1 Decision makers should have due regard to the public sector equality duty in making their decisions. The equalities duties are continuing duties they are not duties to secure a particular outcome. The equalities impact will be revisited on each of the proposals as they are developed. Consideration of the duties should precede the decision. It is important that Members have regard to the statutory grounds in the light of all available material such as consultation responses. The statutory grounds of the public sector equality duty are found at section 149 of the Equality Act 2010 and are as follows:
- 5.7.2 A public authority must, in the exercise of its functions, have due regard to the need to:
- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - a) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - b) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 5.7.3 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
  - c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 5.7.4 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 5.7.5 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- a) Tackle prejudice, and
  - b) Promote understanding.
- 5.7.6 Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act. The relevant protected characteristics are:
- a) Age
  - b) Disability
  - c) Gender reassignment
  - d) Pregnancy and maternity



- e) Race
- f) Religion or belief
- g) Sex
- h) Sexual orientation
- i) Marriage and civil partnership

5.7.7 Officers do not consider that the proposals will have any detrimental equality implications. The workstream on public engagement will consider how those with protected characteristics can contribute to council meetings. An Equalities Impact Assessment will be reported to Full Council alongside the consultation findings.

## 5.8 Corporate Parenting

5.8.1 N/A

## 5.9 Consultation and Engagement

5.9.1 There is no legal requirement to consult on the decision to change from Committee System to Executive. There is a requirement to notify the public and this will be done as set out above. It is expected that public engagement will take place on public participation options (via the Constitution) and that the outcome will be reported to the Governance Review Cross-Party Working Group.

## 5.10 Environmental Impact

5.10.1 There are no direct environmental implications arising from the recommendations.

## 6. Background papers

6.1 Council, 26 July 2022, Item 14.5, Administration Motion in the name of Councillor Barry Rawlings – Barnet’s Governance Arrangements: [Agenda for Council on Tuesday 26th July, 2022, 7.00 pm | Barnet Council \(moderngov.co.uk\)](#)

6.2 Constitution & General Purposes Committee, 6 October 2022, Item 12 – Governance Review Project Update: [Agenda for Constitution and General Purposes Committee on Thursday 6th October, 2022, 7.00 pm \(moderngov.co.uk\)](#)