

	<h2>Council</h2>
Title	Constitution Review
Date of meeting	27 February 2024
Report of	Monitoring Officer
Wards	All
Status	Public
Urgent	No
Appendices	<p>Appendix A – Article 2 – Members and the Council</p> <p>Appendix B – Part 2B – Terms of Reference & Delegation of Duties to Committees and Sub-Committees</p> <p>Appendix C – Part 3B and 3B1 – Executive Procedure Rules</p> <p>Appendix D – Part 4A – Financial Regulations</p>
Officer Contact Details	<p>Andrew Charlwood, Head of Governance, 020 8359 2014, andrew.charlwood@barnet.gov.uk</p>
Summary	
<p>Following engagement with the Constitution Review Working Group, several amendments to the Constitution are proposed as set out in the report and appendices.</p>	
Recommendations	
<ol style="list-style-type: none"> 1. The Council approve the Constitution amendments as set out in Appendices A to D. 2. That Council agreed that the merger of Planning Committees A and B be implemented effective from Annual Council (21 May 2024) 3. That Council authorise the Head of Governance to implement these revisions and publish a revised Constitution. 	

1. Reasons for the Recommendations

- 1.1 The Terms of Reference of Council state that “Only the Full Council can exercise the following functions: 1.1 adopting and changing the Constitution.”
- 1.2 Members of the Constitution Review Working Group were consulted on the prospective changes in the table below via email and have agreed to the proposed amendments via correspondence.

No.	Section	Reference(s)	Issue Identified	Changes Proposed
1.	Article 2 (Members and the Council)	Section 2.11	<p><u>Current Arrangements</u></p> <p>Under the Constitution agreed in May 2023, the following Members are required to have a DBS check:</p> <ul style="list-style-type: none"> • The Mayor and Deputy Mayor • Any Cabinet Member with responsibility for Children’s matters including schools. • Any Cabinet Member with responsibility for Adults and Public Health matters • Any Scrutiny Chairs for Adults or Children • Any members on the following: Corporate Parenting Advisory Panel, Barnet Children’s Partnership Board <p><u>Proposed Arrangements</u></p> <p>For many years there has been a grey area about which councillors should have an enhanced DBS check. Barnet codifies the approach in the Constitution, but other authorities have varying approaches, with some only checking certain cohorts of Members, and others not undertaking any checks at all.</p> <p>The (Independent Review of the Disclosure and Barring Regime (accessible) - GOV.UK (www.gov.uk)) recommends that:</p> <p>"That an enhanced criminal record check is conducted for all councillors who are being considered for appointment to any committee involved in decisions on</p>	<p>Amend Article 2 (Members and the Council) as follows:</p> <p>Delete:</p> <p>“2.11.1 The following posts require a Disclosure and Barring Service Check:</p> <ul style="list-style-type: none"> • Mayor and Deputy Mayor • All Cabinet Members including the Leader and Deputy Leader • All Members and Substitute Members of: <ul style="list-style-type: none"> ▪ Children & Education Overview & Scrutiny Sub-Committee ▪ Adults & Health Overview & Scrutiny Sub-Committee ▪ Corporate Parenting Advisory Panel ▪ Barnet Children’s Partnership Board” <p>And replace with:</p> <p>“2.11.1 An enhanced DBS check is required for members who are being considered for appointment to any committee involving decisions on the provisions of children’s services or services for vulnerable adults. The following posts require an enhanced Disclosure and Barring Service Check:</p> <ul style="list-style-type: none"> • The Mayor and Deputy Mayor • All Cabinet Members including the Leader and Deputy Leader

			<p>the provisions of children's services or services for vulnerable adults."</p> <p>This recommendation is welcomed as this gives clarity and consistency to this issue.</p>	<ul style="list-style-type: none"> • All Members and Substitute Members of: <ul style="list-style-type: none"> ▪ Children & Education Overview & Scrutiny Sub-Committee ▪ Adults & Health Overview & Scrutiny Sub-Committee ▪ Corporate Parenting Advisory Panel ▪ Barnet Children's Partnership Board
2.	Part 2 and 2B – Terms of Reference of Committees	Section 6 (Terms of Reference of Licensing & General Purposes Committee)	<p>Under the Constitution in force up to Annual Council on 23 May 2023, the former General Functions Committee had within its terms of reference: "Health and Safety Strategy and Performance." Reporting of health and safety now doesn't appear in the terms of reference of any other committee. It is therefore proposed that health and safety strategy and performance be added to the terms of reference of the Licensing & General Purposes Committee to ensure that there is appropriate Member oversight of these matters.</p>	<p>Add the following to the terms of reference of the Licensing & General Purposes Committee:</p> <p>"6.1.6 Health and Safety Strategy and Performance"</p>
3.	Part 2 and 2B – Terms of Reference of Committees	Section 8 (Terms of Reference of Employment Sub-Committee) Section 8.1.19	<p>Following a review of the wording in the terms of reference of the Employment Sub-Committee (Part 2 and 2B – Terms of Reference of Committees), officers are proposing that the wording be amended slightly to ensure that not all HR policies have to be reported to the Employment Sub-Committee, and only ones that will have a significant impact on the council's workforce or its external reputation, or where the policy will result in significant additional cost.</p> <p>The current wording is: "The Employment Sub-Committee has the following powers and duties: HR policies which go over the statutory requirement" and</p>	<p>Amend the terms of reference of the Employment Sub-Committee as follows:</p> <p>Delete "The Employment Sub-Committee has the following powers and duties: 8.1.19 HR policies which go over the statutory requirement."</p> <p>And replace with "The Employment Sub-Committee has the following powers and duties:</p>

			<p>the proposed revised wording is: “HR Policies, where a new or changed policy will have a significant impact on the council’s workforce or its external reputation, or where the policy will result in significant additional cost, for example, disciplinary, grievance or flexible working.”</p> <p>The Assistant Director of Human Resources and Organisational Development has highlighted that many of the Council’s HR polices go over statutory requirements and so retaining the wording as drafted will mean that the Sub-Committee must meet frequently to consider minor HR polices. The change is proposed to ensure that only significant HR polices are reported to the Sub-Committee for approval.</p>	8.1.19 HR policies where a new or changed policy will have a significant impact on the council’s workforce or its external reputation, or where the policy will result in significant additional cost to the council.”
4.	Part 2 and 2B – Terms of Reference of Committees	Section 8 (Employment Sub-Committee)	The Leader and Cabinet Member for Equalities, Voluntary & Community Sector have requested that the membership of the Employment Sub-Committee be increased from 3 to 6 members to enable the membership of the Sub-Committee to become more diverse.	Amend section 8.3 to increase the membership of the Sub-Committee from 3 to 6.
5.	Part 2 and 2B – Terms of Reference of Committees	Section 12 (Adults & Health Overview & Scrutiny Sub-Committee)	<p>The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) (Amendment and Saving Provision) Regulations 2024 came into force on 31 January 2024 which require local authorities to amend the terms of reference of the committee which discharges health scrutiny functions.</p> <p>Health Scrutiny committees no longer have the power to refer contested major service configurations to the</p>	Amend section 12.1.3 to delete “Referring contested major service reconfigurations to the Secretary of State in accordance with the Health and Social Care Act 2001” and replace with “To request call-in by the Secretary of State on major reconfigurations (in exceptional circumstances) in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) (Amendment and Saving Provision) Regulations 2024.”

			Secretary of State, but instead can request that the Secretary of State call-ins a major service configuration.	Amend section 12.3.1 to delete the following wording “...other than the power under Regulation 23(9) to make referrals to the Secretary of State.”
6.	Part 2 and 2B – Terms of Reference of Committees	Section 17	<p>As part of efficiency savings, Members have agreed to merge the current Planning Committees A and B to become a single Planning Committee effective from Annual Council (23 May 2024).</p> <p>The merged Committee will have the same number of committee Members (6), but there will be a change in the number of substitute Members for each group (4 Labour; and 2 Conservative) to ensure there are enough substitutes if a committee Member cannot attend a scheduled meeting.</p> <p>The merged committee is reflected in the 2024/25 calendar of meetings which was agreed at Council on 30th January 2024.</p>	<p>Amend the title “Planning Committees A and B” to “Planning Committee.”</p> <p>Amend the membership section (17.2.1) as follows: “6 Members. Council will appoint 4 substitute Members from the Labour Group and 2 substitute Members from the Conservative Group.</p> <p>Amend section 17.1.4.1 to increase the objection threshold from 5 to 10 with the revised wording as follows:</p> <p>“17.1.4.1 approval and there is significant local public objection (defined as 10 or more objectors who have objected in writing in response to a planning application)”</p>
7.	Part 3B and 3B1 – Executive Procedure Rules	13.6 (Questions by Members) and 13.7 (Responses)	The Leader has requested a change to the Executive Procedure Rules to allow the Leader or Cabinet Members to defer to officers to provide technical responses to Questions by Members at Cabinet.	<p>Amend section 13.7 as follows (additions in bold):</p> <p>“13.7.1 In response to a Non-executive Member speaking at Cabinet, an answer may be given by the Leader or relevant Cabinet Member. Officers may assist the Leader or a Cabinet Member with technical answers to questions.”</p>
8.	Part 4A – Financial Regulations	Section 2.15.2	<p>Under the Constitution adopted in May 2023, Treasury Management is now reported to the following bodies:</p> <ol style="list-style-type: none"> 1. Budget Council; 	Amend section 2.15.2 to delete Overview and Scrutiny Committee and replace with Governance, Audit, Risk Management and Standards Committee with the updated section as follows:

		<p>2. Cabinet;</p> <p>3. Governance, Audit, Risk Management and Standards Committee; and</p> <p>4. Overview and Scrutiny Committee</p> <p>Part 2B (Terms of Reference & Delegation of Duties to Committees and Sub-Committees), Terms of Reference of Governance, Audit Risk Management and Standards Committee:</p> <p>2.4.15 To review the Treasury Management strategy and monitor progress on treasury management in accordance with CIPFA codes of practice.</p> <p>Part 4A (Financial Regulations)</p> <p>Section 2.15 (Treasury Management Framework):</p> <p>2.15.1 Cabinet will create and maintain a Treasury Management Strategy Statement, stating the policies and objectives of its treasury management activities and based upon the relevant CIPFA Codes. The Treasury Management Strategy Statement will be reported to the Budget Council meeting for approval.</p> <p>2.15.2 Cabinet will receive reports on its treasury management policies, practices and activities. This will also be considered by the Overview and Scrutiny Committee and Sub Committees. These reports will incorporate the prudential borrowing limits and performance indicators. Council will receive an annual strategy and plan in advance of the year, and an annual report after its close in the form prescribed in the Treasury Management Practices</p>	<p>“2.15.2 Cabinet will receive reports on its treasury management policies, practices and activities. This will also be considered by the Governance, Audit, Risk Management and Standards Committee. These reports will incorporate the prudential borrowing limits and performance indicators. Council will receive an annual strategy and plan in advance of the year, and an annual report after its close in the form prescribed in the Treasury Management Practices.”</p>
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			<p>It is proposed to rationalise the reporting of Treasury Management information by removing the requirement in the Financial Regulations for treasury management policies, practices, and activities to be reported to the Overview & Scrutiny Committee. It is recommended that section 2.15.2 be amended to remove reference to the Overview & Scrutiny Committee and replace it with the Governance, Audit, Risk Management and Standards Committee to reduce the number of forums that Treasury Management information needs to be reported to without reducing oversight.</p>	
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2. Alternative Options Considered and Not Recommended	
2.1	Council 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.
3. Post Decision Implementation	
3.1	The Head of Governance will make arrangements for any changes agreed to be actioned, together with minor drafting and housekeeping changes. The revised Constitution will be published online.
3.2	The Constitution Review Working Group will continue to proactively keep the Constitution under review and may make further recommendations to Council.
4. Corporate Priorities, Performance and Other Considerations	
	Corporate Plan
4.1	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
	Sustainability
4.2	N/A
	Corporate Parenting
4.3	N/A
	Risk Management
4.4	N/A
	Insight
4.5	N/A
	Social Value
4.6	N/A
5. Resource Implications (Finance and Value for Money, Procurement, Staffing, IT and Property)	
5.1	There are no resource implications as a result of these proposals.
6. Legal Implications and Constitution References	
6.1	The Terms of Reference of Council state that “Only the Full Council can exercise the following functions: 1.1 adopting and changing the Constitution.”

7. Consultation

7.1 As set out in section 1.2.

8. Equalities and Diversity

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

9. Background Papers

9.1 Council Constitution: [Agenda for Constitution on Tuesday 17th October, 2023 \(moderngov.co.uk\)](#)