



## Full Council Report 4 June 2014

### Report from Director of Legal and Procurement

To Action

Wards Affected:  
ALL

## Changes to the Constitution

### 1.0 Summary

This report sets out proposed changes to the Constitution. These include amendments to the executive arrangements, Full Council, Scrutiny Committee and the Terms of Reference of the some of the Council's committees. There will also be some changes of a more technical nature, for example in relation to contracts Standing Orders.

### 2.0 Recommendations

That Members;

- i) agree the changes to the Constitution shown in Appendix 1.
- ii) delegate authority to the Director of Legal and Procurement to make such miscellaneous and incidental changes to the Constitution as are necessary relating to the changes set out in this report.

### 3.0 Detail

3.1 The constitutional arrangements are periodically reviewed and it is suggested that the following amendments be made.

#### ***Strong Leader and Cabinet***

3.2 The Council has a Leader and Cabinet model of governance that carries out the executive functions of the Council. The Local Government Act 2000

provides that under such arrangements the Leader shall decide the number, terms of office and portfolios of the Cabinet members, the arrangements for the Deputy Leader, and how executive functions should be discharged and by whom.

- 3.3 It is proposed that the Constitution be amended to better reflect the discretion given to the Leader by law. The proposed changes also provide for greater flexibility which allows the Council to respond more effectively to particular situations as they arise. To that end it is proposed that Part 9 of the Constitution be removed (Decisions of the Leader) and Part 2 Article 7 (Executive Arrangements) be varied. It is proposed that the Executive (the previous collective term for the Leader and Executive members) be referred to as the Cabinet. The proposed changes are shown in the appendices. There will also be other changes throughout the Constitution to reflect the amendments but the attached documents provide Members with the substance of the changes.
- 3.4 It is proposed that half of the Cabinet meetings take place during the day, alternating with Cabinet meetings in the evenings.
- 3.5 There are also changes to the Terms of Reference of the Highways Committee which is a committee appointed by the Leader.

### ***Full Council***

- 3.6 It is proposed that the items on the agenda of the Ordinary Meetings of Full Council be revised as follows:
- i) ***Standing Order 40 – Debate on Key Issues affecting the Borough***

This will be deleted. This is considered to have been useful, particularly in relation to the Olympics and certain prominent speakers, but that it no longer serves a purpose.
  - ii) ***Standing Order 40 – Deputations***

It is proposed that Deputations by members of the public be included in the agenda. A maximum period of 15 minutes will be provided in total, with 5 minutes maximum being provided for each speaker. Criteria are established requiring that such deputations relate to a significant matter concerning the borough.
  - iii) ***Standing Order 39 - Questions from the Opposition and Non executive Members***

It is proposed that this be varied so as to provide for written notice of questions 7 days in advance, that there be no supplementary questions and that the number of questions be amended to reflect the new political balance of the Council.
  - iv) ***Standing Order 45 Motions***

It is proposed that the number of motions and the debate in relating to motions be amended to reflect the new political balance of the Council.

v) *Standing Order 48 (a) The Council Guillotine Procedure*

The time for terminating meetings of Full Council be amended to 10.00pm ( and also for other committees of the Council under Standing Order 66).

vi) *First Reading Debate Standing Order 44*

It is proposed that the procedure be amended to formally include provision for the Leader to have the right to reply.

### ***Overview and Scrutiny Functions***

- 3.7 The Local Government Act 2000 (as amended) provides that Councils must put in place at least one committee to undertake specific overview and scrutiny functions. Those prescribed matters can be summarised as holding the Cabinet and Full Council to account, considering call in matters, and considering the activities of external agencies such as health bodies.
- 3.8 The Act provides that the Council must have regard to any guidance issued by the Secretary of State. Guidance was issued in 2001 when the executive model of local government administration was first introduced. In summary, it advises that in larger local authorities there should be more than one overview and scrutiny committee, that a cross cutting approach should be taken to topics or issues, that it should provide an effective balance in relation to the executive model of governance, and the responsibility for different areas of overview and scrutiny should be apparent. The advice also provides that the number of such committees should be small. The document makes it clear that although the advice is provided, it is a matter for individual councils to decide their overview and scrutiny arrangements and various optional models are provided in the guidance, including one the same as that proposed below.
- 3.9 The Council currently has five overview and scrutiny committees and an ad hoc call in committee. While this structure has served the Council well, a stronger single committee that looks outwards is likely to have more impact. Five committees is a considerably higher number than most other London councils have following a random survey, and many have adopted a structure of a management or central committee which advises on and determines the area of review for any municipal year. A review of the council's arrangements suggests that the scrutiny of decisions and the review of the Council policies and activities (and those of other organisations and partner agencies) could be more effectively undertaken by a more focused and coordinated approach.
- 3.10 Having regard to the need to ensure that scrutiny and overview of the council and external agency practice and policies and their impact on local people are effective, targeted and timely, and taking into account the need to maximise

the use of limited resources, it is recommended that the overview and scrutiny arrangements in Brent be streamlined. It is proposed that there be one such Committee which is able to set an annual agenda identifying for review subjects that will bring about a real change or benefit for residents. Panels or commissions will be appointed by the committee and specific terms of reference and time scales for the review or enquiry will be provided. This central management will enable the Scrutiny Committee to coordinate and focus the reviews being undertaken and ensure that the findings and outcomes are given appropriate weight.

### ***Other Council committees***

- 3.11 It is proposed the terms of reference of the Pensions Sub Committee be varied for the purposes of clarity.
- 3.12 It is proposed that a Corporate Parenting Committee be established to assist the Council in fulfilling its obligations and responsibilities towards Looked After Children and care leavers. It will be an advisory and consultative body to the Council and its partners to provide challenge to ensure that the duties of the Council as corporate parent are carried out effectively and consistently. The Committee will raise awareness of the needs of children in care and care leavers across the Council and its partners.
- 3.13 It is proposed that the General Purposes Committee terms of reference be varied for the purposes of clarity, that the General Purposes Licensing Sub Committee be removed and its terms of reference transferred to the main committee, and that the Schools Disciplinary Sub Committee be removed on the basis it is no longer required.

### ***Membership of Committees***

- 3.14 Currently each member of the Council's committees has two alternates. It is proposed that there be a pool of alternates for each committee but an overall reduction in the number (Part 3 Standing Order 55). Previously the constitution prescribed who should chair certain committees. All committees have now been put on the same footing with the selection of Chair being a matter for Full Council (Part 3 Standing Order 53). Standing Order 56 has been amended to provide that a third rather than a quarter of members of a committee or sub committee may call a meeting of that committee

### ***Members Allowances***

- 3.15 The Members Allowance Scheme is governed by the Local Government and Housing Act 1989 and the regulations issued under that legislation. Every 4 years an Independent Panel reviews the allowance arrangements and a report is due shortly, following which the Council will need to undertake a full review of the allowance scheme.

### ***Miscellaneous changes***

- 3.16 In order to update the Constitution and ensure it complies with current legal requirements and is fit for purpose various minor changes are also proposed.
- i. changes to Contract Standing Orders to provide for advertising by electronic means instead of paper advert (Part 3 Standing Order 96)
  - ii. minor alterations to the delegation to officers in relation to land issues (Part 4 para 4.8)
  - iii. minor changes to the allocation of functions primarily relating to licensing (Part 4 Table 1)
  - iv. minor updates are made to the education exclusion and admission panels, changes are made to membership numbers on the Brent Housing Partnership Board (Part 2 , Article 11) and there is an update to the Teachers' Panel of the Teachers' Joint Consultative Committee (Part 2 Article 10)
  - v. Part 2 Article 1 para 1.10 of the Constitution provides that the Director of Legal and Procurement may make any changes to the Constitution required by law, but that these must be subsequently approved by the Council. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 came into effect on 25<sup>th</sup> February 2014 and required changes to the Council's Standing Orders regarding recording votes at budget meetings and Standing Order 47(c) shows the changes made.

#### **4.0 Financial Implications**

None

#### **5.0 Legal Implications**

These are set out in the body of the report

#### **6.0 Diversity Implications**

None

#### **7.0 Staffing/Accommodation Implications (if appropriate)**

None

#### **Background Papers**

Brent Constitution

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