

 <b>Brent</b>	<p align="center"><b>Full Council</b></p> <p align="center">20 May 2015</p> <p align="center"><b>Report from the Chief Legal Officer</b></p>
For Action	Wards Affected: ALL
<p><b>Changes to the constitution</b></p>	

## 1.0 Summary

- 1.1 This report sets out various proposed changes to the constitution including the need to determine which political group is the Principal Opposition Group for the purposes of the Members' Allowance Scheme; the establishment of a new Equalities Committee; recording the establishment of a Pension Board and a Local Safeguarding Adults Board and the establishment of Old Oak and Park Royal Development Corporation; delegating certain powers to the Chief Executive to act in cases of urgency and delegating to the Chief Legal Officer certain powers to make changes to the constitution.

## 2.0 Recommendations

That the Council:

- (i) Determine who should be the Principal Opposition Group for the purposes of the Members' Allowance Scheme.
- (ii) Establish an Equalities Committee on the basis set out in the report.
- (iii) Agree the changes to the constitution shown marked up in Appendix [1].

## 3.0 Detail

### ***Principal Opposition Group***

- 3.1 The Council's current Members' Allowance Scheme, which was approved by Full Council at its meeting on 8 September 2014, makes provision for the payment of special responsibility allowances to the Group Leader of the

Principal Opposition Group and the Principal Opposition Group itself. Having regard to the law relating to Members' allowances, this means that the Principal Opposition Group can nominate either its deputy leader or a spokesman to receive the allowance.

- 3.2 On 8 September 2014, Full Council determined that the Conservative Group led by Councillor Kansagra should be recognised as the Principal Opposition Group. However, following the death of Councillor Bhiku Patel, the Brondesbury Park Conservative Group, as the second largest group, qualified as the Principal Opposition Group for the purposes of the Members' Allowance Scheme.
- 3.3 As, following the outcome of the recent Kenton by-election, both opposition groups now have three Members each and are therefore of the same size, Council needs to determine again whether the Conservative Group or the Brondesbury Park Conservative Group should be recognised as the Principal Opposition Group. Council's decision will continue to have effect until it is reviewed or until the Group is no longer at least the same size as any other opposition group, whichever occurs first.

### ***Equalities Committee***

- 3.4 At its meeting on 29 January 2015 the General Purposes Committee considered a review conducted by Councillor Pavey of equalities and HR policies and practice at Brent. Amongst other things, the Committee recommended that the council should establish a committee of elected Members to oversee progress towards the Excellent Standard in the Equalities Framework for Local Government. This would involve both support for development and close scrutiny of the Council's approach to equalities, including monitoring the progress of the action plan responding to the recommendations of the Pavey review.
- 3.5 To give effect to the recommendation of the General Purposes Committee it is proposed that a new Equalities Committee be established as per the terms of reference set out in Appendix [1]. As an ordinary committee of the Council, political balance rules will apply (unless waived by Full Council); the Committee will be chaired by the Cabinet Member with responsibility for Equalities and meet quarterly.

### ***Pension Board***

- 3.6 At its meeting on 25 February 2015, the General Purposes Committee discharged the Council's new statutory duty to establish the Pension Board of the London Borough of Brent. The Pension Board forms part of a Central Government initiative to change the governance of pensions generally. The Pension Board is not a committee of the Council and therefore none of the rules which apply to committees, including the requirement for political balance, are relevant. Council's approval is sought to amend the constitution to record the establishment of a Pension Board as marked up in Appendix [1].

### ***Local Safeguarding Adults Board and delegation of adult safeguarding responsibilities***

- 3.7 At its meeting on 14 April 2015, Cabinet was informed of the Council's new statutory duty to undertake safeguarding enquiries in relation to adults at risk who are or maybe experiencing abuse or neglect. In order to secure the operational or day to day discharge of this new duty, Cabinet delegated it to the Strategic Director Adults. It is important to note, however, that the delegation does not prevent Cabinet from exercising the Council's new adult safeguarding responsibilities at any time. Cabinet also discharged its statutory duty to establish a Local Safeguarding Adults Board and decided other related matters. Council's approval is sought to amend the constitution to reflect the decisions made by Cabinet as marked up in Appendix [1].

### ***Old Oak and Park Royal Development Corporation (OPDC)***

- 3.8 On 2 March 2015, the terms of reference of the Planning Committee were approved by Full Council further to the establishment of the OPDC. It is proposed that the establishment of the OPDC be recorded in the constitution as set out in Appendix [1].

### ***General delegation to keep the constitution up to date***

- 3.9 As the constitution is a legal document, it is important that it records and reflects the decision making powers the council exercises; the decision making arrangements it has agreed and the legal framework the council operates within as quickly and accurately as possible.
- 3.10 Currently, as well as at a meeting of Full Council, the Chief Legal Officer may also vary the constitution if it is "a minor variation or is required to be made to remove any other inconsistency or ambiguity or is required to be made so as to comply with any statutory provision". Other than minor variations, the changes have to be referred to Full Council for approval.
- 3.11 It is proposed the constitution be amended as set out in Appendix [1] to clarify that the Chief Legal Officer may make legal, factual, administrative and other technical changes to the constitution without the need for Full Council's approval. This will allow changes to be made to the constitution to reflect personnel changes or departmental re-structures if already approved in accordance with the constitution; changes to statutory references and other technical or textual changes, which do not amount to substantive decision making. No changes, however, can be made to standing orders, for example, without the approval of Full Council. Further, all such changes will be reported to a meeting of Full Council for Members' information.

### ***General delegation to the Chief Executive to act in cases of urgency***

- 3.12 It is proposed that the constitution be amended as set out in Appendix [1] to allow for the Chief Executive to exercise urgency powers. The current provision is set out in paragraph of 2.3 of Part 4 of the Constitution and states

“The Chief Executive may exercise any functions delegated to other officers and may delegate decisions or functions to one or more officers in any of the Council’s departments unless expressly prohibited by law from doing so. The Chief Executive shall also have the authority to carry out all executive functions in the interim in the event of there being no Leader, or Deputy Leader appointed and insufficient members of the Cabinet appointed to achieve a quorum.”

- 3.13 It is recommend that the following amendment to the constitution is adopted because it is considered to be good practice that a Chief Executive has the authority to act in circumstances when a function of the Council needs to be discharged quicker than it would be possible for Members to do so at a properly arranged meeting or because, temporarily, there is no one else who can discharge the function:

“2.3.1 The Chief Executive shall also have the authority to carry out all executive functions in the interim in the event of there being no Leader, or Deputy Leader appointed and insufficient members of the Cabinet appointed to achieve a quorum.

2.3.2 Exceptionally, notwithstanding anything in this Constitution, the Chief Executive shall be authorised to exercise either executive or non-executive functions where the matter is urgent unless this is prohibited by law.

2.3.3 If the Chief Executive acts in the circumstances set out in paragraphs 2.3.1 and 2.3.2 above, the Chief Executive shall notify, as appropriate, the Leader or Deputy Leader of the Council, the Lead Member with portfolio responsibility for the matter to which the decision relates and the Leader of the Principal Opposition Group of any such action.”

#### **4.0 Financial Implications**

- 4.1 There are none arising directly from this report.

#### **5.0 Legal Implications**

- 5.1 These are addressed in the body of the report.

#### **6.0 Diversity Implications**

- 6.1 None.

#### **Background Papers**

None

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