

	<b>Annual Council Meeting</b> 14 May 2018
	<b>Report from the Director of Legal and HR Services</b>
<b>Amendments to the Constitution</b>	

<b>Wards Affected:</b>	N/A
<b>Key or Non-Key Decision:</b>	N/A
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	4
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Debra Norman, Director of Legal and HR Services, 02089371578

## **1.0 Purpose of the Report**

- 1.1 This report proposes a number of changes to the council's Constitution. These principally affect the committee structure. In addition changes are proposed to the Local Code of Corporate Governance. In addition some other minor changes are proposed as set out in the report and/or the Appendices.

## **2.0 Recommendations**

- 2.1 To approve the changes to the Constitution proposed in this report and/or contained in the Appendices.
- 2.2 To authorise the Director of Legal and HR Services to amend the Constitution accordingly, including making any necessary incidental or consequential changes.
- 2.3 To note that, to the extent that the changes relate to executive functions of the Council, they have been approved by the Leader.

## **3.0 Detail**

### **Proposed committee changes**

- 3.1 In view of the recent election and the transition to a new administration, it seems timely to review the committee structure through which decisions made at member level, be it by Full Council or the Cabinet, are made. A number of proposals to streamline the committee structure are set out below. A reduction in the number of formal member

level bodies would be likely to reduce the number of meetings members and officers have to attend and the reports that have to be prepared.

### 3.2 The Highways Committee:

The separate Highways Committee of the Cabinet is unusual and is not found in other councils. In practice the committee does not undertake a significant amount of work. Since the start of the 2014/15 municipal year there have been 16 scheduled meetings of the Highways Committee. The history of these meetings is as follows:

- 1 meeting per municipal year cancelled due to lack of business
- Of the 12 meetings that did go ahead:
  - 7 meetings had only 1 item of business (excluding petitions)
  - 3 meetings had 2 items of business (excluding petitions)
  - 2 meetings had 0 items of business (excluding petitions and responses to petitions)
- The average duration of the meetings held over this period is under an hour. However, when considering meetings of this committee held in 2017/18, average duration falls to just over 30 minutes.
- Number of hits on the website for meetings of this committee for the current 2017/18 year is 169. This compares to 2279 for Cabinet over the same period.

### 3.3 In the light of this history it is proposed that this committee could be discontinued. This would:

- improve transparency/visibility of decision-making for decisions reserved instead to the Cabinet;
- streamline the Forward Plan process;
- eliminate some duplication (as some matters considered by the committee have also been the subject to consideration by the Cabinet);

The effect of discontinuing this committee is that Highways related decisions become the responsibility of the Strategic Director of Regeneration and Environment, subject to the same general restrictions on officer powers as other decision-making. It is proposed that to ensure a continuing significant level of oversight by cabinet members of decision making in respect of highways matters, the following decisions currently made by Highways committee are reserved in future to Cabinet:

- i. Strategic and high level highways and transportation matters which includes decisions which affects 4 wards or more
- ii. Strategies or policies in respect of highways or transportation matters
- iii. Highways and transportation matters involving expenditure over £2m for services and supplies and or £5m works<sup>1</sup>
- iv. Highways or transportation matters which have a significant effect on income
- v. Approval of traffic calming works where more than 10 valid objections have been received
- vi. Approval of any permanent traffic regulation order subject to more than 10 valid objections

### 3.4 During the period since the start of the 2014/15 municipal year the committee received 14 petitions. Consideration of this number of petitions at Cabinet would be disruptive to the working of Cabinet. It is therefore proposed that:

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<sup>1</sup> These limits have been increased to match the recent changes to the limits in respect of procurement decisions

- in respect of petitions between 5 and 50 valid signatures or which concern decisions planned to be made or to be considered at a future meeting, the existing petitions scheme continue to apply;
- in respect of petitions with 51 or more valid signatures are referred to the Strategic Director, Regeneration and Environment and copied to the Cabinet member whose portfolio includes highways matters and to the chair of the Resources and Public Realm Scrutiny Committee unless they relate to a decision on the Cabinet agenda; and
- in respect of petitions with more than 200 valid signatures, the established right to request that the matter is debated at Full Council will apply.

The proposed amendments to be made to the Constitution to give effect to these changes in respect of highways matters are in Appendix 1.

### **3.5 Audit and Standards Committee/Audit and Standards Advisory Committee:**

The Standards Committee currently meets on a quarterly basis. The committee generally receives a report covering gifts and hospitality declarations over the previous quarter and any other general Standards related developments over that period, including any relevant consultations. There is rarely any other business for the committee and its meetings are very short. It is suggested that the Standards Committee could be merged with the Audit Committee, which is the council's other committee responsible for governance matters and the Audit Advisory Committee. The Audit Advisory Committee could take on responsibility for advising the council on Standards related matters. The proposed amendments to be made to the Constitution to give effect to this are in Appendix 2.

3.6 It is suggested that in addition to the existing independent Chair, the 4 current co-opted members of the Standards Committee would be full members of the merged Audit and Standards Advisory Committee i.e. participate and/or vote in respect of both audit and standards related items. It is anticipated that the inclusion of these members will be particularly useful for the new advisory committee in its first year. If these proposals are agreed, the total number of co-opted members on the merged committee will be reviewed at the Annual Council meeting in 2019.

3.7 On audit matters, the committees will also have the support of an independent and expert adviser.

### **3.8 General Purposes and Licensing:**

It is proposed that the specific licensing matters currently allocated to General Purposes Committee be re-allocated to the Alcohol and Entertainment Licensing Committee (to be called the "Licensing Committee" in future). This will mean that the committee will be constituted as the Council's statutory Licensing Committee for the purposes of the Licensing Act 2003 and as an ordinary committee established under s102(1)(a) of the Local Government Act 1972. All of the Council's non-executive licensing and registration functions (which for the avoidance of doubt excludes landlord licensing as it is an executive and housing function of the Council) will now be exercised by the members of the Licensing Committee almost entirely via its sub-committees.

3.9 Currently, there are three licensing sub-committees (each comprising of 3 members in accordance with statutory requirements) to conduct hearings and deal with such other Licensing Act/Gambling Act matters that cannot be delegated to officers. It is proposed that in future there be a single sub-committee called the 'Alcohol and Entertainment

Licensing Sub-Committee' which will, subject to availability, be chaired by the Chair or Vice-Chair of the Licensing Committee. In the absence of the Chair or Vice-Chair, one of the 3 Sub-Committee members will act as Chair.

- 3.10 Given the frequency of licensing hearings, standing orders permit substitutes to be appointed from the full membership of the main committee. This will also ensure that over a period of time it is likely that all committee members will have the opportunity to decide contested applications and conduct hearings.
- 3.11 It is further proposed that another sub-committee be established (called the 'Regulatory Sub-Committee'), comprising of 5 members, to exercise all of the main committee's non-Licensing Act and Gambling Act functions.
- 3.12 The proposed amendments to be made to the Constitution to give effect to this change are in Appendix 3. Although the law is not entirely clear, a committee which carries out general licensing functions as well as alcohol, entertainment and gambling functions may be required to be politically balanced. This is unlikely to make any practical difference because it is the Council's established practice to apply these rules to its main licensing committee as a matter of good practice. Consequently, the Regulatory Sub-Committee will need to be politically balanced too but not the 3 member Alcohol and Entertainment Licensing Sub-Committee.

3.13 **Equalities Committee:**

The Equalities Committee was established at Full Council in May 2015 arising out of the consideration by the General Purposes Committee on 29 January 2015 of a review conducted by Councillor Pavey of equalities and HR policies and practice at Brent. The stated purpose of the new committee set out in the report to Full Council was to oversee progress towards the Excellent Standard in the Equalities Framework for Local Government. The council achieved this standard in April 2016. In addition the council has achieved the following significant equalities related standards:

- 2016 - Achieved Disability Employer status under the DWP Disability Confident scheme.
- January 2017 - the Council was ranked among the top 200 LGBT-Inclusive employers by the 2017 Stonewall Workplace Equality Index.
- October 2017 – included as one of the UK's Best Employers for Race in the Business in the Community List.

- 3.14 As the committee was established primarily to achieve a particular objective which had now been achieved, its functions could now be absorbed by the General Purposes Committee (in respect of staff related matters) and the Cabinet (in respect of service delivery related matters). The proposed amendments to be made to the Constitution to give effect to this are in Appendix 3.

**Local Code of Corporate Governance**

- 3.15 The Constitution includes the Council's Local Code of Corporate Governance which was adopted in accordance with CIPFA/SOLACE guidance. The changes set out in Appendix 4 ensure the Code reflects the CIPFA / SOLACE publication entitled "Delivering Good Governance in Local Government: Framework 2016 Edition and current council practice.

**Other Minor changes**

- 3.16 **The Council's guillotine procedure (standing order 44 and 62):** Subject to specified exceptions and some built-in flexibilities, the default rule is that Full Council and

committee meetings have to finish at 10.00pm. If approved, the Municipal Calendar for the forthcoming year will result in most meetings starting at an earlier time. It is proposed therefore that the default rule be re-set as follows: that meetings finish after 3 hours or 10.00pm (whichever is earlier). As up until now most meetings started at 7.00pm, imposing a general time limit of 3 hours will not further restrict the time allowed for meetings.

3.17 **Table of Proper and Statutory Officer functions:** The Council's Members' Code of Conduct states that the Monitoring Officer can grant dispensations to Members on one or more grounds specified in section 33(2) of the Localism Act 2011. This is a 'proper officer' function. Currently, the post of Director of Legal and HR Services is designated as the Monitoring Officer and it is proposed that the table of proper and statutory officer functions in Part 3 of the Constitution be updated accordingly.

3.18 **Scheme of officer delegations:** The Council's scheme of officer delegations (set out in Part 3 of the Constitution) records the scope of officer delegations and the circumstances in which they can be exercised. These delegations are expressed in broad and general terms to ensure appropriate and necessary flexibility. The Chief Executive's responsibilities include exercising the Council's assets of community value (also known as 'right to bid') functions. For the avoidance of doubt, it is proposed that the scheme of officer delegations be amended to expressly refer to the Council's assets of community value functions.

#### **4.0 Financial Implications**

4.1 The improved committee and decision making arrangements will result in greater efficiencies.

#### **5.0 Legal Implications**

5.1 These are contained in the body of the report.

#### **6.0 Equality Implications**

6.1 The Equalities Committee has overseen some significant progress in equalities in the council. The particular focus provided by a specific committee has enabled its objectives to be achieved. Championing equalities issues will now be mainstreamed into the work of the General Purposes Committee and the Cabinet.

#### **7.0 Consultation with Ward Members and Stakeholders**

7.1 The proposals in this report have been considered by the council's Constitutional Working Group.

#### **8.0 Human Resources/Property Implications (if appropriate)**

8.1 None.

#### **Report sign off:**

**Debra Norman**  
**Director of Legal and HR**  
**Resources**