

	<p align="center">Full Council 25 February 2019</p>
	<p align="center">Report from the Director of Legal and HR</p>
<p>Changes to the Constitution</p>	

Wards Affected:	N/A
Key or Non-Key Decision:	N/A
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	<p>Three:</p> <p>Appendix 1 Amendments to Constitution Procedural Rules</p> <p>Appendix 2 Amendments to Scrutiny Procedure Rules & Terms of Reference</p> <p>Appendix 3 Amendments to Planning Petition Rules and Terms of Reference</p>
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Debra Norman, Director of Legal and HR Services, Tel: 0208 937 1578 Email: Debra.Norman@brent.gov.uk

1.0 Purpose of the Report

- 1.1 This report proposes a number of changes to the Council's Constitution. These affect the items of business at full Council meetings, the scrutiny committee structure, the process for creating certain senior management posts and the petition threshold for referral to the Planning Committee.

2.0 Recommendations

- 2.1 To approve the changes to the Constitution proposed in this report and/or contained in the Appendices, in the case of the amendments relating to the scrutiny committee structure, this is subject to Council agreeing a reduction in the number of scrutiny committees as part of the budget item on the same Council agenda as this report.
- 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

Items at full Council

3.1 A number of changes were made in respect of items at Full Council at the Council meeting in July 2018. There have been two subsequent Council meetings where the new arrangements have been followed. It is now proposed that the new arrangements be fine-tuned to reduce some duplication and ensure Council meetings can be concluded in a timely manner. The changes are set out in Appendix 1, which also sets out the new standard agenda order for ordinary full Council meetings.

3.2 These are the proposed changes:

(a) Report from Leader or Members of the Cabinet

It is proposed that the introduction of this item to be shortened and the question section to be removed.

Instead, it is proposed that the '**Questions from the Opposition and Non Cabinet Members**' item be moved to follow directly on from this item. 30 minutes are allocated for questions to the Cabinet under this item.

(b) Reports from the Chairs of the Scrutiny Committees

In the event there is a reduction in the number of Scrutiny Committee, the time for this item will be reduced to 12 minutes.

(c) Order of Business

The standard order of business to be changed to move all the items directly involving the public to the start of the meeting and to move the non-Cabinet member question time as described above.

Scrutiny Committee Changes

3.3 The budget report on the same agenda as this report proposes that the number of Scrutiny committee be reduced from 3 to 2 for the next municipal year. If this is agreed, it is proposed that Housing scrutiny functions are returned to the Community and Wellbeing Scrutiny committee which was responsible for them prior to the decision to reintegrate Brent Housing Partnership.

3.4 The changes necessary to achieve this are in Appendix 2.

Operational Director and More Senior Officer Posts

3.5 It is currently necessary for a report to be approved by Cabinet if changes are made to an Operational Director or more senior post. This can cause delay in restructures and in recruitment and it is proposed instead that in future such decisions can be made by the Chief Executive in consultation with the relevant Cabinet member(s). It is proposed that this continue to be on the basis of a written report to ensure that the reasons and implications of the changes are recorded. The Chief Executive will be able to refer the matter to members in an appropriate case. In the event that the changes proposed are part of proposals that would be likely to result in a very significant change in the model of service delivery, the matter would have to be referred to members in any event in accordance with Part 3 paragraph 10.1(k).

3.6 The minor change required to achieve this is set out in Appendix 1.

Planning Petitions

3.7 Standing Orders contained within the Council Constitution provide that for planning applications and other planning issues, there must be at least 10 signatures before a petition is considered by the Planning Committee. This requirement is repeated in the Planning Committee terms of reference. The position in respect of other petitions is that they are only referred to members if the number of signatures exceeds 51.

3.8 It is proposed that the position for petitions relating to planning applications be aligned with that for other petitions. The Planning Committee should deal with the largest and most strategic applications which require a greater level of public scrutiny; rather than smaller scale applications which may only raise local, rather than strategic issues. Big committee agendas increase use of both Councillor time and council resources in terms of preparation, presentations, administration and the general conduct of the Committee meeting; which as things currently stand, is not always the most effective and/or proportionate way of addressing such issues.

3.9 Items which are referred to the committee should warrant consideration by the committee. The threshold for planning objections triggering referral to the committee was increased from 3 to 8. Identical or proforma letters or emails are not treated as objections but as if they were signatures on a petition. Requiring only 10 signatures to a petition, which are easier to obtain than separate objections, can result in minor applications being considered by the Committee. This has related to around 3 applications over the past year and there is clearly scope for this to increase.

3.10 If this change is agreed, officers would consider petitions with up to and including 50 signatures and if the officer felt it was more appropriate for the Planning Committee to consider the application, the Head of Planning would still have the discretion to refer the matter to the committee. The provision for referral of applications to the committee where requested in accordance with the Constitution by at least 3 councillors will remain in place.

3.11 The amendments to the constitution required to give effect to this are contained in Appendix 3.

4.0 Financial Implications

4.1 The proposals in relation to the reduction in the number of scrutiny committees arise from the budget item on the same Council agenda as this report. There are no other financial implications directly arising from this report.

5.0 Legal Implications

5.1 These are contained in the body of the report.

6.0 Equality Implications

6.1 Under section 149 of the Equality Act 2010, the council has a duty when exercising its functions to have “due regard” to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. This is the public sector equality duty. The protected characteristics are age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

6.2 “Due regard” is the regard that is appropriate in all the circumstances. The weight to be attached to the effect is a matter for the council. As long as the council is properly aware of the effects and has taken them into account, the duty is discharged. Depending on the circumstances, regard should be had to the following:

- the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic. In other words, the indirect discriminatory effects of a proposed decision;
- the need to remove or minimise disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic;
- the need to take steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes taking account of disabled persons’ disabilities. There can be a positive duty to take action to help a disabled person. What matters is how they are affected, whatever proportion of the relevant group of people they might be;
- the need to encourage persons who share a protected characteristic to participate in public life (or in any other activity in which participation by such persons is disproportionately low); and
- the need to tackle prejudice and promote understanding.

6.3 No equalities implications arise directly from this report.

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.

Background Papers

None

Report sign off:

DEBRA NORMAN
Director of Legal and HR