



Annual Council Meeting 22 May 2024

Report from the Corporate Director of Law & Governance

Annual Review of the Constitution

Wards Affected:	All
Key or Non-Key Decision:	Council
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
List of Appendices:	One Appendix 1: Proposed amendments to the Constitution
Background Papers:	None
Contact Officer(s): (Name, Title, Contact Details)	Debra Norman Corporate Director of Law & Governance Tel: 0208 937 1578 Debra.norman@brent.gov.uk

1.0 Executive Summary

1.1. This report proposes changes to the Constitution arising out of the annual review of its provisions and operation. In addition to various updating and clarifying changes, the report proposes changes to reflect a recent re-alignment of directorate and changes to Cabinet portfolios.

2.0 Recommendation(s)

2.1 To agree the changes to the Constitution set out in Appendix 1

2.2 To note that the list of cabinet members and portfolio holders in Part 1 of the Constitution will be updated to reflect the appointments of, and allocation of functions to, Cabinet Members by the Leader.

2.3 To authorise the Corporate Director of Law & Governance to amend the Constitution, accordingly, including making any necessary incidental or consequential changes.

2.4 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

3.1 Contribution to the Borough Plan and Strategic Priorities

3.1.1 Ensuring the Constitution is kept up to date and supportive of good governance contributes to the delivery of all of the strategic priorities within the Borough Plan by supporting and enhancing the Council's activity.

3.2 Background

3.2.1 A review of the provisions of the Constitution and its operation over the year is undertaken each year in the period leading up to the Annual Meeting to ensure the Constitution remains up to date and fit for purpose. The changes proposed this year are set out in Appendix 1 and described below.

3.2.2 Changes to reflect the realignment of directorates appear throughout the document and are not all included in the appendix as they are mostly job title and directorate/department names changes. Section 9.4 in Part 3 of the Constitution (Responsibility for functions) which contains the description of which functions sit with which Corporate Director and their directorate will be amended to read as follows:

The Chief Executive, and Corporate Directors listed below shall have responsibility for the following general and related areas:-

(a) **Chief Executive:**

Head of Paid Service. Managerial leadership of the Council including responsibility for overall corporate management and operational responsibility for all staff. Providing and securing of advice to the Council, and councillors, on strategy and policy. Acting in an executive capacity by making decisions or ensuring a system is in place for other officers to make decisions, as authorised by the Council. Delivering probity, value for money and continuous improvement. Acting as Returning Officer for General, Greater London Authority and Local elections.

(b) **Corporate Director, Community Health and Wellbeing:**

Adult Social Services, community services, direct services and client affairs, adult physical disability, learning disability, mental health services, services to older people, safeguarding adults, emergency duty team, asylum, reablement, adult social care complaints, commissioning and quality, support planning and review, any other function listed in Schedule 1 of the Local Authority Social Services Act 1970 (not delegated to the Corporate Director, Children and Young People), strategic

commissioning and procurement, health partnerships, health inequalities and Public Health. Leisure centres, sport and physical activity.

(c) **Corporate, Director Children and Young People:**

Statutory Director of Children's Services, school effectiveness service, outdoor education, pupil referral units, education tuition service, parent partnership service, exclusion teams, education welfare service, behaviour support, SEN assessment service, SEN transport, education psychology, youth and 16-19 education, employment, family support, education, and schools organisation, child protection, safeguarding, children's social care, adoption, fostering, placements, children with disabilities and all functions of the Local Authority not reserved to members including but not limited to early years education and school places, education and training provision for young people. Commissioning of education related capital build projects.

(d) **Corporate Director, Finance and Resources:**

Statutory s151 officer, finance, capital programme management, direct delivery of capital build projects, payroll and pensions, property and facilities management, the energy team, health and safety, IT/digital shared services, audit, investigations, insurance and emergency planning.

(e) **Corporate Director, Neighbourhoods and Regeneration:**

Regulatory services, street naming and numbering, employment and skills (including adult and community education), environmental health, licensing, street trading, trading standards, contaminated land, pollution control, food safety and pest control. Caretaking services on housing estates. Licensing. Public realm, transportation, highways, parking, street lighting, waste management and recycling, refuse and street cleansing, environment, CCTV monitoring. Parks, open spaces. Regeneration, urban renewal, economic development, environmental infrastructure services, statutory land use, planning, development and building control and land charges. Strategic housing, housing partnerships, wholly owned housing companies, housing regeneration, affordable housing development.

(f) **Corporate Director, Law and Governance**

Statutory Monitoring Officer, SIRO, legal services, human resources, organisational development, governance, scrutiny, electoral services, Mayoral support, complaints, Executive Support to Corporate Management Team.

(g) **Corporate Director, Partnerships, Housing and Residents Services:**

Nationality service, Registrar of Births, Deaths and Marriages, cemeteries and customer services. Revenue and benefits. Private sector housing, housing management and neighbourhood management (not including

caretaking services). ASB, nuisance and crime. Community safety and Prevent. Making all Public Spaces Protection Order under the Anti-Social Behaviour Crime and Policing Act 2014 Act in consultation with the Cabinet Member for Safer Communities & Public Protection. Housing needs. Mortuary. Communications, conference and events, assets of community value and partnerships. Cultural services (including arts, libraries, museums and archives and the London Borough of Culture legacy). Insight and innovation. Data protection and freedom of information. Community engagement and equalities. Corporate planning, policy and performance. Climate resilience. Insight, innovation, data and digital transformation.

3.3 Changes to Part 1 – Introduction

Cabinet portfolios

- 3.3.1 The list of cabinet members and portfolio holders in Part 1 of the Constitution will be updated to reflect the appointments of, and allocation of functions to, Cabinet Members by the Leader.

3.4 Changes to Part 2 – Procedural Rules

Standing Order 41 Motions

- 3.4.1 A review has been undertaken of the current arrangements for Group Motions under Standing Order 41.
- 3.4.2 Currently the Constitution provides for four Group Motion to be considered during a 40 minute timeslot. Two Group Motions can be submitted by the Labour Group and one each by the other two groups.
- 3.4.3 These Motions are the final item on the agenda at ordinary council meetings (other than the budget setting meeting) after the items involving the public, presentations by the Chairs of Scrutiny and Audit & Standards Committee, Cabinet reports and Question Time and business items.
- 3.4.5 Following discussion at the Constitutional Working Group (CWG) it is proposed that Standing Order 41 Motions be brought earlier in the agenda to be considered as item (k) after public deputations, questions and petitions.
- 3.4.6 In addition the following changes are proposed:
- To clarify in Standing Orders 28 and 42 the existing practice that amendments to be proposed to the budget are required to be received in Democratic Services by 5pm the day before the budget setting meeting.
 - To clarify in Standing Order 42 that a “point of order” is confined to an assertion that a breach of Standing Orders or of the law has occurred.

- To remove the requirement in Standing Order 76 that a report must be received by the General Purposes Committee following an interim appointment setting out the planned permanent recruitment process. This is an unusual provision and has not been found to be helpful. The requirement to report to the committee if there is to be a recommendation that an interim appointment continue beyond a year will remain.

3.5 Changes to Part 3 – Responsibility for Functions

- 3.5.1 The Deputy Director of Democratic Services is proposed to be designated as the Statutory Scrutiny Officer following the transfer of the scrutiny support function to that department.

3.6 Changes to Part 4 - Terms of Reference

- 3.6.1 The membership of the Audit & Standards advisory Committee is amended to allow for the appointment of up to 4 co-opted independent members. This means in future there will be two Finance focused co-opted members (the Chair and one other) and 2 Standards focussed co-opted members.
- 3.6.2 The terms of reference of the General Purposes Committee are amended to specifically include approval of polling places and stations. This is presently covered by provision for the committee to be responsible for all non-executive functions not otherwise allocated.

3.7 Changes to Part 5 – Codes and Protocols

- 3.7.1 Changes are proposed to the Local Code of Corporate Governance to bring it up to date.

4.0 Stakeholder and ward member consultation and engagement

- 4.1 The proposed changes have been discussed at the Constitutional Working Group.

5.0 Financial Considerations

- 5.1 None

6.0 Legal Considerations

- 6.1 These are contained in the body of the report.

7.0 Equity, Diversity & Inclusion (EDI) Considerations

- 7.1. 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 and 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.

7.2 “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.

7.3 No EDI implications arise directly from this report.

8.0 Climate Change and Environmental Considerations

8.1 None

9.0 Human Resources/Property Considerations (if appropriate)

9.1 None

10.0 Communication Considerations

10.1 None

Report sign off:

Debra Norman
Corporate Director of Law & Governance