



**Full Council**  
26 November 2018

**Report from the Director of Legal  
and HR Services**

## **Changes to the Constitution**

<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. Namely, revising the terms of reference of the North West London Joint Health Overview and Scrutiny Committee; clarifying when a dependants' carers' allowance is payable to councillors; increasing officer property delegations and enhancing the opportunity for Members to speak at Full Council meetings.

### **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**

***North West London Joint Health Overview and Scrutiny Committee***

- 3.1 In 2012 NHS North West London undertook a public consultation on ‘Shaping a Healthier Future’, its strategy for reconfiguring health services in north-west London. At its annual meeting in May 2012, Full Council agreed to participate with other local authorities in the North West London Joint Health Overview and Scrutiny Committee (JHOSC) to consider and respond to NHS North West London’s proposals as part of this consultation. In 2013 after the consultation on Shaping a Healthier Future was completed, Full Council agreed to continue to participate in the JHOSC to review the implementation of the plans which arose from the Shaping a Healthier Future strategy.
- 3.2 When the JHOSC was appointed in 2013, it was agreed that it would continue until March 2018, to match the planned implementation timeframe for the Shaping a Healthier Future programme. However, the programme has continued after that date. At the last Full Council meeting the Council’s membership of JHOSC was continued until 31 December 2018 to enable a review to be undertaken. This review has concluded that the terms of reference of the JHOSC should be updated (**as shown in Appendix 1**) so that that it can continue.
- 3.3 Since the JHOSC was appointed in 2013, the North West London Collaboration of Clinical Commissioning Groups, together with local authorities, has developed the Sustainability and Transformation Plan (STP) for north-west London. It is proposed that the terms of reference of the joint committee are amended to enable it to review the STP.
- 3.4 Also, since the JHOSC was appointed in 2013, the collaboration of CCGs in north-west London has set up a joint committee, and it is proposed that the terms of reference are changed to reflect the existence of the joint committee as well.
- 3.5 The other members of the joint committee are the boroughs of Ealing, Hammersmith and Fulham, Harrow, Hounslow, Kensington and Chelsea, and Westminster. In addition, a Member of the London Borough of Richmond also attends meetings in a co-opted capacity.

### ***Dependants’ carers’ allowance***

- 3.6 The Local Authorities (Members’ Allowances) (England) Regulations 2003 allow local authorities to choose whether and, if so, the circumstances in which to pay a dependants’ carers’ allowance, in respect of arranging for the care of their children or dependants, to Members.
- 3.7 Brent’s Members’ Allowance Scheme makes provision for the payment of a dependants’ carers’ allowance in the circumstances set out in a schedule. These include the following catch-all:

*“the carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority or any of its committees or sub-committees”.*

- 3.8 In accordance with best practice and, in particular, in the interests of transparency, consistency and certainty, it is proposed these other duties are specified in the Scheme itself **as shown in Appendix 2**.

### ***Officer property delegations***

- 3.9 On 22 January 2018 Full Council increased the financial limits on officer procurement decisions. For example, the thresholds for supplies and services contracts was increased to £2m and for works contracts to £5m. A review of property delegations was not undertaken at that time as changes to the senior management structures in the Resources Department were pending.
- 3.10 More recently, with the Council's Operational Director – Property & Assets in post, a review of property delegations (which are contained in Part 3 of the Constitution) have been undertaken and the proposed changes are marked up in **Appendix 3**.
- 3.11 The rationale for the increase is that the thresholds have remained at historical levels for very many years during which time property values have increased substantially. Although it is not considered that the increase will result in far fewer decisions being reported to Cabinet, operationally, the flexibility to make decisions quickly, especially in circumstances where speed is a commercial imperative, is of benefit. Further, the thresholds have been re-set at a level where it is considered that decisions by Cabinet justifies the additional cost and time expended.
- 3.12 In accordance with the Constitution, property delegations are directly conferred upon the Strategic Director Resources only who in turn can authorise other officers to exercise some or all of the powers, either conditionally or unconditionally.
- 3.13 In the circumstances set out in para. 11.3 (**see Appendix 3**), the Lead Member has to be consulted.
- 3.14 All Members of the Cabinet (at least annually) and the Chief Finance Officer (within 3 months) have to be informed of all relevant transactions.
- 3.15 Any disposals at an undervalue are excluded from the delegations.

### ***Standing orders 41: Motions***

- 3.16 Changes made at the meeting of Full Council in July to standing orders governing the conduct of Full Council meetings, have provided more and better opportunities for all Members to participate in meetings.
- 3.17 It is now proposed that standing order 41 which concerns motions be further amended so that within the time available for each motion (i.e. 10 minutes), and the overall time limit of 30 minutes for this item, more Members be allowed to speak. The proposed changes to standing order 41 are shown in **Appendix 4**.

### ***Standing orders 15: Developing proposals for the budget and capital programme***

- 3.18 It is proposed that changes be made to Standing Order 15 to reflect the process planned for the scrutiny of the budget to be set for 2019/20. The proposed changes are shown in **Appendix 5**.

#### **4.0 Financial Implications**

- 4.1 The costs associated with the payment of dependants' carers' allowances will be met from within the existing Members Allowance budget.

#### **5.0 Legal Implications**

- 5.1 According to the Remuneration of Councillors in London 2018 report produced by the London Councils' Independent Remuneration Panel:

“It is important that obstacles to becoming a councillor should be removed wherever possible. Child care costs can be a significant deterrent to service as a councillor. We repeat our strong view that in appropriate cases when they undertake their council duties, councillors should be entitled to claim an allowance for care of dependents. The dependents' carers' allowance should be set at the London living wage but (on presentation of proof of expense) payment should be made at a higher rate when specialist nursing skills are required.”

- 5.2 For the purposes of health scrutiny, the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 allow for two or more local authorities to appoint a joint committee of those authorities and arrange for relevant functions to be exercisable by the joint committee subject to such terms and conditions as the authorities may consider appropriate. Regulations also provide that where the power to refer to the Secretary of State has been delegated by a Council to a joint committee, the Council cannot then discharge that function. The terms of reference agreed by full council in 2013 and the proposed terms of reference are clear that full council will retain that function.

#### **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 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.

- 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 The recommended clarification in relation to the dependants' carers' allowance is a further example of how the scheme can be used to remove barriers for those wishing to stand as a councillor and to ensure any disadvantages are removed or minimised.

## **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 Resources