



**Full Council**  
18 May 2009

**Report from the Borough Solicitor**

For Action

Wards Affected:  
None

**Changes to the Constitution**

**1.0 Summary**

- 1.1 This report proposes a series of changes to the Council's Constitution arising out of the annual review of the operation of the Constitution.

**2.0 Recommendations**

Members are asked to:

- 2.1 Agree to amend the conditions on the exercise of chief officers' delegated powers to award contracts and agreements set out in appendix 1.
- 2.2 Agree to nominate the Director of Housing and Community Care to be the responsible person for the new statutory complaints procedure relating to Social Services.
- 2.3 Note the recent minor changes made to the Constitution by the Borough Solicitor using her delegated powers.

**3.0 Detail**

*Introduction*

- 3.1 The Constitution is kept under review throughout the year to ensure that it complies with relevant legislation and that it operates effectively. Each year, in May and November, the Borough Solicitor brings a report to Full Council with any recommendations for changes that should be made to the Constitution.

- 3.2 This report asks members to approve various changes to the Constitution as a result of the most recent review. Each change is discussed in detail below and members are asked to approve the changes as set out in the appendices and described below.
- 3.3 Following this report the Borough Solicitor will update the electronic version of the Constitution available on the Council's intranet and internet sites to take account of the changes agreed by the Council.

*Amendments to the exercise of delegated power*

- 3.4 Paragraph 2.5 of Part 4 of the Constitution sets out a series of powers delegated to chief officers of both Council and Executive functions. The following amendments (set out in **appendix 1**) relate to the power of chief officers to award contracts and agreements and are proposed to improve the consistency of these decisions:
- (a) Currently officers are required to ensure that there is sufficient budgetary provision and there has been no breach of European procurement legislation when granting contract variations and extensions but not when awarding a contract or agreement. An amendment is therefore proposed to add these same requirements when awarding a contract or agreement.
  - (b) Where the Council is a provider of goods and services to public bodies the Standing Orders require Executive or General Purposes to approve a contract worth more than £150,000 per annum. For the sake of consistency this limit should also be set out in the limitations on the exercise of delegated powers.
  - (c) Currently this part of the Constitution places financial limits on the exercise of delegated powers by chief officers to award contracts for works (£1 million) services or supplies (£500,000) and to agree any variation to an existing agreement or contract (£500,000). Above this threshold the approval of the Executive or General Purposes is required. Other types of agreements such as funding agreements or settlements are not covered by these limits and for the sake of consistency it is recommended that chief officer's authority to enter these agreements is also limited to £500,000.
- 3.5 Members are asked to approve the changes set out in **appendix 1**.

*New community care complaint arrangements*

- 3.6 The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 has recently introduced a new procedure for dealing with complaints about Council social services functions.
- 3.7 There are two statutory roles under these regulations; the Responsible Person and the Complaints Manager.
- 3.8 Ken Scott, Manger of complaints – social care has been appointed by the Chief Executive to be the Complaints Manager. The regulations allow the Council to authorise a person to act on behalf of the Chief Executive as the Responsible

Person. The Responsible Person is responsible for ensuring compliance with the regulations and ensuring that action (including service improvements) is taken as necessary in the light of the outcome of a complaint. A complaint about social care falls within the responsibility of the Director of Housing and Community Care and it is therefore appropriate for the Director of Housing and Community Care to assume the role of the Responsible Person.

- 3.9 Members are asked to appoint Martin Cheeseman, Director of Housing and Community Care as the Responsible Person.

### **Changes Made under delegated powers**

- 3.10 The following minor changes were made by the Borough Solicitor under delegated powers to give effect to changes required by statute, made to remove ambiguity or inconsistency or where the changes were considered minor. In accordance with the Constitution these are now being reported to Full Council for information.

#### *Councillor Call for Action*

- 3.11 The Councillor Call for Action is the name for the new power that enables a councillor to have either a 'local government matter' or a 'crime and disorder matter' placed on the agenda of the Overview and Scrutiny Committee and discussed by the Committee. The process is part of the government's agenda to strengthen the role of ward councillors and is intended to be a power of last resort through which members can raise issues relating to their ward. In conjunction with the Overview and Scrutiny Committee officers have developed a protocol for how the Councillor Call for Action will work in Brent which has already been circulated to members.
- 3.12 The two separate pieces of legislation relating to the two parts of the Councillor Call for Action came into force on 1 April and 30 April 2009 respectively. Minor amendments were required to the Articles and Terms of Reference of the Overview and Scrutiny Committee to provide that every member of the Council may have a 'local government matter' or a 'crime and disorder matter' placed on the agenda of the Overview and Scrutiny Committee and discussed.

#### *Changes following the organisational restructure*

- 3.13 Earlier this year the Executive approved a corporate restructure of the Council. As part of the changes a new Director of Business Transformation was appointed and the role of Director of Human Resources and Diversity was removed. There were also other changes to the functions and responsibilities of the Corporate Management Team and the Constitution was amended to reflect these changes.

#### *Planning Code of Conduct*

- 3.14 Members of the Planning Committee are required by the Planning Code of Conduct to register an approach from an applicant, agent or other interested party in a planning application. A change in approach in the most recent London wide planning guidance means that the Planning Committee is now recommended to meet with some applicants before the application is actually considered. As a result

a minor amendment was made to the Planning Code so that members do not have to register these official meetings with applicants as an 'approach'. The Standards Committee approved the change at its meeting on 21 January 2009.

### *Members' allowances*

- 3.15 Each year on 1 April the members' allowances are subject to an uplift linked to the inflation pay award agreed as part of the Local Government pay settlement. Part 8 of the Constitution where the members' allowances are set out was recently amended to take account of the uplift on 1 April 2009.

### *Publication of a consolidated version of the Constitution*

- 3.16 In December 2008 the Borough Solicitor published an up to date version of the Constitution taking into account the changes made by the Council and under delegated powers since May 2006. In preparing this version for publication a number of minor amendments were made to reduce repetition and improve the clarity of the Constitution.
- 3.17 These changes were all considered minor and members' attention was drawn to the changes in a letter from the Borough Solicitor at the time of publication.

## **4.0 Financial Implications**

- 4.1 There are no financial implications arising from this report.

## **5.0 Legal Implications**

- 5.1 The legal issues are dealt with in the body of the report.

## **6.0 Diversity Implications**

- 6.1 There are no diversity implications arising from this report.

## **Background Papers**

*Brent Constitution*

*Local Government and Public Involvement in Health Act 2007*

*Connecting Councillors with Strategic Planning Applications*

## **Contact Officers**

Should any person require any further information about the issues addressed in this report, please contact Dan Bonifant, on telephone number: 020 8937 1368, email: dan.bonifant.gov.uk.

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