



Full Council
27th November 2006

**Report from the Director of
Policy & Regeneration and the
Borough Solicitor**

For Action

Wards Affected:
ALL

Second Interim Report of the Constitutional Working Group

1.0 Summary

- 1.1 This report updates members on the discussions and findings of the Constitutional Working Group (CWG) since its last report to Council in September 2006. It outlines its recommendations with regard to the creation and remit of an Audit Committee, amendments to Standing Orders in relation to petitions and deputations, and the business transacted at meetings of Full Council. Recommendations are also made regarding the referral of “called-in” decisions to Full Council from Overview & Scrutiny Committees and the establishment of a Brent Youth Parliament.
- 1.2 Members of the CWG have requested that their recommendations to date are presented to Full Council at this time to facilitate the development of the new bodies (Audit Committee and Youth Parliament) and to enable necessary improvements in the business of the Council.
- 1.3 The CWG will bring a further report to Council following its deliberations regarding members’ allowances and neighbourhood working. This is expected early in the new year.

2.0 Recommendations

Audit

- 2.1 That an Audit Committee be established in accordance with CIPFA guidance, consisting of three non-executive members (one from each political group) with terms of reference and a Statement of Purpose, as set out in Appendix 1.
- 2.2 That the terms of reference of the General Purposes Committee, the Standards Committee, and the Performance and Finance Select Committee be adjusted so as to take account of the new role of the Audit Committee, as set out in Appendix 1.
- 2.3 That the portfolio of the Executive Member responsible for Resources be amended to clearly include responsibility for risk management.
- 2.4 That a member be appointed as Chair of the Audit Committee, and that two other members be appointed to the Committee.

Petitions

- 2.5 That the progress made dealing with petitions received by the Democratic Services Manager which have 50 or more valid signatures in accordance with Standing Order 68, be reported on an ongoing basis to Full Council, each petition to remain in the report until finally disposed of.

Full Council

- 2.6 That Council meetings begin in future at 7.15pm.
- 2.7 That in future:
 - (a) all questions for "Question Time" will be allocated to parties rather than by a ballot system,
 - (b) there will be a Question Time and Items Selected by Non-Executive Members at every Ordinary meeting of the Council except the March Council Tax Meeting,
 - (c) The time allocated for Question Time will be reduced from 45 minutes to 40 minutes, and
 - (d) The time allocated for Non-Executive Member Items will be reduced from 45 minutes to 30 minutes.
- 2.8 That the time allocated for the report back from the Executive be reduced from 20 minutes to 10 minutes.
- 2.9 That Motions Selected by the Group Leaders be debated for 30 minutes in the case of the Opposition and 10 minutes each in the case of the Leaders of the two groups forming the Administration.

- 2.10 To note that at its meeting on 11 September the Council agreed to set the threshold for call in at 5 non-executive members.
- 2.11 That the threshold for referral of a called in decision to Full Council be set at 10 members.

- 2.12 That provision for a General Debate be removed from the Constitution.

Annual Policy Programme

- 2.13 That the Annual Policy Programme be removed from the Constitution.

Youth Parliament

- 2.14 That a Youth Parliament be established and that Brent Youth Matters 2 and the Children Forum be deleted from the Constitution.

- 2.15 That a member co-chair and a member co-vice-chair be appointed to the Youth Parliament.

Contract Standing Orders

- 2.16 That the Contract Standing Orders be amended as set out in Appendix 3.

General

- 2.17 That the Council authorise the Borough Solicitor to make such consequential changes to the Constitution as may be necessary to give effect to the changes agreed by Council.

Allowances

- 2.18 To note that a separate report dealing with members' allowances will be presented to a future council meeting.

3.0 Detail

Audit Committee and Risk Management Issues

- 3.1 CIPFA (the Chartered Institute of Public Finance and Accountancy) has recently issued guidance, "Audit Committees, Practical Guidance For Local Authorities", on the establishment of Audit Committees in local authorities. It makes a clear recommendation that every authority should establish a dedicated Audit Committee which is separate from the Executive and from the Overview and Scrutiny structure. The CWG has considered this guidance and agreed that the establishment of an Audit Committee for Brent should be recommended to Full Council.

- 3.2 Section 151 of the Local Government Act 1972 requires the Council to make “arrangements for the proper administration of its financial affairs”. The Functions Regulations, issued under the Local Government Act 2003, provide that the section 151 functions cannot be discharged by the Executive i.e. they are non-Executive functions. It is considered that the audit function falls within the s.151 definition and must therefore be carried out by a council-side committee and not the Executive.
- 3.3 The Accounts and Audit Regulations 2003 as amended (2006) require the following:
- (a) The Council shall conduct a review at least once in each year of the effectiveness of its system of internal control.
 - (b) The findings of the review referred to above shall be considered by a committee of the relevant body, or by the members of the relevant body meeting as a whole, and following that consideration, shall approve a statement on internal control, prepared in accordance with proper practices in relation to internal control.
 - (c) The Council shall include the statement referred to above with its statement of accounts.
 - (d) The Council shall, at least once in each year, conduct a review of the effectiveness of its system of internal audit and the findings of the review shall be considered, as part of the consideration of the system of internal control by the committee considering the statement on internal control.
- 3.4 The CWG recommended that the Audit Committee include the following features:
- It should be made up of three non-executive members, one from each political group.
 - The committee should not be whipped.
 - The terms of reference should be based on those recommended by CIPFA. It should be responsible for risk management, considering the annual review of the Council’s corporate governance arrangements, whistleblowing and anti-fraud measures.
 - The terms of reference of the General Purposes Committee, the Standards Committee, and the Performance and Finance Select Committee should be modified to remove responsibilities that would in the future be undertaken by the Audit Committee (as shown in Appendix 1).
 - The committee should have at least four scheduled meetings per year.
 - The committee should be supported by the Director of Finance and Corporate Resources and the Head of Audit and Investigations.
 - The committee should have power to require the attendance of members and officers.
- 3.5 The Council's current political composition means that this three member committee with one member from each group will in fact conform with the political balance rules.

- 3.6 The CIPFA guidance suggests that the Council should adopt a “Statement of Purpose”, ideally in the form suggested in the guidance. The CWG recommends that the “Statement of Purpose” recommended by CIPFA be adopted.
- 3.7 At this stage an allowance is not being proposed for the Chair of the Audit Committee. The issue of allowances in relation to the Audit Committee will be dealt with when the CWG considers allowances in general.
- 3.8 Consideration of the Council’s audit framework has highlighted the importance of ensuring that it is clear which Executive member has responsibility for risk management. While it is generally understood that the Deputy Leader’s portfolio of “Resources” includes this role, it is considered desirable that the portfolio be described in the Constitution as “Resources, and Risk Management”. This is also a requirement of the Use of Resources assessment carried out by the Audit Commission as part of the CPA framework.

Petitions and Deputations

- 3.9 The CWG considered the process for dealing with petitions and deputations. The main principles that it considered was the obvious need for all petitions to be brought to the attention of the person or body who is best placed to give effect to the petitioners’ plea, i.e. the relevant decision maker, but also the need to give petitioners confidence that their petition would be given a fair and genuine hearing at the appropriate level and would be taken seriously by the authority.
- 3.10 CWG felt that some improvements could be made, particularly by providing regular progress reports on petitions (with 50 or more signatures) at Full Council. CWG felt that this would improve accountability and give members of the public reassurance that their petitions were being dealt with appropriately.
- 3.11 It is recommended that Standing Orders be modified accordingly, and the proposed modifications are set out at Appendix 1. The key features are as follows:
- In addition to the existing provisions, petitions with 50 or more valid signatures should be reported to Full Council by way of a written list.
 - The list (prepared by the Democratic Services Manager) reported to Full Council will comprise the subject of the petition, the date received, the terms of the petition, which body the petition has been referred to for action and when it was considered, and the action or response taken so far.
 - The list will be presented by the Mayor for the Council to note (it will not be open to discussion).
 - The deadline for inclusion in the schedule will be two days before despatch of the Summons. Petitions received after this date will be reported at the subsequent meeting of Council.

- The schedule will be updated for each Council meeting until such time as the petition is finally disposed of.
- A dedicated webpage will be developed to assist with the tracking of petitions.

Business to be Transacted at Council Meetings

- 3.12 The CWG considered at some length whether improvements could be made to the arrangements for Ordinary Council meetings. It was guided by a number of principles. First among these was the importance of providing a forum for debate for non-executive members as it was felt that Full Council was one of the main opportunities for backbenchers to engage with the business of the Council. The democratic role of the opposition at Full Council was also acknowledged. Members of CWG felt that members would be willing to contemplate slightly longer meetings if that meant that it were possible to allow sufficient opportunities for backbenchers and opposition members and at the same time to have slightly fewer meetings in each year. However, in the normal course of events this is not expected to lead to problems in completing the agenda before the guillotine procedure is invoked at 10.30pm.
- 3.13 It was recommended that the start time should be moved to 7.15pm in order to allow more time for Councillors who work to arrive for the commencement of the meeting.
- 3.14 It is proposed that the time allocated to the report back from the Executive be reduced from 20 minutes to 10 minutes. It is also proposed that there no longer be a General Debate at Council meetings.

Leaders' Motions

- 3.15 Prior to May, Standing Orders provided slots of fifteen and twenty-five minutes for the leaders of the two opposition groups to propose a motion of their choice. This was modified on 22 May to take account of the composition of the Council after the May election such that the slot provided was a period of 20 minutes for each of the three group leaders. CWG considered this process and recommended that it be modified to allow 30 minutes for the opposition party and 10 minutes each for the administration parties.

Question Time

- 3.16 It is proposed that the arrangements for Question Time be modified slightly. The current multiple ballot system for allocating questions was felt to be unnecessarily complex. In future it is recommended that each group be assigned a set number of questions to allocate as it (or formally its leader) chooses. It was recommended by CWG that the basis for this allocation would be five questions for Labour in recognition of its status as the opposition, three for the Liberal Democrats, and two for the Conservatives. The time currently allocated to Question Time, namely 45 minutes, would be reduced to 40 minutes.

- 3.17 Currently, Question Time alternates with Non-Executive Members' Items such that only one occurs at each Council meeting. It is recommended that in future the agenda permits both Question Time and Non-Executive Members' Items at every Ordinary Council Meeting except the March Council Tax Meeting. The time available for Non-Executive Members' Items has been reduced from 45 to 30 minutes. However, it is intended to retain three items per meeting.

Referral of Called In Decisions to Full Council

- 3.18 Members will recall that previously the CWG has recommended, and Full Council has agreed, that the threshold for "call in" of an Executive decision to the Overview and Scrutiny Committee should be reduced to any five non-executive members. It was felt that the previous threshold was prohibitively high, particularly given the new council composition. This was agreed by Full Council on 11 September.
- 3.19 At Standing Order 22 the Constitution also provides for the referral of an Executive decision to Full Council where there are matters that remain unresolved after a call in by Overview and Scrutiny. This provides an opportunity for the Council to consider the issue further and make a recommendation to the Executive, possibly, to reconsider their position. This has in the past required a threshold of at least 40% of all members, but it was felt that this threshold was so high as to make the provision almost redundant. Given that an extraordinary meeting of Full Council could be called much more easily it seemed desirable either to give the referral process a more realistic threshold, or abandon it altogether.
- 3.20 The CWG felt that on balance the procedure should be retained and has the potential to provide a valuable democratic safeguard. It therefore recommends that the threshold for referral of a called in decision be set at 10 members.

Removal of the Annual Policy Programme

- 3.21 The Constitution provides for an Annual Policy Programme which should be a schedule of plans, policies and strategies which the Executive proposes to develop over the course of each year. Among other things, this schedule was intended to include an indication of whether such plans, policies and strategies should be subject to a "First Reading Debate" at Full Council. In practice the process of the Annual Policy Programme has never been used. The CWG considers that other mechanisms have been sufficient to fulfil the role envisaged for the Annual Policy Programme. This will mean the deletion of the Annual Policy Programme from the Constitution. It will also mean the removal of the provision for First Reading Debates, except in the context of the Budget and possibly certain other key policy documents in respect of which a First Reading Debate would be of value and could be accommodated within the timeframe for adoption.

Youth Parliament

- 3.22 The CWG considered in draft a report on the proposed Youth Parliament from the Director of Children and Families (attached as Appendix 2) and recommends the establishment of a Youth Parliament along the lines set out in that report.
- 3.23 As noted in the report it is intended that the Youth Parliament will provide a coherent structure to give a genuine voice which is essential for the effective implementation of the Children Act 2004. However, the CWG recognises that the structure will only work if it is backed by the practical will of all those involved in the process: members, officers, and the young people involved.
- 3.24 While endorsing the proposal to establish a Youth Parliament, some members of the CWG expressed concerns about how the Parliament would run in practice. Accordingly, the structure and remit of the Youth Parliament will be reviewed and a report will be presented to Council in January 2008.
- 3.25 The CWG was particularly concerned to ensure that locality based representatives were included in the Youth Parliament, so as to ensure that it is representative of the whole borough. This is reflected in the 10 places reserved for locality based representation in figure 1 of the paper at Appendix Two.
- 3.26 The Youth Parliament sits alongside the existing consultative arrangements. CWG agreed with the recommendation of the Director of Children and Families that there would no longer be a need for a freestanding Brent Youth Matters 2 Service User Forum nor the Children Forum and it is recommended to delete these from the Constitution.
- 3.27 Article 10.41 sets out the process for linking the consultative fora to the Council's decision making process. This process will apply to the Youth Parliament. Essentially, if the Youth Parliament wishes to make representations or recommendations to the Executive on something in the Forward Plan then it can submit written comments to the Executive for consideration and can then send a deputation to the meeting and, with the consent of the Chair, present their views to the meeting. The Youth Parliament may well be one of the consultees identified in the Forward Plan for that particular item. If the Youth Parliament wish to make representations on an issue not in the Forward Plan then they can submit representations in writing to the relevant Overview and Scrutiny Committee which can then add the item to their work plan for consideration. Whatever process exists within the Constitution requires input and commitment from officers and members and the young people involved in the parliament to actually make it effective.

Minor Change to Contract Standing Orders

- 3.28 In addition to those matters considered by CWG, a number of changes are proposed to Contracts Standing Orders. The changes include amended provisions dealing with the corporate Approved List. In accordance with

Contracts Standing Orders, the Borough Solicitor in consultation with the Director of Finance and Corporate Resources has given approval to the introduction of a corporate Approved List and has prescribed rules on how the list shall be compiled, used, monitored and reviewed. The corporate Approved List will be used for Low Value Contracts for services and supplies and for Low and Medium Value contracts for works.

- 3.29 Contract Standing Orders have also been amended to allow the use of Framework Agreements established by other contracting authorities to call off Low or Medium Value Contracts without the need to obtain quotes or follow full tendering requirements. This is however, subject to advice from the Borough Solicitor that participation in the Framework Agreement is legally permissible and approval of the Director of Finance to participate in the Framework Agreement. The amendments also clarify that call offs may be made under Framework Agreements established pursuant to the Council's Standing Orders.

4.0 Financial Implications

- 4.1 The deletion of the two Service User Fora from the Constitution would result in a potential saving of £8,984 in members' allowances per annum. The cost of running the Youth Parliament will be met from existing budgets.

5.0 Legal Implications

- 5.1 The Borough Solicitor has been closely involved in the development of these proposals by the CWG. She advises that the proposed changes are in accordance with the Council's legal obligations. Specific legal issues are addressed throughout the report.

6.0 Diversity Implications

- 6.1 The children and young people's participation structure and development of the Youth Parliament will reflect the diverse nature of the community and will seek to ensure that all children and young people in the borough are given opportunities to participate and be involved in the design and delivery of services that meet their needs. Hard to reach and vulnerable groups in the community will be specifically targeted in ways that are appropriate to avoid exclusion of any groups. It is considered that any adverse effects from discontinuing the Brent Youth Matters 2 Service User Forum and the Children Forum will be addressed by the introduction of the Youth Parliament.

7.0 Staffing/Accommodation Implications

- 7.1 A part time post of senior youth participation manager will be established to support the work of the Youth Parliament. As noted above, this will be funded from within existing resources.

Background Papers

- Brent's Constitution
- Notes of the Constitutional Working Group meetings held on 26 July, 8 August, 14 September, 5 October, and 24 October
- Report of 24 October 2006 from Director of Children and Families re Development of a Youth Parliament for Brent
- CIPFA (the Chartered Institute of Public Finance and Accountancy) Guidance "Audit Committees, Practical Guidance For Local Authorities"

Contact Officers

Any person wishing to inspect the above papers should contact Phil Newby, Tel: 020 8937 1032, email: phil.newby@brent.gov.uk or Terry Osborne, Tel: 020 8937 1292 email: terry.osborne@brent.gov.uk.

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