



Full Council
21st May 2007

Report from the Borough Solicitor

For Action

Wards Affected:
None

Proposed Revisions to Brent's Constitution

1.0 Summary

- 1.1 This report sets out proposed changes to the Constitution following consideration by the Constitutional Working group ("CWG"). Some changes are required to be made as a result of legislative change.

2.0 Recommendations

Members are asked to:-

- 2.1 Agree to increase the financial limits in the property delegations set for the Head of Property and Asset Management to the amounts described in this report.
- 2.2 Delegate authority to set the fees for applications under the Gambling Act 2005 to the Alcohol and Entertainment Licensing Committee and note the other changes required to be made to the Constitution by the Act.
- 2.3 Agree to change the name of the Disability and Mental Health Forum to Brent Disabled User Forum.
- 2.4 Agree all other changes to the Constitution being recommended in this report and/or shown in the appendix.
- 2.5 Note that members' allowances are dealt with in a separate report.
- 2.6 Note that a further report on neighbourhood working may be brought before members in due course.

2.7 Note that a further report on the recent changes to the Model Code of Conduct will be brought before members in due course.

3.0 Detail

Introduction

3.1 The Constitution is kept under review throughout the year to ensure that it complies with all relevant legislation and good practice and that it continues to be an effective working document. The Constitution has also been reviewed by the CWG, comprising members and officers. There have been two interim reports of the CWG, reported to the Council on 11th September 2006 and 27th November 2006 covering the following matters:

- Merge the Overview and Scrutiny Committees and make other amendments to the O&S structure
- Reduce the threshold for call in to 5 members
- Abolish the Youth Matters 2 SUF and the Children's Forum
- Create a Youth Parliament
- Create an Audit Committee
- Report petitions to Full Council for information
- Make changes to the transaction of business at Full Council
- Delete references to the Annual Policy Programme in the Constitution
- Make changes to contract standing orders

3.2 Members also agreed to receive a further report back from the CWG on any other issues considered by it.

3.3 Members will note that Members' Allowances are dealt with elsewhere on this agenda.

3.4 Members will be aware that a new Code of Conduct for Members has been issued by the government and the Council has until 1st October 2007 to adopt it. This new code will be reported to the Standards Committee for onward submission to Full Council for adoption, probably in September.

3.5 Members will also note that the CWG have been considering the issues connected with neighbourhood working and that a separate report will be submitted to the Council in due course should any constitutional changes be required to give effect to any recommendations of CWG.

3.6 The recommended changes to the Constitution are shown as tracked changes in the Appendix which contains relevant extracts from the Constitution with footnotes explaining the reasons for each proposed change. Where the change is minor or self-explanatory then there is no footnote.

3.7 The main areas covered in this report are:

- Property delegations
 - The Gambling Act 2005
 - Changing the name of the Disability and Mental Health Forum
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Property delegations

- 3.8 The current financial limits on the delegated powers of the Head of Property and Asset Management in relation to the acquisition and disposal of property are set at £50k per annum in relation to rental properties and £150k in relation to properties acquired or disposed of at a premium. Officers have considered whether this should be increased to allow greater flexibility and quicker decision making. It would also free up some Executive time by removing the need for them to consider property transactions that are routine and of relatively low value.
- 3.9 Members may recall that the limits were increased once before in May 2006 from £20,000 to £50,000 per annum in relation to rent and from £50,000 to £100,000 at a premium but the increase has not had the intended effect of freeing up the Executive to any noticeable degree. It was also agreed at the time that the Head of Property and Asset management would submit a quarterly report to the Performance and Finance Select Committee setting out details of any asset disposals made during the period. A report setting out the disposals made in the last financial year is being submitted to the committee in June.
- 3.10 Increasing the financial limits for the Head of Property Asset and Management from £50,000 per annum to £100,000 per annum in relation to rental property and from £150,000 to £300,000 in relation to properties acquired or disposed of at a premium will allow the officer to make decisions on the more routine property transactions and will reduce the workload of the Executive while ensuring that decisions on high value or important transactions are still made by the Executive.
- 3.11 Members are asked to note that, by way of reference, the average house price in Brent is £292,600, roughly the same as the value now been proposed for delegated decisions on disposals at a premium.

The Gambling Act 2005

- 3.12 Most of the Council's functions under the Gambling Act 2005 are automatically vested in the Councils Alcohol and Entertainment Licensing Committee by section 154 of the Gambling Act 2005. The changes shown in the appendix reflect the statutory position. However, the function of setting the fees is not automatically delegated by section 154 and Full Council may choose to delegate the function. It is recommended that the Council does delegate this function to the main Alcohol and Entertainment Licensing Committee.
- 3.13 The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 provide constraints on setting the application fees including a maximum fee that may be charged.
- 3.14 Any further consequential changes required to be made as a result of the legislation will be made by the Borough Solicitor under delegated powers.
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Disability and Mental Health Forum

- 3.15 The Council established the Disability and Mental Health Forum under Article 10.22 of Part 2 of the Constitution as a Service User Forum to, amongst other aims:

“provide a focal point for disabled people and mental health service users, their carers, advocates, service providers, advisors, officers, Council members and representatives from voluntary organisations and community groups to meet together on a bi-monthly basis to exchange views and to learn from each others experiences.”

- 3.16 At the first meeting of the forum on 14 December 2005 the members of the group expressed a desire to change the name of the group to the Brent Disabled User Forum to reflect the social model of disability which encompasses all disabled groups including mental health.
- 3.17 In practice, the forum has been known by that name ever since then and that name change now needs to be reflected in the Constitution.

4.0 Financial Implications

- 4.1 The change in the financial limits of the property delegations will not have an impact on the Council’s budget.

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 There are no specific diversity implications arising from this report.

Background Papers

Brent’s Constitution
Notes of the Constitutional Working Group meetings.

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