



Full Council
24th November 2008

Report from the Borough Solicitor

Wards Affected:
NONE

Changes to the Constitution

1.0 Summary

- 1.1 This report proposes a series of minor changes to the Council's Constitution arising out of the regular 6 monthly review of the Constitution.

2.0 Recommendations

Members are asked to:

- 2.1 Agree to amend standing order 38 in relation to Question Time as set out in **appendix 1**.
- 2.2 Agree to re-introduce a procedure for a special meeting as set out in **appendix 2**.
- 2.3 Agree to amend the Constitution so that electronic versions of documents must be provided instead of paper copies as set out in **appendix 3**.
- 2.4 Agree to delegate the functions relating to governance arrangements, elections and community governance reviews to the General Purposes Committee and/or the Chief Executive as set out in **appendix 4**.

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.

The formation of a new political group

- 3.3 The Council now has one independent member and four political groups. However, the Standing Order relating to supplementary questions at Question Time at Full Council only refers to members of the three largest political groups. Although all non-executive members (except the Mayor and Deputy Mayor) may submit written questions, as currently drafted, only members of the three largest political groups may ask supplementary questions at Full Council.
- 3.4 This is unfair to members who are not members of the three largest groups and officers therefore recommend amending the procedure so that an independent member or a member of a political group that is not one of the three largest groups may ask one supplementary question each per municipal year. This is roughly the same ratio of supplementary questions to eligible members that is currently provided for.
- 3.5 Members are asked to approve the changes to Standing Order 38 set out in **Appendix 1**.

Special meeting of the Council

- 3.6 A special meeting is a meeting that is called for the purpose of transacting a specific item or items of business and a number of provisions in the Local Government and Public Involvement in Health Act 2007, such as the resolution making a change to the governance arrangements and a resolution changing the name of an electoral area, are required to be passed “at a meeting specially convened for that purpose”. A definition of special meeting must therefore be inserted into the constitution.
- 3.7 Members are therefore asked to approve the changes set out in **appendix 2**.

Making documents available electronically

- 3.8 The Council is moving towards making more information available electronically. There are some instances where the Constitution currently requires paper copies of documents to be presented or provided and when it could instead be done electronically.
- 3.9 For example Standing Order 1 requires a ‘printed copy’ of the Constitution to be given to every Member of the Council when they provide their declaration of acceptance of office. The printed copies of the Constitution quickly become out of date as the Constitution is a living document that is regularly updated and the most up to date version of the Constitution is the one on the Council’s intranet and

internet site. Officers propose amending Standing Order 1 so that access to an electronic version must be provided at that time.

- 3.10 A printed copy of the Constitution will still be provided to individual Members on request where they are unable to access the intranet or internet or for some other reason and each political group office already holds two versions of the recently published version the Constitution.
- 3.11 Standing Order 25(c) currently requires the Democratic Services Manager to provide a record of the First Reading Debate to the Leader of the Council and the Chair of the Budget Panel. It is recommended that this information should instead be made available on the Council's website as this will provide access for more members and members of the public, as well as being sent electronically to those specified members.
- 3.12 Members are asked to approve the changes set out in **appendix 3**.

Delegation of functions arising from the Local Government and Public Involvement in Health Act 2007

- 3.13 The Local Government and Public Involvement in Health Act 2007 has introduced various changes to local government in England including a requirement for the Council to change its governance arrangements, the introduction of a community governance review and new powers in relation to electoral arrangements. Members will be fully briefed about these areas in due course but in summary;
- The Council must change to a new style Leader and Executive model or a directly elected Mayor and Cabinet model of leadership by the time of the next election in 2010 and is required to consult members of the public before doing so.
 - A community governance review provides a process by which residents can require the Council to undertake a community governance review which in some cases can lead to the creation of Parish Councils.
 - The Act also amends the power to change the name of the electoral area.
- 3.14 A number of the functions associated with changing governance arrangements, community governance reviews and electoral arrangements are non-executive functions. Some of these functions are administrative functions, like the duties to publish notices, consult with members of the public and publicise the outcome of a review. These functions could be delegated to the Chief Executive.
- 3.15 In some cases, functions could be delegated to the General Purposes Committee. The members of the General Purposes Committee include the leaders of three largest political groups in the Council and the committee meets approximately every two months. It can also be called together as and when required more easily than Full Council so it would be an ideal committee to be responsible for overseeing and making decisions on the change of governance arrangements and community governance reviews.
- 3.16 Key functions such as passing a resolution, making recommendations or changing a name of an electoral area should not be delegated and Full Council should remain responsible for carrying out that function.

3.17 Officers recommend delegating the administrative functions to the Chief Executive and such other functions to the General Purposes Committee as set out in **appendix 4**.

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.

7.0 Staffing

7.1 There are no staffing implications arising from this report.

Background Papers

Brent Constitution

Local Government and Public Involvement in Health Act 2007

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.

TERRY OSBORNE

Borough Solicitor