



Council
23 February 2023

**Report from the Corporate Director,
Governance**

Amendments to the Constitution

Wards Affected:	N/A
Key or Non-Key Decision:	Council
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	One Appendix 1: Proposed changes to the Constitution
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Debra Norman, Corporate Director, Governance 020 8937 1578 Debra.norman@brent.gov.uk

1.0 Summary

1.1 This report proposes a number of minor changes to the Constitution to remove disproportionate bureaucracy and provide clarification.

2.0 Recommendations

2.1 To agree the amendments to the Constitution set out in this report and Appendix 1.

2.2 To note that, to the extent that the changes set out in this report relate to executive functions of the Council, they have been approved by the Leader.

2.3 To authorise the Corporate Director, Governance to amend the Constitution accordingly, including making any necessary incidental or consequential changes.

3.0 Background

3.1 A number of minor changes to the Constitution are proposed following a recent meeting of the Constitutional Working Group, as set out below.

Agreeing Grant Criteria

- 3.2 Currently the Constitution allows for officers to make grants from the council's own resources up to £25k (or in the case of NCIL, up to £100k) subject to a number of restrictions. One of these is:

“(iv) the grant criteria has been approved by the Cabinet other appropriate body or person with appropriate authority.”

This has made it difficult on a number of occasions to move quickly to agree small grant programmes.

- 3.3 It is therefore proposed that where the awards to be made under a grant programme will not exceed £25k, Corporate Directors be given delegated power to agree the criteria to be applied, in consultation with the relevant Cabinet Member.

Bidding for Grants

- 3.4 Currently individual Cabinet Members have delegated power to agree submission of bids for additional resources from government and other bodies in relation to their portfolio area, subject to financial regulations and any matching funding being identified at the time of bidding.

- 3.5 These bids are often speculative in nature and the making of the bid does not normally commit the council to accept or use the grant or provide any match funding. The requirement for a Cabinet Member decision can make it difficult for bids to be submitted in time where timescales are tight because of the process surrounding Cabinet Member decision, which is often disproportionate to the sums involved.

- 3.6 It is proposed that this delegation be removed so that officers are free to make bids for additional resources without going through a detailed governance process. Officers will instead be required to consult with the Cabinet Member before bidding. The use of any grant received will be subject to the usual governance processes relevant to the application of the grant.

Supplementary Planning Documents

- 3.7 Supplementary Planning Documents (SPDs) build upon and provide more detailed advice or guidance on policies in an adopted local plan. As they do not form part of the development plan, they cannot introduce new planning policies into the development plan.

- 3.8 Current practice is that draft SPDs are agreed prior to consultation by Cabinet and in some instances return to Cabinet to be adopted taking into account the outcome of consultation. This is a cumbersome process for documents which do not establish new policy and are often quite technical.

- 3.9 It is proposed that it be made explicit in the Cabinet Member delegations that the Cabinet Member can agree consultation on such documents and that the Cabinet Member also be empowered to adopt the SPD following consultation. The Cabinet Member will be able to refer the SPD to Cabinet for consideration if they consider this to be appropriate in the circumstances.

Fees and Charges

- 3.10 A minor addition is also proposed to the wording of the delegation of powers to Cabinet Members to agree fees and charges to clarify that these powers do not restrict the powers of officers to agree fees and charges as provided for in the Policy adopted by full Council.

Procurement decisions

- 3.11 In order to ensure consistency and avoid confusion, it is proposed that the thresholds for officer decision-making mentioned in Part 3 Paragraph 9.5 (3.3(a)) relating to contract and procurement matters be exclusive rather than inclusive of VAT. This was the case before changes to the Public Contract Regulations 2015 came into effect in January 2022 and is currently the case in respect of all other contract and procurement delegations in Part 3.

4.0 Legal implications

- 4.1 These are contained in the body of the report

5.0 Financial Implications

- 5.1 No specific financial implications arise from this report.

6.0 Diversity Implications

- 6.1 Under Section 149 of the Equality Act 2010, the Council has a duty when exercising their functions to have 'due regard' to the need:

- a) to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited under the Act;
- b) advance equality of opportunity; and
- c) foster good relations between those who share a "protected characteristic" and those who do not.

This is the Public Sector Equality Duty (PSED). The 'protected characteristics' are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation

Report sign off:

Debra Norman

Corporate Director of Governance