



**Audit and Standards Advisory  
Committee**

21 March 2023

**Report from the Corporate Director  
of Governance**

**Review of Role and Operation of the Constitution Working  
Group**

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Non-Key
<b>Open or Part/Fully Exempt:</b> (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
<b>No. of Appendices:</b>	One Appendix A – Constitutional Working Group Terms of Reference
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> (Name, Title, Contact Details)	Debra Norman, Corporate Director, Governance 020 8937 1578 <a href="mailto:Debra.Norman@brent.gov.uk">Debra.Norman@brent.gov.uk</a>

**1. Purpose of Report**

- 1.1. In response to a recommendation from the Resources and Public Realm Scrutiny Committee, this committee received a report in the last municipal year providing a review of the role and operation of the Constitutional Working Group (CWG). The committee asked for a further review to be undertaken after the Local Elections in May 2022. This report provides that further review.

**2. Recommendations**

- 2.1. To consider and note the contents of this report.

**3. Detail**

- 3.1 At its meeting on 14 September 2021, the Resources and Public Realm Scrutiny Committee agreed the following recommendation:

*To increase democratic overview and transparency within the Constitutional Working Group, ensuring member involvement in decision-making.*

- 3.2 The CWG is not a committee of the council, it is an officer/member working group chaired by the Chief Executive and it therefore meets in private, with the papers presented to the group and discussed without being published. It has been in existence since before 2015. Its primary purpose is to seek cross party agreement to potential changes to the Constitution before they are formally taken forward for decision by Full Council. Its meetings take place in the period leading up to Full Council meetings if it is anticipated that changes will be recommended at the forthcoming meeting. The CWG does not take any decisions about the Constitution itself.

- 3.3 Democratic overview and transparency are currently provided through the referring of any significant changes to the Constitution supported by the CWG to Full Council for discussion and approval. At those Full Council meetings, papers and discussion are public and all council members are able to contribute and challenge if they so wish.

- 3.4 Should it be considered appropriate in respect of any proposed changes, if for example proposed changes to the terms of reference of a committee were considered particularly contentious, those changes could be referred to the Audit and Standards Advisory Committee (ASAC) for a detailed discussion before recommendation to Full Council. The Constitution provides power for the ASAC monitor and review the operation of the Constitution and to make recommendations for change.

- 3.5 Democratic accountability is also provided through the involvement of cross-party membership in the CWG. Political members of CWG determine the extent of discussion in their party groups about matters due to be considered at the CWG.

- 3.6 As part of the initial review details were sought from a number of other London Boroughs on the arrangements, they have in place for considering constitutional matters. Whilst only a limited number of responses were received, a range of practices were identified, which included:

- Use of a Member Working Group to consider any constitutional changes prior to their referral onto Full Council for approval.
- Establishment of a formal Committee to consider any constitutional matters in advance of their referral onto Full Council.
- Use of the General Purposes Committee to consider and agree constitutional changes or (if felt to be significant enough) to refer them on to Full Council for consideration and approval.
- Reference of issues direct to Full Council (having been identified by Leader of Council or other bodies such as Audit Committee).

- Delegation of power to the Monitoring Officer to deal with minor changes to the Constitution with any more significant issues referred direct to Full Council.

3.7 Although only a small sample, as can be seen from the above there are a variety of arrangements in place for undertaking initial consideration of constitutional matters among other London Boroughs. In addition to the CWG Brent does have in place some elements of these other mechanisms. As mentioned already, the ASAC is able to receive reports in relation to Constitution changes. In addition, the Constitution provides for minor changes to be made by the Monitoring Officer:

*“The Constitution may be varied by the Corporate Director of Governance if in his or her reasonable opinion a variation is a minor variation (which includes legal, factual, administrative and other technical changes) or is required to be made to remove any other inconsistency or ambiguity or is required to be made so as to comply with any statutory provision.”*

3.8 Were a decision made that proposals to change the Constitution should routinely be considered by a committee before recommendation to Council, there would still be the need for an informal discussion mechanism as part of preparing proposals. In addition, the flexibility of the informal approach prior to council would be lost and some sort of urgency arrangement would need to be in place where changes need to be made quickly, for example due to legislative change.

3.9 The effectiveness of the current arrangements was discussed at the CWG meeting on 3 November 2021 as part of the initial review. The CWG considered the current operation of the group and the alternative practices elsewhere. The view of the CWG was that the arrangements currently work well, although it was thought that inviting other members to meetings where particularly relevant would be an improvement, for example, the Chair of Planning if there was a discussion about Planning Committee terms of reference. Aside from that improvement, the CWG considered it would be appropriate before making any significant changes to undertake a further review following the local elections May 2022.

3.10 CWG, now including membership to reflect the new political make-up of the Council since the local elections, discussed this issue again at its meeting on 21 December 2022.

3.11 At this meeting the CWG agreed to adopt the Membership and Terms of Reference set out in Appendix 1. These reflect that there are now 3 political groups on the Council. They also reflect the remit of the CWG in respect of discussing items coming to Full Council which are not restricted directly to the Constitution (e.g., the municipal calendar) and ad-hoc attendance at CWG by other members and officers where topics to be discussed are closely related to their role in the council. No further changes to current arrangements were considered necessary by the CWG.

3.12 It should also be noted that the CWG includes in its discussions changes which relate to the exercise of executive powers. These are matters for the Leader not Full Council to decide and are referred to Full Council for noting

or as technical changes to the Constitution, rather than to be agreed in substance by Full Council.

**4. Financial Implications**

The report is for noting and so there are no direct financial implications

**5. Legal Implications**

The report is for noting and so there are no direct legal implications

**6. Equality Implications.**

None

**7. Consultation with Ward Members and Stakeholders**

The members of the Constitutional Working Group were consulted concerning this review as set out in the body of the report.

**Report sign off:**

**Debra Norman**

Corporate Director of Governance