



**Full Council**  
13 September 2010

**Report from the  
Borough Solicitor**

For Action

Wards Affected:  
None

**Changes to the Constitution**

**1.0 Summary**

- 1.1 This report sets out proposed changes to the Council's constitution in relation to the structure of the Overview and Scrutiny Committees, the operation of full council, the arrangements for the Annual Council Meeting and other miscellaneous and incidental matters.

**2.0 Recommendations**

That members:

- 2.1 Agree the changes to the Constitution set out in **Appendices A - F**
- 2.2 Agree that the Borough Solicitor make such changes to the constitution as are incidental to the changes set out in **Appendices A - F**
- 2.3 Appoint the Director of Policy and Regeneration as the Scrutiny Officer.

**3.0 Detail**

*Background*

- 3.1 Each Council is required by law to maintain a constitution the content of which is also prescribed. The constitution sets out the manner in which council business is conducted. The Council's constitution in its current format was originally adopted in 2002 and has been amended periodically since then to accommodate various changes required by law, or to alter processes to better suit the circumstances of the Council.
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- 3.2 It has become established practice in Brent that at the beginning of a new administration a time limited cross party group is set up to determine constitutional issues, with the objective of making the constitution as effective as possible for the next four years.
- 3.3 Following the change in administration after the May 2010 elections a cross party Constitutional Working Group was established, which included officer representation, to consider various aspects of the Council's decision making and scrutiny arrangements including the committee structure and the operation of full council. The meetings took place during June and July 2010. The recommendations set out in this report reflect the decisions made by agreement at those Constitutional Working Group meetings.
- 3.4 There are three main areas of change; the Overview and Scrutiny arrangements, the operation of full council meetings, and the arrangements for the ceremonial Mayor making. There is also an update on the role of area consultative forums, and a change in membership of the Audit Committee. An explanation of these changes is set out in the paragraphs below and attached to this report at **Appendix A - F** are those parts of the Constitution which are significantly affected. Members' approval is sought for these changes.
- 3.5 There are also a number of miscellaneous changes which arise throughout the Constitution as a consequence of these major changes. To save the cost of attaching each minor change as an appendix to this report a full amended version of the constitution has been provided to each Group Office in advance of this meeting. Members are asked to agree that the Borough Solicitor be permitted to make these incidental changes.

### **Overview and Scrutiny Committees.**

#### *Background and legal position*

- 3.7 The Local Government Act 2000 (as amended) requires that there be committees of the council which perform reviewing and scrutinising roles in relation to executive decision making and decisions of the council. There are also other legal powers and functions attributed to the overview and scrutiny committees in other legislation, such the power to review and scrutinise health bodies originally set out in the Health and Social Care 2001 (now replaced by the National Health Service Act 2006).
- 3.8 Currently the reviewing and scrutinising role is carried out by a main Overview and Scrutiny Committee and its 4 sub committees and a separate Children and Families Overview and Scrutiny Committee. The current sub committees are Health Select Committee, Budget Panel, Forward Plan Select Committee and Performance and Finance Select Committee. It is now proposed that there be 6 overview and scrutiny committees consisting of 5 main committees and a sixth ad hoc committee. It is proposed that the statutory roles performed by the current overview and scrutiny committees be performed by these new committees and that there be a reorganisation and in some cases a new focus of the terms of reference of the new overview and scrutiny committees. The proposed committee structure is shown at **Appendix A**.
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### *Reasons for change*

- 3.9 The current overview and scrutiny committee structure offers an opportunity to work in a cross cutting way while providing a capacity for budget scrutiny and undertaking task group reviews. The annual overview and scrutiny survey consistently shows that this structure has enabled members to develop cross cutting expertise, while task group work is clearly the most valued aspect of the function. However, changes in legislation, greater emphasis on partnership working and place, and the implementation of the council's transformation programme means that increasingly some agenda items can either fall across or between committees, and the current structure is less able to address the current issues.
- 3.10 The changes to the overview and scrutiny committee structure are designed to provide a greater opportunity for non executive members to scrutinise the development and implementation of the council's improvement and efficiency programme and enable increased focus on partnerships without compromising the effective review of the health provisions.
- 3.11 The Council's Improvement and Efficiency Action Plan sets out a programme of projects designed to reconfigure the way in which the council provides services to the public, at the same time as achieving substantial efficiencies and effective service delivery. During 2009/10 the Budget Panel spent some time examining the Improvement and Efficiency Action Plan and the Budget Panel recommended that the overview and scrutiny function should play a key role in the governance of the Improvement and Efficiency Action Plan. There are two key aspects to scrutinising the action plan; Firstly budget setting and benefits realisation – are the projects delivering the saving they are designed to make, at the point they are designed to make them? Secondly, are the projects delivering better services for local communities and improving the council's efficiency and performance? These roles have been included in the Budget and Finance Overview and Scrutiny Committee and the One Council Overview and Scrutiny Committee proposed terms of reference which are attached as **Appendix A**.
- 3.12 To ensure there is enough capacity to undertake scrutiny of both the partnership and health agenda the Constitutional Working Group agreed to the development of two committees.
- 3.13 The Local Government and Public Involvement in Health Act 2007 placed greater emphasis on partnership working and scrutiny of partnerships and gave enhanced powers to overview and scrutiny committees to require information from partner authorities. Brent's Local Strategic Partnership has recently been reviewed and the role of overview and scrutiny in providing challenge and governance was recognised within this review. Delivering the Local Area Agreement through Total Place and the Neighbourhood agenda is a silver project within the council's Improvement and Efficiency Action Plan. This project will be steered by the Local Strategic Partnership. Clearly overview and scrutiny will play a role in examining and or developing partner relationships, proposed projects and monitoring their impact. It is proposed that this area of scrutiny is allocated to the Partnership and Place Overview and Scrutiny Committee. The terms of reference are attached as **Appendix A**
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- 3.14 Scrutiny of health inequalities is a major aspect of the current Health Select Committee's work. Bringing together scrutiny of health partnerships into the remit of one committee - the Health Partnerships Overview and Scrutiny Committee - would give members a better opportunity to scrutinise the way the Council and its partners work together to improve the health of the people of Brent. The terms of reference are attached as **Appendix A**
- 3.15 It is proposed that the Forward Plan Select Committee be removed from the committee structure and that the function of considering call-in be performed by a Call-in Overview and Scrutiny Committee which will be convened as and when required and will be chaired by the chair of the One Council Overview and Scrutiny Committee. Pre decision scrutiny can be undertaken by any committee within whose remit the proposed decision falls.
- 3.16 It is proposed that the Children and Families Overview & Scrutiny Committee and the Budget Panel remain largely as they are but are re-titled Children and Young People Overview and Scrutiny Committee and Budget and Finance Overview and Scrutiny Committee. The Children and Families Overview and Scrutiny Committee is to be renamed to ensure that it is not restricted by departmental boundaries.
- 3.17 Under the proposed arrangements there is no 'parent committee'. Where matters were previously referred to the Chair of the Overview and Scrutiny Committee because they require an element of check or balance, they are now referred to the Chair of the One Council Overview and Scrutiny Committee (since this committee is to be chaired by a member of the opposition). By way of example the constitution currently provides that the Chair of Overview and Scrutiny will be notified of Key decisions proposed to be taken which are not on the Forward Plan. This will now be referred to the Chair of the One Council Overview and Scrutiny Committee
- 3.18 The makeup of the overview and scrutiny committees and arrangements for chairing the committees are set out in the table below.

<b>Committee</b>	<b>Chaired by</b>	<b>Number of Members</b>	<b>Number of Meetings</b>
One Council Overview and Scrutiny Committee	Opposition	8	6
Partnership and Place Overview and Scrutiny Committee	Administration	8	6
Health Partnerships Overview and Scrutiny Committee	Administration	8	6
Children and Young People Overview and Scrutiny Committee	Administration	8	6

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Budget & Finance Scrutiny Panel	Opposition	8	6 / 7
Call-in Overview and Scrutiny Committee	Chair of the One Council Overview and Scrutiny Committee	8	As required

### **Appointment of Scrutiny Officer**

- 3.19 This aspect of the overview and scrutiny arrangements was not specifically discussed by members of the Constitutional Working Party but is related to the subject and is a statutory requirement. Section 31 of the Local Democracy, Economic Development and Construction Act 2009 requires Local Authorities to designate one of their officers to discharge certain functions in relation to the overview and scrutiny committees. The functions are to promote the role of the overview and scrutiny committees, to provide support to those committees and their members, and to provide support and guidance to others in relation to overview and scrutiny functions. The officer is to be known as the Council's 'scrutiny officer'. Certain posts are barred from holding the role namely the Head of the Council's Paid Service, The Chief Finance Officer and the Monitoring Officer. The constitution includes a list of statutory officers who are for the main part Chief Officers. It is recommended that the Director of Policy and Regeneration is the most appropriate officer to be designated this function. Attached as **Appendix B** is the proposed amendment to the constitution. The Council's overview and scrutiny committees have been provided with designated officers to perform these functions for some time. However, legislation now provides that there be a formal designation.

### **Council Meetings**

- 3.20 Under the current arrangements there are 8 meetings a year of Full Council. The schedule consists of two May meetings – the constitution meeting and the annual mayor making, two budget meetings, one in November (first reading) and the other in March, and 4 other meetings which take place in January, July, September and October. The recommendation is that the number of meetings be reduced to 6 by joining the constitution meeting and annual mayor making meeting such that there is one meeting in May (which is addressed below) and that there no longer be an October meeting. The two budget meetings will continue as arranged. There will be three remaining meetings. In relation to those three meetings it is proposed that the format is changed to allow a greater opportunity for questions to be put by non executive members, to preserve the opportunity for motions where they are needed, and to arrange for these meetings to be used for a 'themed debate' which focuses on an issue which affects the Borough, which may include a presentation from an outside speaker. Attached as **Appendix C** are the proposed amendments to the Full Council proceedings.
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### **Mayor making council meetings**

- 3.21 It is recommended that the Annual Council Meeting involving the appointment of Mayor be joined with the constitution meeting so as to reduce the burden on members' diaries and provide a more efficient way of dealing with Council business whilst at the same time retaining a ceremonial aspect to the meeting. Included in **Appendix C** are the proposed changes.

### **Area consultative forums**

- 3.22 The Constitutional Working Group agreed some changes to the operation of the Area Consultative Forums which are aimed at rejuvenating them and encouraging ward members to attend by boosting their relevance to local people. The impact of these changes will be reported back to members. . Attached as **Appendix D** are the proposed changes.

### **Audit Committee**

- 3.23 The Constitutional Working Group recommended that there be an independent member appointed to the Audit Committee. It is recognised that an experienced independent person could offer expertise in this area. Section 13(1) of the Local Government and Housing Act 1989 allows the Council to appoint someone who is not a member of the Council to be a member of the Audit Committee. However an independent member appointed under this section will not have any voting rights. The appointment of an independent member would not alter the political balance of the committee as the political balance calculation for the Audit Committee would exclude any independent members of the committee. There is also a recommendation that members agree to an allowance for this role and this recommendation is set out in the report to members regarding member's allowances. Attached as **Appendix E** are the proposed changes.

### **Joint Overview and Scrutiny Committee**

- 3.24 Although not considered by the Constitutional Working Group there is an additional part of the constitution which requires amendment; references to the Joint Overview and Scrutiny Committee should be deleted. The Joint Overview and Scrutiny Committee was formed in 2008 and consisted of members from the 32 London Boroughs. It was set up pursuant to the Secretary of State direction that where the NHS is under a duty to consult more than one overview and scrutiny committee that a joint overview and scrutiny committee be set up for that purpose. The consultation in that case was in relation to *Shaping Health Services Together – Consultation on Developing New, High-Quality Major Trauma and Stroke Services in London*; A joint report was produced and the work of that joint committee has now been completed. In the event that joint arrangements are required in the future the matter will be put before Full Council. The proposed changes are shown as **Appendix F**.
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## **Incidental Changes**

- 3.25 In relation to the incidental changes arising throughout the constitution as a result of the changes proposed above it is recommended that members agree such changes be made by the Borough Solicitor

## **4.0 Financial Implications**

- 4.1 There are no financial implications to the changes recommended.

## **5.0 Legal Implications**

- 5.1 Legal implications are dealt with as they arise in the report.

## **6.0 Diversity Implications**

- 6.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications.

## **Background Information**

*Brent Constitution*

### **Contact Officer:**

Anybody wishing to inspect this document should contact:

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