



Annual Council
11 May 2011

Report from the Director of Legal and Procurement

For Action

Wards Affected:
All

Changes to the Constitution

1.0 Summary

- 1.1 This report proposes minor changes to the Council's Constitution arising out of a review of the operation of some aspects of the Constitution, amendments to Standing Orders in relation to contracts, changes to reflect the new Regulations regarding Adoption and Fostering Panels, and the adoption of the Members' Allowance Scheme.

2.0 Recommendations

Members are asked to:

- 2.1 Agree to amend the Constitution to incorporate the changes to the Standing Orders relating to Full Council and the Annual Meeting as set out in Appendix 1.
- 2.2 Agree to amend the Constitution to incorporate the changes to Standing Orders in relation to contracts as set out in Appendix 2.
- 2.3 Agree to amend the Constitution to reflect the legal changes in the Adoption and Permanency and Fostering Panels membership as set out in Appendix 3.
- 2.4 Agree the Members Allowance Scheme 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. Following the change in administration after the May 2010 elections a cross party Constitutional

Working Group (CWG) was established, which included officer representation, to consider various aspects of the Council's decision making arrangements including the operation of Full Council. Following those meetings changes to the Constitution were agreed by Full Council in September 2010. The effectiveness of those changes has now been reviewed by CWG and minor amendments are recommended in relation to the conduct of Full Council and the Council's Annual Meeting as shown in Appendix 1. The proposed changes attached as Appendices 2 - 4 arise as a consequence of changes in the law or practice. Each change is discussed in detail below and members are asked to approve the changes as set out in the appendices and described below. There are also other aspects of the Constitution still under review and further reports will be brought before members as and when appropriate. Also included is the Members' Allowance Scheme to be agreed for the year 2011/12.

- 3.2 Following this report the Director of Legal and Procurement will update the electronic version of the Constitution available on the Council's intranet and internet sites to take account of the changes agreed by the Council.

Amendments to the operation of Full Council and the Annual Meeting

- 3.3 The amendments to the Annual Meeting are to enable the awards and ceremonial aspects of the meeting to take place separately from the Council's business.

- 3.4 There are three amendments proposed in relation to the operation of Full Council;

- (i) The removal of motions (item (m) of the business of ordinary council meetings) from Council business at the meeting for deciding the budget. Prior to September 2010 this was not part of the business of the Council meeting where the budget and Council tax is agreed. It was included in September 2010 in error. The Standing Orders provide for the budget to be debated by members and the additional provision of motions is therefore surplus to requirements and may lead to duplication.
- (ii) The extension of time for reports by executive members to full council. This has been extended since the time currently provided is insufficient for the purpose.
- (iii) The use of the non executive members' response during questions of Executive members. Further clarity is needed on the use of this provision since it has on occasion been used by non-executive members to raise new or supplementary questions.

- 3.5 Members are asked to approve the changes set out in Appendix 1.

Amendments to the Standing Orders in relation to Contracts

- 3.6 Some amendments are being proposed to Contract Standing Orders following discussion by officers at the officer-level Strategic Procurement Board which is chaired by the Director of Legal and Procurement. The proposed changes are as follows:

- (i) The definition of Low Value contracts in Standing Order 82 is proposed to be amended so that for works contracts (except civil engineering works) the threshold is increased to £500,000. The threshold for supplies and services plus civil engineering contracts remains as the EU threshold i.e. approx. £156K. This means that for building works contracts, officers will be able to invite 3 written quotes for contracts up to £500,000 in value.
- (ii) The Director of Finance and Corporate Services is proposed to be able to authorise exemptions from Standing Orders in two specific circumstances - (i) in cases of extreme urgency (mirrors the general powers of the Chief Executive in part 4 of the Constitution) and (ii) to exempt a procurement for a Low Value contract from the need to get 3 quotes. At present the latter can only be authorised by the Executive. Where (i) or (ii) is being relied on, the powers of the Director of Finance and Corporate Services can only be exercised following legal advice, and only where there are good operational and/or financial reasons for granting the exemption (as with the Executive power to grant exemptions). This change entails a new Standing Order 84(b) being inserted into Standing Orders.
- (iii) In relation to the approvals required before calling a contract off a third party framework under Standing Order 86(d) , the requirement for the Director of Finance and Corporate Services to grant approval has been removed, but the requirement about Chief Officer approval has been strengthened so that this has to include confirmation that there is appropriate budgetary provision. Confirmation that the call-off is legally permissible is still required.

3.7 Members are asked to approve the changes set out in Appendix 2.

Changes to the Adoption and Permanency Panel and the Fostering Panel Membership

3.8 The Adoption and Independent Review of Determinations (Amendment) Regulations 2011 and the Fostering Service Regulations 2011 which came into effect in April 2011 have introduced changes to the membership requirements of the Adoption and Permanency and Fostering Panels. The Regulations are less directive as to the membership of the Panels, and the Council is now required to maintain Central Lists of persons whom it considers to be suitable from which the Panels are to be appointed. There is no longer a requirement that elected members of the Council be members of the panels, but there is discretion to include elected members, and accordingly provision is made in the Constitution for the appointment thereof. Members are asked to agree the changes to the Constitution attached as Appendix 3.

Agreeing the Members' Allowance Scheme

3.9 The Members' Allowance Scheme forms Part 8 of the Council's Constitution. The Scheme was reviewed in September 2010 in accordance with the requirements set out in the Local Government (Members' Allowances) (England) Regulations 2003 and amendments were made to the scheme by Members in September 2010. There are no changes to the scheme recommended to members at this time. Members previously agreed that the allowances be increased in accordance with

the inflation pay award agreed as part of the Local Government Pay Settlement in the previous financial year. There was no increase in the pay settlement last year and accordingly members' allowances remain the same as the previous year. Although there are no changes proposed, the Regulations suggest that the Council should make such a scheme annually and accordingly members are asked to agree the Members' Allowance Scheme attached as 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.

Background Papers

Brent Constitution

Contact Officers

Should any person require any further information about the issues addressed in this report, please contact Kathy Robinson on telephone number: 020 8937 1368, or email:kathy.robinson@brent.gov.uk.

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