



Brent

Full Council
12th July 2021

**Report from the Director of Legal, HR,
Audit & Investigations**

Changes to the Constitution

Wards Affected:	N/A
Key or Non-Key Decision:	Council
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
No. of Appendices:	One Appendix 1: Delegations in respect of Executive & Non Executive functions
Background Papers:	None
Contact Officer(s): (Name, Title, Contact Details)	Debra Norman, Director of Legal, HR, Audit and Investigations E: Debra.norman@brent.gov.uk T: 0208 937 1578

1.0 Summary

- 1.1** The report proposes the re-designation in the Constitution of two statutory posts and also asks the council to consider whether extended officer delegations agreed on a temporary basis at the last council meeting should be continued.

2.0 Recommendations

- 2.1** To agree the designation of the Operational Director, Adult Social Care as the council's statutory Director of Adult Social Services (DASS).
- 2.2** To agree the designation of the Senior Lawyer, Constitution and Governance as the council's Data Protection Officer (DPO).
- 2.3** To agree that the delegation of council functions in Appendix 1 remain in place until the next meeting of Full Council in September 2021.
- 2.4** To note that the delegation of executive functions in Appendix 1 remains in place until the next meeting of Full Council in September 2021 unless otherwise determined by the Leader.

2.5 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.

2.6 To authorise the Director of Legal, HR, Audit & Investigations to amend the Constitution accordingly, including making any necessary incidental or consequential changes.

3.0 Background

3.1 Section 6 of the Local Authority Social Services Act 1970 places a duty on a local authority to designate a Director of Adult Social Services (“DASS”). This role is then one of the statutory chief officer roles of the local authority by virtue of section 2 of the Local Government and Housing Act 1989.

3.2 Currently, the Strategic Director, Community Wellbeing holds the DASS responsibility. The post of Operational Director, Adult Social Care has recently been recruited to and it is proposed that this post now be designated as the council’s DASS. This aligns the role more closely with day to day responsibilities and made the post more attractive.

3.3 Archived statutory guidance entitled: Guidance on the Statutory Chief Officer Post of the Director of Adult Social Services (May 2006), issued by the Secretary of State for Health via the Department of Health, but so far not replaced, states at paragraph 9:- Local authorities shall ensure that the DASS is directly accountable to the Chief Executive of the local authority and comparable, in terms of seniority, with the Director of Children’s Services (in Brent the Strategic Director, Children and Young People).

3.4 It is therefore proposed that if re-designation is approved, the post of Operational Director, Adult Social Care will The Operational Director, Adult Social Care will have a direct reporting line to the Chief Executive in respect of the DASS responsibilities as well as reporting to the Strategic Director, Community Wellbeing.

3.5 The council is required by section 69 of the Data Protection Act 2018 to designate a Data Protection Officer (DPO). The DPO’s tasks are set out in section 71 of that Act and are broadly as follows:

- to inform and advise the council of its obligations under the Act;
- to provide advice on the carrying out of data protection impact assessments
- to cooperate with the Information Commissioner and be the main contact point for the Information Commissioner.
- To monitor compliance with the council’s data protection policies and the relevant legislation.

3.6 The post of Information Governance Manager is currently designated as the council’s DPO. Following a recent restructure in which this post was deleted, it is proposed that the post of Senior Lawyer, Constitution and Governance in Legal Services be designated as the council’s DPO.

3.7 If these two designations are agreed, the constitution will need to be amended accordingly.

3.9 At its meeting in April Council approved the additional delegations to officers in respect of non-executive functions set out in Appendix 1 and noted the changes in respect of executive functions also set out in that Appendix. The changes were agreed for a temporary period in order to reduce the number of council meetings needing to take place in the event that a legal challenge to the requirement for physical attendance at council meetings failed, as turned out to be the case. These delegations are due to be reviewed at this meeting.

3.10 In view of the outcome of the legal challenge and as it remains sensible to reduce the number of physical meetings members are required to attend at the moment to a minimum, it is proposed that these delegations continue in place until the meeting of the Full Council in September 2021 when the position will be reviewed again.

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.

6.2 As part of the return to physical meetings, the Council has ensured it is complying with the relevant requirements identified within the Covid-19 Guidance for the safe use of Council buildings and risk assessment undertaken for its meeting venues. The initial Equality Impact Assessment completed in relation to virtual meetings is also being updated to reflect the impact arising from the return of face to face meetings.

7.0 Consultation with Ward Members and Stakeholders

7.1 The proposals in this report have been considered by the Council's Constitutional Working Group.

Report sign off:

DEBRA NORMAN

Director of Legal, HR, Audit &
Investigations