

**Decision Maker:** GENERAL PURPOSES AND LICENSING COMMITTEE

**Date:** Thursday 30 March 2023

**Decision Type:** Non-Urgent Non-Executive Non-Key

**Title:** CONSTITUTION WORKING GROUP

**Contact Officer:** Graham Walton, Democratic Services Manager  
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**Chief Officer:** Tasnim Shawkat, Director of Corporate Services and Governance

**Ward:** All

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1. Reason for decision/report and options

- 1.1 At its meeting on 6<sup>th</sup> July 2022 this Committee set up a Constitution Working Group to review the Council's Constitution – to simplify and improve the overall structure of the Constitution and to make recommendations for specific, detailed changes. This report presents some detailed changes for Members to consider and refer to full Council.
- 1.2 Officers are also making some suggestions that have not been considered at the Working Group regarding the full Council meeting to approve the budget and Council Tax each year.
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2. **RECOMMENDATIONS**

**Council be recommended that -**

- (1) **Officers will report to a future meeting on proposals for the overall structure of the Constitution.**
- (2) **The following changes be made to the Constitution in line with section 3 of this report and the wording set out in the appendix (to take effect for the 2023/24 Council year):**
- (a) **Development Control Committee and Plans Sub-Committee memberships should be limited to no more than two Members from the same ward (as proposed in paragraphs 3.4 and 3.5 below.)**
  - (b) **The rules for questions be amended (as proposed in paragraphs 3.6 to 3.8 below.)**
  - (c) **The rules for motions be amended (as proposed in paragraphs 3.9 to 3.11 below.)**
  - (d) **The rules for call-in be amended (as proposed in paragraphs 3.12 to 3.14 below.)**
  - (e) **The Petition Scheme be amended (as proposed in paragraph 3.15 below.)**
  - (f) **The use of gender-neutral language in the Constitution be approved as proposed in paragraphs 3.16 below.)**
  - (g) **The additional of a special full Council budget and Council tax meeting be considered (as proposed in paragraphs 3.17 and 3.18 below.)**

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
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Transformation Policy

1. Policy Status: Existing Policy
  2. Making Bromley Even Better Priority:  
(5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
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Financial

1. Cost of proposal: No Cost:
  2. Ongoing costs: Not Applicable:
  3. Budget head/performance centre: Democratic Services
  4. Total current budget for this head: £376,460
  5. Source of funding: Revenue Budget 2022/3
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Personnel

1. Number of staff (current and additional): 6
  2. If from existing staff resources, number of staff hours: Not Applicable
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Legal

1. Legal Requirement: Statutory Requirement: Local Government Acts 1972 and 2000
  2. Call-in: Not Applicable: Non-executive decision.
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Procurement

1. Summary of Procurement Implications: Not Applicable
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Property

1. Summary of Property Implications: Not Applicable
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Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Not Applicable
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Customer Impact

1. Estimated number of users or customers (current and projected): Not Applicable
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

### **3. COMMENTARY**

3.1 At its meeting on 6<sup>th</sup> July 2022 this Committee set up a Constitution Working Group to review the Council's Constitution. The following terms of reference were agreed –

- (1) To consider the overall structure of the Constitution.
- (2) To identify aspects of the Constitution that can be simplified and improved.
- (3) To make recommendations to General Purposes and Licensing Committee for consideration by full Council.

The membership of the Working Group is Councillors Nicholas Bennett (Chairman), Kathy Bance MBE, Robert Evans, Simon Fawthrop, Chloe-Jane Ross, Mark Smith, Melanie Stevens and Pauline Tunnicliffe. The Working Group has met twice (on 21 November 2022 and 31 January 2023.)

3.2 At its first meeting, the Working Group approved in principle a proposal to re-arrange the overall structure of the Constitution to make it simpler and more usable. The intention was not to make changes of substance, but to create a better structure and take opportunities to clarify the wording and remove duplication. This work is ongoing and will be reported to Members in the next Council year.

3.3 The Working Group also considered a number of more detailed issues at its two meetings, and their recommendations are presented in this report (paragraph 3.4 onwards, with detailed changes of wording set out in [Appendix A](#)). If these detailed changes are supported they will be referred to full Council on 24<sup>th</sup> April 2023 and if approved will take effect for the 2023/24 Council year.

#### **Development Control Committee Membership**

3.4 The Working Group noted that the Local Planning Protocol and Code of Conduct (which is Appendix 13 to the Constitution) states that "...no more than two Members sitting on a committee should be representing any particular ward at any particular time." This includes Members sitting as substitutes and applies to both Plans Sub-Committees and Development Control Committee.

3.5 The Working Group recommended that the terms of reference of Development Control Committee be amended to require no more than two members to be from the same ward to reflect the Local Planning Protocol and Code of Conduct.

#### **Public Questions**

3.6 The Working Group considered concerns that the large number of public questions being submitted had become a serious burden on Members and officers and considered a range of options that would reduce the number of questions received. It was noted that the number of questions per person per meeting had already been reduced from three to two in recent years, but also that across London 18 boroughs only allowed one question per person.

3.7 The Working Group recommends that the following changes be made to the Council Procedure Rules around public questions –

- (a) The number of public questions allowed per person be reduced to one per meeting.

(b) The following change be made to clarify the process for late questions on specific reports on an agenda –

“Questions for PDS Chairmen or Portfolio Holders which are submitted after the ten-day deadline has passed will only be accepted if they seek clarification of the details of a report to the committee and which could not have been tabled until the report had been published. These must be submitted within two working days of the report being published on the Council website.”

- (c) Questions which require excessive research (over three hours) to answer will not be allowed.
- (d) Questioners must provide a postal address in the borough where they live, work or study.
- (e) Questions will be restricted to 50 words in length.
- (f) Wording should be introduced to allow the responding Members to make a statement replying to multiple questions on the same issue where appropriate.
- (g) The wording of rules about questions to be clarified, especially with regard to oral and written replies.

### **Questions by Members**

3.8 The Working Group has not considered any changes to the rules for Member questions, but the Chairman of the Working Group has proposed some amendments to clarify the restrictions around executive Members and Executive Assistants asking questions. It is also proposed to confirm that questions can be addressed to the chairmen of sub-committees, but that questions concerning working groups should be addressed to the chairman of the committee or sub-committee that has appointed the working group. Officers also suggest that the amended wording for questions submitted by members after the ten working day deadline are brought into line with the wording proposed for questions from the public (as in paragraph 3.7 (b) above.)

### **Motions at Full Council**

3.9 The Working Group considered the rules for submission of formal motions and recommended that (i) the time limit for formal motions to be submitted be increased to ten working days, in line with questions, so that motions can appear in the “blue book” full Council meeting agenda, and (ii) amendments to formal motions shall be submitted in writing two days before the full Council meeting.

3.10 The Working Group also considered the rules of debate and agreed that changes should be made to allow for one debate on each report or motion, covering the original motion and any amendments. This approach was used at the full Council meeting on 27<sup>th</sup> February with some success. At present, once an amendment is moved and seconded, there is a debate on the amendment and then a vote before the meeting moves back to the original motion or the substantive motion, as amended. This process can be repeated several times as all amendments are dealt with. This can be difficult to follow and take up considerable time. The new proposals will mean that as soon as a motion is moved and seconded any amendments are also moved and seconded before the item is made open for debate. There can then be one combined debate, covering the original motion and all the amendments, before votes are taken consecutively on the amendments and the original or substantive motion at the end of the debate. Debates will therefore be streamlined and clearer, with less opportunity for repetition.

3.11 Under current rules, all Members can speak on each amendment, effectively on each phase of debate, and the mover of the original motion has the right of reply at the end of debate on each amendment, as well as on the original or substantive motion. Under the new proposals only the mover of the original motion can speak twice - at the end of the overall debate, before the final vote is taken. One additional change proposed by the Chairman of the Working Group is for there to be an additional right of reply for the mover of the original motion or the mover of the substantive motion, if an amendment has been carried, to have an additional right of reply after voting on the amendments has been completed, but before the final vote. This is included in the proposed amendments in Appendix A.

### **Call-in**

3.12 Call-in provides a mechanism for councillors to intervene when they feel that a decision being made by the executive needs to be revisited (or possibly changed). It provides a check and balance in the leader/executive system of governance – a long-stop that, in theory, prevents the overweening exercise of power by the Executive. Government Guidance suggests that it should, however, be regarded as a measure that is only needed in exceptional circumstances.

3.13 The requirement to have a call-in mechanism derives from the Local Government Act 2000 and the Guidance issued shortly afterwards. The Guidance only requires key decisions to be subject to call-in, although Bromley, like many authorities, currently allows all decisions made by executive Members to be called in. Call-in is rarely used in Bromley, partly because the pre-decision scrutiny approach (which was not anticipated in the Guidelines) enables scrutiny of executive decisions to take place before decisions are taken, which is not always the case at other authorities.

3.14 The Working Group considered that call-in its current form is unnecessary and leads to duplication, repeating debates that have already been held. The Working Group therefore proposes that call-ins should not be allowed where a PDS Committee has already considered the issue and the decision is substantially the same as already supported by the PDS Committee, and that call-in should be restricted to key decisions. No changes are proposed to the number of Members needed to make a call-in (five) or the time allowed for call-ins to be made (five working days from the publication of the decision.) It was also agreed that proposed decisions are only scrutinised at one PDS meeting, unless there is a substantial change in the proposals.

### **Petition Scheme**

3.15 The Working Group considered the operation of the Council's Petition Scheme and suggested one major change – that online petitions will only be accepted if they are submitted via the Council's own on-line petition facility. This has not been used for over ten years but can be re-activated. Petitions created on any of the range of public online petition sites will not be accepted. It is not proposed to change any of the thresholds for public speaking at PDS or full Council meetings in support of petitions, but the opportunity has been taken to improve the wording in the Scheme, and remove duplicate wording.

### **Gender Neutral Language**

3.16 The Working Group agreed that gender-neutral language should be used in the Constitution. This will include using the formulation "he/she" and the term "chairperson" (rather than chairman or chair) although Members noted that individual Members could request how they were addressed when chairing a meeting. This issue will be taken up in the review of the overall structure of the Constitution referred to in 3.2 above.

## Full Council Budget Meeting

- 3.17 One additional matter that was not considered by the Working Group, but which has been discussed informally by some Members, is to introduce a full Council meeting devoted just to the annual setting of the budget and Council Tax, and closely related issues. Such a meeting could be devoted to this one purpose, without the distraction of general questions, motions, statements and reports on other issues. This approach is taken by many other authorities and has some informal cross party support.
- 3.18 Some Members did consider that this special meeting should be an additional meeting in the timetable so that Members are not deprived of one of their five opportunities each year to ask questions and submit motions. If supported by Members, officers can look at the 2023/24 programme of meetings to find a suitable alternative date for the ordinary meeting normally held at the end of February. This would probably need to be on 12<sup>th</sup> February or 11<sup>th</sup> March 2024.

<b>Non-Applicable Headings:</b>	Impact on Vulnerable Adults and Children/Policy/Finance/Personnel/Legal/Procurement/Property/Carbon Reduction/Customers/Ward Councillors
Background Documents: (Access via Contact Officer)	Notes from Constitution Working Group meetings (Not for publication – information relating to the business or financial affairs of any particular person (including the authority).