

EAST HERTS COUNCIL

ANNUAL COUNCIL - 18 MAY 2005

REPORT BY THE MONITORING OFFICER

16. AMENDMENTS TO THE CONSTITUTION

WARD(S) AFFECTED: ALL

'D' RECOMMENDATION – that the amendments to the constitution be approved.

1.0 Purpose/Summary of Report

1.1 The report considers amendments to the Constitution following changes in the senior management structure and as a result of legislative changes since the last review of the Constitution. The Monitoring Officer monitors and reviews the Constitution on a regular basis. Recommended changes are included in the report.

2.0 Contribution to the Council's Corporate Objectives

2.1 The proposals contribute to the Council's corporate priority to improve the health and sustainability of the organisation by advancing the target of ensuring the highest standard of corporate governance.

3.0 Background

3.1 The current version of the Constitution was approved by the Council on 12 May 2004 and revised slightly following changes brought about by the Licensing Act 2003 and other legislative changes.

3.2 The proposed amendments are divided into two parts:

- changes resulting from the changes to the senior management structure and
- amendments relating to legislative changes.

4.0 Restructuring of Senior Management

- 4.1 Following the changes to the structure, the eight posts of Assistant Director have been replaced by six Directors. This change has meant that all the references to the Assistant Director posts need to be replaced by the new Director posts.
- 4.2 The new responsibilities assigned to Directors will require that some delegations will need to be transferred to the new post.
- 4.4 Amendments to Financial Regulations, Financial Procedures and the Rules relating to contracts will also be required to reflect changes to the officer structure.

5.0 Legislative Changes

- 5.1 The following changes should be made to the Constitution to reflect recent changes in legislation:
- 5.2 The Housing Act 2004 should be added to the list of statutory provisions in the delegation section. The power to make closure orders for noisy premises is vested in the Head of Paid Service under the Anti-Social Behaviour Order Act 2003, who may authorise Environmental Health officers to exercise the power. (This is one of the specific narrow roles of the Head of Paid Service.)
- 5.3 For the purposes of the Regulation of Investigatory Powers Act 2000, Sections 21 to 25 and the Regulation of Investigatory Powers (Communications Data) Order 2003, the Executive Director (Returning Officer) shall be appointed as the Designated Officer and the Monitoring Officer shall be appointed as the Single Point of Contact.
- 5.4 For the purposes of Section 36, Freedom of Information Act 2000, the Head of Paid Service and the Monitoring Officer shall be appointed as a qualified person. Section 36 provides for information to be exempt from disclosure where that information would, or would be likely to inhibit:
- the free and frank provision of advice
 - the free and frank exchange of views for the purposes of deliberation
 - the effective conduct of public affairs.

- 5.5 These exemptions will only apply if in the reasonable opinion of a qualified person any of the above effects would or would be likely follow from a disclosure. The authorisation of the qualified person must be authorised by the Minister of the Crown. The Monitoring Officer is to be the primary qualified person. Where the Monitoring Officer is absent, responsibility for carrying out the functions will fall to the Head of Paid Service.
- 5.6 The Local Authorities (Functions and Responsibilities) Amendment (England) Regulations 2005 adds a new function to the responsibilities of the Development Control Committee. It is proposed that this function which relates to powers to deal with complaints of high hedges under Part 8 of the Anti-Social Behaviour Act 2003 should be delegated to the Director of Regulatory Services, Development Control managers, Planning Enforcement managers or their duly authorised officers.
- 5.7 A range of other minor amendments will be made to reflect changes to the management of some functions.
- 6.0 Consultation
- 6.1 Consultation has taken place amongst Executive Members, Executive Directors and Assistant Directors.
- 7.0 Legal Implications
- 7.1 The legal implications have been taken into account in amending the Constitution.
- 8.0 Financial Implications
- 8.1 There are no financial implications.
- 9.0 Human Resource Implications
- 9.1 There are a number of HR implications in relation to changes to job roles, potential terms and conditions and redundancy/redeployment considerations. Members will need to be satisfied all those affected have been fully consulted on the implications of this restructure.

10.0 Risk Management Implications

10.1 A Constitution which reflects the Council's structure and delegation is important to the smooth running of the organisation.

Background Papers

The Constitution, relevant Regulation and Guidance.

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