

EAST HERTS COUNCIL

ANNUAL COUNCIL – 14 MAY 2008

REPORT BY MONITORING OFFICER

13. REVIEW OF CONSTITUTION

WARD(S) AFFECTED: ALL

'D' RECOMMENDATION – that (A) the Leader and Executive decision making model as set out in the report now submitted be adopted from the date of this meeting, and

(B) the amendments to the Constitution, as detailed in the report now submitted, be approved and the Monitoring Officer be authorised to make the necessary amendments.

1.0 Purpose/Summary of Report

1.1 This report reviews the Constitution and proposes minor amendments.

2.0 Contribution to the Council's Corporate Priorities/Objectives

2.1 The Constitution provides the legal and procedural framework for the Council to develop its priorities:

Promoting prosperity and well-being; providing access and opportunities

Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.

Fit for purpose, services fit for you

Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.

Pride in East Herts

Improve standards of the neighbourhood and environmental management in our towns and villages.

Caring about what's built and where

Care for and improve our natural and built environment.

Shaping now, shaping the future

Safeguard and enhance our unique mix of rural and urban communities, ensuring sustainable, economic and social opportunities including the continuation of effective development control and other measures.

Leading the way, working together

Deliver responsible community leadership that engages with our partners and the public.

3.0 Background

3.1 The purpose of the Constitution is to:

- enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens in the process of local authority decision-making;
- help councillors represent their constituents more effectively;
- enable decisions to be taken efficiently and effectively;
- create a powerful and effective means of holding decision-makers to public account;
- ensure that no one will review or scrutinise a decision which they were directly involved in taking;
- ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- provide a means of improving the delivery of services to the community.

3.2 The Council's Constitution is reviewed on a regular basis by the Monitoring Officer. Members will recall that the current version, issued in January 2008, was updated following significant changes

throughout 2007, to the executive non-key decision process, the scrutiny committee structure and the senior management structure.

3.3 The full Constitution (over 400 pages) can be accessed on the Council's website at: www.eastherts.gov.uk/index.jsp?articleid=2844

4.0 Report

4.1 Council is required to review its Constitution on a regular basis. Council has previously approved an amendment to the Constitution in respect of the terms of reference for the Community Scrutiny Committee.

4.2 A separate report reviewing the Council's financial regulations, financial procedures and rules relating to contracts was submitted to an Extraordinary Council in March 2008, in order to meet the Authority's Use of Resources requirements.

4.3 The Monitoring Officer has reviewed the Constitution and has proposed amendments for Council to consider as detailed at Appendix 'A13' (pages 81 - 83). In addition, there are specific issues to be addressed relating to the Executive and Scrutiny Arrangements in the constitution arising from the provisions of the Local Government and Public Involvement in Health Act 2007 ('the Act'). These issues are identified below. There are several other provisions of note within the Act and these were reported to Members through the medium of the Members' Information Bulletin.

4.4 In addition, to assist in understanding the Constitution, a glossary of terms has been produced for inclusion. This is attached at Appendix 'B12' (pages 84 - 88).

4.5 Council is required to approve the Constitution, including the scheme of delegated powers, at its annual meeting. Other than the proposals in Appendix 'A12' (pages 81 - 83), the existing scheme needs to be approved.

5.0 Local Government and Public Involvement in Health Act 2007

5.1 The Local Government and Public Involvement in Health Act 2007 ('the Act') requires principal Councils to choose between a "new style" Leader and Cabinet Model and an elected Mayor and Cabinet Model. The elected Mayor and Council Manager option has been deleted (except in Wales).

5.2 The “new style” Leader and Cabinet Model in the Act differs from the current model in the following ways:

- a) Executive Members have to be appointed by the Leader, and cannot be appointed by Council. The Constitution currently provides for this aspect.
- b) The Leader allocates responsibility for discharging executive functions to the Cabinet, Executive Members and Chief Officers. The Constitution currently provides for this aspect.
- c) The Leader must appoint a Deputy. The Constitution will need to be amended to reflect this requirement.
- d) The Leader’s term of office runs to the Annual Meeting after the whole Council election, and he remains a Councillor during that time. The Deputy Leader’s term of office continues until the Annual Meeting. Currently, the Constitution provides that the Leader’s term of office ends on the day of the election and Executive Members until they are no longer councillors. The Constitution will need to be amended accordingly.

5.3 If the Council wishes to stay with the Leader and Executive Model, the Act requires it to pass a resolution adopting revised Executive Arrangements from a specific date. It is suggested that this be done with effect from the annual Meeting (on 14 May 2008).

5.4 In relation to scrutiny arrangements, the Act provides that:

- a) Relevant parts of the constitution must provide for any Member to be able to refer to an Overview and Scrutiny Committee (OSC) “a local government matter”, i.e. a matter relating to the Council’s functions which affects their electoral division. If an OSC decides not to scrutinise the matter then it must provide the Member with a reason why.
- b) Provisions within the constitution must also provide that where an OSC (or a Task and Finish Group on its behalf) make a report with recommendations to the Executive, it must require the Executive to respond within 2 months. The Executive must respond within that period and the response must be published.

5.5 Additional scrutiny related matters within the Act:

- a) the ability of an OSC (or a Task and Finish Group on its behalf) to refer a report with recommendations to a partner authority (e.g. County Council, Health Trust etc.) if it relates to a local improvement target in the Local Area Agreement which the partner is responsible for - the partner is required to have regard to the recommendations;
- b) the Secretary of State can make Regulations requiring partner authorities to provide information in response to a scrutiny request, and
- c) the Secretary of State can make Regulations to allow the County Council and one or more District Councils to set up a joint Scrutiny Committee to examine attainment of local improvement targets.

5.6 Officers will review the Constitution and make any necessary amendments.

5.7 Various changes to the Standards Committee are also required as a result of this new legislation. These are set out in detail in a separate report on this agenda.

6.0 Consultation

6.1 Consultation has been undertaken within the Council with senior officers.

7.0 Legal Implications

7.1 The Council is required to review the Constitution of the Authority on an annual basis.

8.0 Financial Implications

8.1 None.

9.0 Human Resource Implications

9.1 None.

10.0 Risk Management Implications

10.1 None.

Background Papers

Local Government and Public Involvement in Health Act 2007

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PROPOSED AMENDMENTS TO CONSTITUTION

Subject	Existing	Proposed
Part 2 – Articles of the Council		
Policy Framework	The policy framework is set out at Article 4 of the Constitution and should be reviewed to reflect new requirements and revised circumstances. The Public Health Strategy was approved by Council in April 2008.	Add to list at Paragraph 4.1 (page 18) Public Health Strategy
Part 3 – Scheme of Delegated Powers		
Responding to Consultation Documents	The current scheme of delegation to the Chief Executive does not specify responding to consultation documents on non-significant matters, on behalf of the Authority. Only Council may approve representations on matters of significance. This will remain unchanged.	Add to Chief Executive delegations (page 80) 10. To respond, in consultation with the Leader, to consultation documents in accordance with the Council's approved policies.

Subject	Existing	Proposed
Various officer delegations relating to Development Control matters	The current scheme is inflexible and the proposed amendment will avoid a situation whereby only the Head of Planning and Building Control has the delegation in the case of Principal Officers. This will allow the delegation to be transferred to any other officer within their overall remit. It also clarifies that where any delegated officer is the lead officer, they do not have delegated powers in that case.	Amend (page 83) as follows: F. <u>DIRECTOR OF NEIGHBOURHOOD SERVICES, HEAD OF PLANNING AND BUILDING CONTROL, OR THEIR DULY AUTHORISED OFFICERS (WHERE ANY OF THE POSTS IDENTIFIED HERE ARE THE LEAD OFFICER OR CASE OFFICER, DELEGATION SHALL NOT BE AVAILABLE TO THAT OFFICER IN THAT CASE)</u>
Street Naming and Numbering	A new updated policy was agreed in February 2008 and authority was delegated to the Director of Internal Services to administer the scheme in consultation with parish and town councils.	Add (page 93) 2. To administer the naming and numbering, including renaming and renumbering, of streets and buildings in the District of East Hertfordshire, in consultation with parish and town councils.

Subject	Existing	Proposed
Part 4 – Rules of Procedure		
Questions by Members and the Public	Currently, Members and the Public are required to give notice of a question by 12 noon on the Monday preceding the meeting, which is usually held on a Wednesday. In order to take account of rare occasions when Council meets earlier in the week than a Wednesday, it is proposed that questions should be submitted by 12 noon, 2 working days before the meeting.	Amend paragraph 10.3 (page 124) and 11.4(a) (page 127): A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than noon, two working days before the meeting.