

East Herts Council Report

Council

Date of Meeting: 13 May 2020

Report by: James Ellis, Head of Legal and Democratic Services

Report title: Review of Constitution

Ward(s) affected: All

Summary

In accordance with Council Procedure Rules 2.1.2 (k), which require that at annual Council the Council shall review and update the Constitution if necessary, a number of changes to the Constitution arising from updates and decisions taken during the year are recommended. In accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020, to amend the Council's standing orders to adopt provisions allowing for meetings to be conducted remotely.

RECOMMENDATIONS FOR COUNCIL:

- (a) that the updates and consequential amendments to the Constitution identified in the attached appendices are approved;**
- (b) that in respect of the legislation introduced to permit meetings to be conducted remotely, the Council's standing orders be deemed amended to enable its public meetings to be conducted remotely in accordance with protocols to be decided by the Chief Executive;**
- (c) that authority to make any minor related changes to the Constitution is given to the Head of Legal and Democratic Services.**

1.0 Proposal(s)

- 1.1 As above.

2.0 Background

- 2.1 The Council's procedure rules require that, if necessary, a review of the Constitution be approved at the annual meeting of Council. The Council may also approve updates and changes to the Constitution at ordinary meetings throughout the year.
- 2.2 This report was originally drafted to bring to Council a standard report on necessary updates to the Constitution resulting from a number of decisions taken by the Council and Executive since the last review in May 2019. However, since the report was drafted, the Coronavirus epidemic has occurred, and new legislation has been introduced to assist local authorities in continuing to conduct meetings through measures such as holding virtual meetings.
- 2.3 The report therefore also recommends changes which formally amend the Council's standing orders, so as to reflect the legislation introduced as a response to the impact of the Coronavirus situation. In fact, the changes introduced by this legislation may be inferred without the need for specific amendments to be made, but in the interests of clarity, the Council is invited to confirm their adoption and the changes are set out in Appendix C.
- 2.4 An Officer Constitution Review Working Group has met on three occasions since January 2020, with the aim of identifying and collating changes to the Constitution which had come about from decisions taken by the Council and Executive. In addition, a small number of specific updates were highlighted as being required. These updates are set out in the following paragraphs, and the recommended changes are described in appendix A and shown as tracked changes in appendix

B.

- 2.5 In addition, new legislation has come into force in response to the Coronavirus epidemic. This legislation allows local authorities to conduct meetings as virtual meetings. The effect of the legislation is to change the Council's standing orders for the conduct of meetings. The changes to the Constitution are identified at Appendix C.
- 2.6 All tracked changes to the Constitution are available as a background paper which can be provided on request.
- 2.7 The main changes are as follows.
- 2.8 Change to remit and name of Performance, Audit and Governance Oversight Committee to Audit and Governance Committee – the remit of the committee will no longer include performance, which will instead be part of the remit of the Overview and Scrutiny Committee. The change was agreed on an interim basis for reasons of practicality to enable a more balanced workload for each committee, and to reflect practice at other authorities where the scrutiny committee performs this function. The change is made on an interim basis, as it is contingent upon the review of scrutiny best practice to be conducted by the Centre for Public Scrutiny. The CfPS review was due to have taken place before the May Council meeting, but due to the Coronavirus situation, that review has been deferred and will take place after the May Council meeting.
- 2.9 The suggestion to make this change and to commence working to the new remit was the subject of consultation with the Chairman of the Committee and with the Chairman of the Overview and Scrutiny Committee. Formal adoption of the change of remit and a subsequent reflection to the name of the Committee is a decision for Council.
- 2.10 Refresh of Financial Delegations to Officers – the

Constitution sets out the table of financial delegations to officers, which had not been updated for some time. Accordingly Leadership Team and the officer Constitution Review Working Group considered a number of changes proposed by the Head of Strategic Finance and Property, and recommends their approval.

- 2.11 Refresh of Contract Procedure Rules – similarly, a refresh of the existing provisions has been undertaken, as the rules had not been updated for some time. Leadership Team and the Constitution Review Working Group received recommendations from the Head of Strategic Finance and Property, which are recommended for approval.
- 2.12 It should be noted that the Constitution includes, at Part 6, the Members' Allowances Scheme. This area of the Constitution was considered by the Independent Remuneration Panel when it conducted its review of Members' allowances. Tracked changes relating to that section of the Constitution are referred to briefly, but may be viewed in full in the report elsewhere on the annual Council agenda relating to the recommendations of the Panel.
- 2.13 Minor changes arising from decisions taken previously by Council are included in the report, primarily, the inclusion of the terms of reference of the Financial Sustainability Committee are to be inserted.
- 2.14 The authority to make further minor changes to the Constitution arising from decisions taken by Council is requested to be delegated to the Head of Legal and Democratic Services, to take account of minor amendments arising throughout the civic year. Substantive changes will be submitted to the Council for approval.

3.0 Reason(s)

- 3.1 To ensure the Constitution is up to date to enable clarity of decision-making and procedures throughout the year.

4.0 Options

- 4.1 None.

5.0 Risks

- 5.1 That decisions are not taken in accordance with correct authority, and risk challenge.

6.0 Implications/Consultations

- 6.1 The Leader and the Chairman of the Performance and Governance Oversight Committee have been consulted.

Community Safety

No

Data Protection

No

Equalities

No

Environmental Sustainability

No

Financial

None.

Health and Safety

No

Human Resources

No

Human Rights

No

Legal

Yes, as indicated above.

Specific Wards

No

7.0 Background papers, appendices and other relevant material

- 7.1 The routine changes to the Constitution are described at Appendices A and B.
- 7.2 The changes to standing orders are described at Appendix C.
- 7.3 Tracked changes to all areas of the Constitution where amendments are being made are available on request, as a background paper.

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