

EAST HERTS COUNCIL

COUNCIL – 4 MARCH 2009

REPORT BY MONITORING OFFICER

11. REVIEW OF THE CONSTITUTION

WARD(S) AFFECTED: ALL

'D' RECOMMENDATION – that (A) the proposed amendments, as now detailed, be approved, and the Monitoring Officer be authorised to amend the Constitution; and

(B) the Monitoring Officer be authorised to make minor non-material amendments to the Constitution as necessary.

1.0 Purpose/Summary of Report

1.1 The Monitoring Officer reviews the Constitution on a regular basis. This report outlines proposed changes following a detailed review of the Constitution.

2.0 Contribution to the Council's Corporate Priorities / Objectives

Fit for purpose, services fit for you

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

3.0 Background

3.1 The Constitution was last reviewed in May 2008. The Monitoring Officer has reviewed the current version and has been supported by a small joint Member/ Officer working group. This group has looked at proposed changes arising from the Local Government and Public Involvement in Health Act 2007 and the regulations under that Act. Some regulations are still awaited, which may require further changes to the Constitution.

3.2 The group has looked at ways of making the Constitution more user friendly, especially the website version, and improving its layout and

clarity. Some duplication has been removed, e.g. scrutiny committees' terms of reference, which are now listed just once. The web version will be more accessible with greater use of links and increased mobility between different sections.

- 3.3 For the website, the existing Summary has been replaced by a new guide for describing how the Council works (attached as Appendix 'A', pages 13 - 20). There is also a flowchart for explaining the process for Executive key and non-key decisions (attached as Appendix 'B', page 21).
- 3.4 As with the previous review, the entire Constitution (400+ pages) has not been reproduced here. Instead, specific changes have been highlighted below. A full copy can be made available to Members on request. Minor changes relating to numbering, grammar, punctuation, typos, etc, have also been made and it is suggested that the Monitoring Officer be given delegated authority to make further non-material changes as necessary.

4.0 Report

- 4.1 The following amendments are proposed:

Scrutiny

- 4.2 The terms of reference as follows:

Corporate Business	To consider budget setting proposals and strategies instead of the draft budget.
Community	Crime and Disorder reduction has been added. Planning related matters are moved to Environment.
Environment	Building Control, Planning enforcement and Development Control have been added.

All Scrutiny Committees will monitor the contributions made by the Local Strategic Partnership and partners to the quality of life for residents within the Committees' remit.

- 4.3 The requirement for all Executive reports to be submitted to Corporate Business Scrutiny has been removed. Each Scrutiny Committee is required to plan its own work and agree its own work programme. This enhanced process will assist the Council in meeting its 2009 Use of Resources requirements. The maintenance of a composite work programme for the Council also assists this process. Therefore the requirement for all key decisions to be submitted to scrutiny has been amended, so that, such decisions may be considered by the relevant scrutiny committee, if requested by the Chairman.

Responsibility for Functions

- 4.4 A number of changes have been made to officer delegations as a result of new legislation and changes in staff designations. In respect of the section on Proper Officers, miscellaneous delegations have been updated to reflect staffing changes.
- 4.5 The Licensing Sub-Committee's functions have been amended to take account of legislation in respect of the Gambling Act 2005 and licenses for caravan sites.
- 4.6 Part 3 has been expanded to include the terms of reference for the Local Strategic Partnership, Joint CCTV Committee, Youth Council and the Hertfordshire County Council Health Scrutiny Committee.
- 4.7 A new provision has been added to improve the determination of minor amendments to planning permissions where the applicant is a Member of the Council.

Financial Regulations

- 4.8 The Regulations have been amended to take account of the revised role of the Director of Internal Services, including the role's designation as the Council's Section 151 Officer.
- 4.9 There are three values used in the Regulations, which provide for them to be index linked with the Customer Price Index (CPI), but it is not specified by whom. It is proposed that this be clarified by authorising the Director of Internal Services to increase the values in line with CPI and in consultation with the Executive Member for Resources and Internal support.
- 4.10 The provisions for virements have been clarified. Each discrete service will be determined as containing two budget heads, one for

employee costs and one for all other costs.

- 4.11 Changes are proposed to the process for the issue of final payment certificates, which take account of the revised management structure. A new section has been added for writing off credits. Provisions for professional indemnity have been added for contractors to hold a minimum of £1m cover, where advice or professional services are provided.
- 4.12 In respect of the capital programme, it is proposed that authority to incur expenditure from the capital contingency is delegated to the Chief Executive in consultation with the Portfolio Holder for Resources and Internal Support.

Codes and Protocol

- 4.13 The Member/Officer Relations Protocol has been amended to clarify the access to information section and the balance between the Members' rights to know and an individual/organisation's need for confidentiality. It is suggested that the following be added:

"If the cost of providing the information exceeds the limit for the purposes of declining a request under the Freedom of Information Act 2000, the request will be refused."

- 4.14 The Members' Planning Code of Good Practice has been amended to clarify the advice on site visits by Members. Specifically, it is suggested that the following advice be added:

"The purpose of a site visit is to gain information relating to land and buildings that is the subject of a planning application, which is not apparent from the report to be considered by the Development Control Committee. A site visit may also assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area. Members are encouraged to visit sites accompanied by other Members."

In addition the statutory references have been updated.

- 4.15 The Members' Code of Conduct is subject to review and consultation by the Government at present. A further report will be submitted on this in due course, if necessary.

Structure Charts

4.16 The Council and senior management structures have been updated to reflect the current position.

5.0 Consultation

5.1 A joint Member/officer working group has been set up to review the Constitution. All the proposed amendments have been considered by the group. The Chairmen of the Council's Committees were also consulted.

6.0 Legal Implications

6.1 Any changes to the Constitution must be approved by Council.

7.0 Financial Implications

7.1 None.

8.0 Human Resource Implications

8.1 None.

9.0 Risk Management Implications

9.1 A Constitution which reflects the Council's structure and delegations is important to the efficiency of the organisation.

Background Papers

The Constitution, relevant regulations and guidance.

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