

EAST HERTS COUNCIL

ANNUAL COUNCIL - 14 MAY 2014

REPORT BY THE MONITORING OFFICER

AMENDMENTS TO THE CONSTITUTION

WARD(S) AFFECTED: All

Purpose/Summary of Report

- The report sets out proposed amendments to the Constitution.

<u>RECOMMENDATION FOR COUNCIL:</u>	
(A)	That the amendments to the Constitution be approved.

1.0 Background

1.1 The report considers amendments to the Council's Constitution. The Monitoring Officer monitors and reviews the Constitution on an annual basis. Recommended changes are included in the report.

2.0 Report

2.1 An annual review of the Constitution is carried out prior to a report being submitted to Annual Council on any proposed changes. A number of changes are proposed. The significant changes are highlighted in this report.

2.2 Some amendments reflect changes which have already taken place such as delegations for decisions relating to the introduction of the Scrap Metal Dealers Act 2013. The significant changes are described in this report and they are shown in **Essential Reference Paper 'B'**.

3.0 Scrap Metal Dealers Act 2013

3.1 The new legislation was considered at a meeting of the Executive. The decision making process for the determination of applications was agreed by the Executive on 5 November 2013. The

procedure which was agreed will now be included in the constitution.

3.2 The scheme of delegations agreed by the Executive involves most decisions being taken at officer level in the interests of efficiency. However, given the potential impact, decisions to revoke or refuse a license are delegated to the Director of Neighbourhood Services.

4.0 Annual Governance Statement

4.1 The current version of the Annual Governance Statement will be added to the Constitution. The following minor amendments are as follows:

- “Procurement Regulations” to replace “Contract Procedure Rules”
- “Head of Internal Audits” to replace “Internal Audit & Business Improvement Managers”
- Delete references to the car leasing scheme
- “Manager of Corporate Risk” to replace “Internal Audit & Business Improvement Manager”
- Two PA names to be deleted and replaced

5.0 Licensing Act 2013

5.1 The Council is a licensing authority for the purposes of the Licensing Act 2003.

5.2 The Council is also a “responsible authority” for the purposes of the 2003 Act, allowing the Council to make representations regarding applications for licenses. It is important to achieve a separation of responsibilities within the Council to ensure procedural fairness and avoid conflicts of interest. Licensing determinations are made by the Licensing Sub-Committee. To achieve a separation from licensing functions delegated to the Director and other authorised officers, it is proposed to create a separate delegation for the responsible authority functions to the Joint Enforcement Manager.

6.0 Member/Officer Working Group

6.1 A Member/Officer Working Group was established to review aspects of the constitution which are of interest to Members. The Group’s proposals are set out in this report.

7.0 Rules of Procedure

7.1 The proposed changes are contained in **Essential Reference Paper 'C'**. The Group considered that the rules of procedure are not always clear or easy to apply. The existing procedure may make it difficult for the Chairman to manage.

7.2 The Constitution Member/Officer Working Group considered which changes may prove to be useful.

7.3 The possible amendments covered the following areas:

- Limiting the number of questions from Members
- The content of Member's questions
- The length of speeches
- The time allowed for questions at Council meetings
- Limiting motions to one per Member
- Defining the time allowed for motions

7.4 Members are requested to consider proposed changes to questions and motions. Additional rules are proposed relating to the number of Members questions, length of speeches and the time allowed for questions at Council.

7.5 Similar proposals are included for the number of motions per Member and the time allowed for motions.

8.0 Member/Officer Relations Protocol

8.1 The proposed new protocol is contained in **Essential Reference Paper 'D'**. The opportunity has been taken to completely revise the document. The current protocol was drafted some years ago. It has seen little change apart from the addition on use of Council email addresses.

8.2 The protocol was produced at a time when the issues were rather different. Freedom of Information was relatively new which resulted in considerable guidance on this issue,

8.3 Other parts of the constitution have been revised in the past. One of the results of these revisions is that the protocol does overlap with other parts of the constitution. The following areas have been changed to reduce duplication:

- The equalities section is now covered in various parts of the Members' Code of Conduct.

- Access to information is elsewhere in the constitution.
- The Scrutiny elements are in the relevant part of the constitution.

8.4 The new draft covers the following areas:

- Role of Members
- Role of Officers
- Respect and Courtesy
- Provision of Advice and Information
- Confidentiality
- Provision of Support Services
- The Council as Employer
- Political Activity.

9.0 Members' Planning Code of Good Practice

9.1 The revised code is attached in **Essential Reference Paper 'E'**. Although the existing code is described as a code, it also contains advice and guidance. It is written in the style of "do's and don'ts".

9.2 The new draft includes an introduction which sets the context of planning decisions. The code sets out practices and procedures which are intended to guide Members and officers when involved in planning matters.

9.3 There is a section on the role and conduct of Members and officers. It explains the role of Members and officers in the context of planning decisions. This advice will be well understood by many Members but it should assist Members who are less experienced in planning matters.

9.4 Section 3 deals with Member's interests. It does not duplicate the Code of Conduct for Members but concentrates on the need to approach decisions with an open mind.

9.5 The next section deals with lobbying. It provides practical advice on how to manage lobbying. It emphasises that the time to make a decision is at the meeting when all the available information has been considered.

9.6 The next section deals with discussions and negotiations. The central message is for Members to retain their impartiality.

9.7 This is followed by guidance on officer's reports to committee.

- 9.8 There is a section on planning considerations pointing out that planning decisions should be made on planning considerations and should not be based on immaterial considerations.
- 9.9 A description of the decision making follows.
- 9.10 Site visits are discussed, reflecting the practice at East Herts.
- 9.11 The code discusses the process for representations on planning applications. The code concludes with a review process and the need for training for Members.
- 10.0 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers
Constitution Guidance

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