

EAST HERTS COUNCIL

ANNUAL COUNCIL - 20 MAY 2015

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 including revised Financial Regulations and Revised Procurement Regulations.

<u>RECOMMENDATIONS FOR COUNCIL: that:</u>	
(A)	the revised Financial Regulations and the Procurement Regulations be approved; and
(B)	the other amendments to the Constitution set out in the report 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 identified 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.

3.0 **The Financial Regulations and Procurement Regulation and Procurement Regulations**

3.1 The Financial Regulations and Procurement Regulations have remained largely unchanged for at least the past five years. As

part of a review of financial processes an in-depth review of Financial Regulations and Procurement Regulations has been undertaken.

- 3.2 The aims of the review were to ensure that both the Financial Regulations and Procurement Regulations are fit for purpose, clear and easy to follow, factually correct and concise. Officers also need to be in a position to regularly update Procurement Regulations to ensure that they are current and comply with EU statutory requirements.
- 3.3 The revised financial regulations are attached as **Essential Reference Paper 'B'**. The revised version is largely based on the current version with the key changes being:
- Consistency in language in the use of job titles
 - Rationalisation in the number of sections
 - An increase in the threshold A limit from £5,000 to £10,000
 - Removal of certain areas that were not considered relevant for Financial Regulations for example ID cards and security of keys.
- 3.4 The revised Procurement Regulations are attached as **Essential Reference Paper 'C'**. These have been completely re-written to reflect the new National Procurement Strategy, the new EU Directives and the New Public Contract Regulations 2015. The procurement thresholds have been radically changed to enable officers to use their knowledge and skills particularly when procuring using a one quote process. The Works thresholds are now much more in proportion to the Goods and Service threshold.
- 3.5 The intention is for the Procurement Regulation to be kept regularly updated. In order to do this a summary of the Procurement Regulations is attached as **Essential Reference Paper 'D'** which will form part of the constitution at Item 4h, replacing the detailed Procurement Regulations. An electronic link will be given as part of Item 4h to the revised Procurement Regulations (**Essential Reference Paper 'D'**), that can then be updated by officers as necessary without having to take them back to full Council for approval.
- 4.0 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015
- 4.1 New regulations on local authorities' disciplinary procedures for

removing a senior officer have been introduced. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI 2015/881) require local authorities to amend their Standing Orders so incorporate the new arrangements for taking disciplinary action against the most senior council staff. This modification must be made by the first ordinary Council meeting held after the 7 May 2015 elections.

- 4.2 Under the previous regulations, there was a requirement for a Designated Independent Person (DIP) to investigate allegations of misconduct by senior local government officers. The regulations now provide that where the final decision to dismiss any statutory officer must be taken by full Council, before taking that decision, Council must invite at least two Independent Persons to be members of a Panel, and Council must take into account any recommendation of that Panel before taking a final decision to dismiss.
- 4.3 Independent Persons have been appointed to provide advice in relation to breaches of the Council's Code of Conduct for Members. Under the regulations, the Independent Persons would take on this additional role. The Council has appointed 3 Independent Persons.
- 4.4 The invitations to the Independent Persons should be sent in accordance with the following priority order:
 - an Independent Person who has been appointed by the Council and who is a local government elector;
 - any other Independent Person who has been appointed by the Council; and
 - an Independent Person who has been appointed by another Council or Councils.
- 4.5 The regulations provide that the Panel is to be a committee of the authority and so it is subject to all the legal requirements for committees, including the proportionality rules. There would be a report to full Council with a recommendation, which would include the views of the Independent Persons.
- 4.6 To ensure that the new process will not involve high costs, the Regulations limit the remuneration that should be paid to Independent Persons on the panel to the level of the remuneration which they would normally receive as an Independent Person in the conduct regime. The Council must

now modify its Standing Orders which are part of the constitution to give effect to the new arrangements.

The amendments which are required by the regulations are set out in **Essential Reference Paper 'E'**.

5.0 Other amendments to the Constitution

5.1 Further minor amendments to the Constitution are set out in **Essential Reference Paper 'F'**. They relate to changes in legislation

6.0 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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