

EAST HERTS COUNCIL

AUDIT AND GOVERNANCE COMMITTEE – 25 JANUARY 2017

REPORT BY LEGAL SERVICES MANAGER

CONSTITUTION WORKING GROUP – INTERIM REPORT

WARD(S) AFFECTED: - ALL

Purpose/Summary of Report

- The Chief Executive submitted a report to Audit and Governance Committee on 21 September 2016 seeking Members’ approval to establish a Constitution Work Group (CWG) to carry out a significant review of the Constitution in order to ensure that it was fit for purpose, to facilitate transparency of decision making processes and to better serve the needs of East Herts residents.
- This interim report provides Members with an overview of the CWG’s approach so far and welcomes views on the progress made before a survey is carried out and a final report is presented to Members on 22 March 2017 for approval by Council on 10 May 2017.

<u>RECOMMENDATIONS FOR AUDIT AND GOVERNANCE COMMITTEE</u>	
That :	
(A)	in principle, the ongoing overall approach by the CWG in reviewing the constitution, and as now detailed, be approved; and
(B)	Members’ comments aimed at enhancing the transparency and usability of a revised constitution be discussed.

1.0 Background

1.1 The establishment of a Constitutional Working Group (CWG) was approved by Members of Audit and Governance Committee on 21

September 2016 comprising three Members from Audit and Governance Committee and one Member from Corporate Governance Committee. The CWG has met on two occasions so far and an additional Member (with constitutional experience) also attended the meeting(s) on 11 October and 12 December 2016.

2.0 Report

- 2.1 Under Section 37 of the Local Government Act 2000, all Councils are required to publish the arrangements for the discharge of its functions within a “constitution”. This sets out how the Council operates, how decisions are made and what procedures need to be followed to ensure that the business of the Council is conducted in an efficient, transparent and in an accountable manner. Parts of the Constitution are required by statute such as the Council’s financial regulatory framework, procurement procedures, and contracts to name a few. As such, the Monitoring Officer has a duty to keep the constitution under review to reflect changes in the law, management structures, job responsibilities and for general administrative purposes.
- 2.2 The Local Government Transparency Code 2015 places an obligation on the Council to ensure that local people can see how the authority’s money is spent, scrutinise how well it manages its assets, how decisions are taken, who is taking them and how much senior staff are paid and other issues important to local people. This Code and the Localism Act 2011, emphasise that the Government wants to place more power in citizens’ hands to increase democratic accountability and to make it easier for local people to contribute to local decision making and to help shape public services. This can only be achieved by having a transparent approach to Council information and processes.
- 2.3 In acknowledging the statutory background influencing the content of the constitution, the financial and social benefits to be derived from the publication of information and the remit of the CWG, there is general acceptance of the fact that the Constitution should be user friendly, not only to aid Members and Officers, but to assist East Herts residents in any approach they may wish to make in contacting its elected Members, attending meetings and accessing information or about the business of the Council generally.
- 2.4 The CWG has met on two occasions when general views were expressed and areas of research and approaches to the terms of

reference were considered.

- 2.5 As opinions have formed, the Group is of the view that the remit of the review should focus on matters mostly of public interest and that this might provide, within the first publication, an overview of the following areas (but could include specific web links to more in depth information / PDFs), specifically:-

The Council (its responsibilities; how often it meets / (what it can't do?);

The Council's Committees and Leadership Structure;

Meetings (how often Council and other meetings consider business and their roles) - summaries only;

Your Elected Members – contact details, Executive roles and portfolios held: (District Wards and HCC Areas);

How “You” the resident, can influence Council Decisions and how to do this e.g. approaching Ward Members, questions and petitions to Council, County Council Members, MPs;

Access to Information / Freedom of Information requests / use of social media during meetings and protocols to be observed;

Other rights of access to information e.g budgets (how the budget is determined, how money is spent, use of assets, how and who are taking major decisions, and how these can be challenged;

- 2.6 Essentially, the consensus of the CWG is that there should be a “User Guide and Summary” of the Constitution which sits beside the main Constitution. The ‘User Guide and Summary’ would appeal and be more usable to the public. In addition, it was noted that the main Constitution did not have an index which will need to be rectified and reflected in the User Guide and Summary document. It is anticipated that this document should not be more than approximately 20 pages; possibly illustrated, and should provide a summarised, relevant and focussed approach to the areas identified in paragraph 2.5 (and where appropriate, with hyperlinks to PDFs in the main Constitution).

- 2.7 It should be noted that a complete refresh of the original constitution at this stage would necessitate re-writing substantial

parts and may result in having to seek Department of Communities and Local Government consent. By having a User Guide and Summary would obviate the need to do this and would ensure that statutory guidelines are observed and not compromised.

- 2.8 Whilst carrying out the review it was also noticed that there were parts of the main Constitution that needed to be addressed and it is intended that this will form part of a separate review in consultation with the Democratic Services Team Leader.
- 2.9 Transparency is the key and the Council's desire to create a user-friendly version of the Constitution would help provide its residents with the tools for them to seek information, be properly informed and hopefully to play a bigger role in their district and also ensure that the Council continues to comply with and observe ongoing codes and legislation.
- 2.10 The subject matter in paragraph 2.5 is not an exhaustive list but serves to illustrate examples of what the user-friendly version of the Constitution might include.
- 3.0 Implications/Consultations
- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers:

Localism Act 2011

Local Government Act 2000 (Rights to a meeting and information)

<http://www.legislation.gov.uk/uksi/2012/2089/contents/made>

Department for Communities and Local Government "Open and Accountable local government"

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/335930/140630_Draft_Openness_Guide_-F.pdf

Market Assessment of Public Sector Information – Deloitte 2013

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/198905/bis-13-743-market-assessment-of-public-sector-information.pdf

Local Government Act 1972 (Access to Meetings of the Council)
<http://www.legislation.gov.uk/ukpga/1972/70/part/VA>

Local Government Transparency Code 2014
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/360711/Local_Government_Transparency_Code_2014.pdf

Local Government Transparency Code 2015
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/408386/150227_PUBLICATION_Final_LGTC_2015.pdf

Contact Officer: Kevin Williams Acting Head of Legal and
Democratic Services.
Contact extn: 2172
Kevin.williams@eastherts.gov.uk

Report Author: Victoria Clothier,
Legal Services Manager
Contact extn: 2159
Victoria.clothier@eastherts.gov.uk