

EAST HERTS COUNCIL

COUNCIL - 23 FEBRUARY 2011

REPORT BY THE MONITORING OFFICER

AMENDMENTS TO THE CONSTITUTION

WARD(S) AFFECTED: All

Purpose/Summary of Report

- The report sets out proposed amendments to Constitution.

<u>RECOMMENDATION FOR DECISION:</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 a regular basis. Recommended changes are included in **Essential Reference Paper 'A'** to the report.

2.0 Report

2.1 Council at its meeting on 8 December 2010 resolved that

(A) the results of the consultation exercise in respect of the two models be noted; and

(B) having regard for the economy, efficiency and effectiveness of the elected Leader and Executive model, this option be adopted and implemented three days after the next District elections in May 2011.

2.2 To implement these decisions, minor changes are required to the Constitution. The sections of the Constitution which require changes are listed below together with a summary of the changes.

3.0 Introduction and Summary

3.1 Minor changes to describe the new structure

3.2 Article 7 – The Executive

3.2.1 This Article sets out the role and powers of the Leader, who determines the size of the Executive, who appoints and dismisses members of the Executive and who can delegate functions to individual Executive Members. This Article will now have to include provision for the Deputy Leader. To ensure accountability the Article should provide that such decisions should be effective only upon notification in writing to the Proper Officer

3.2.2 Part 3 – Responsibility for Functions

3.2.3 The Scheme will now make it clear that it is the Leader who allocates Executive Portfolios and determines the powers of individual Executive Members, and approves the scheme of delegation of executive powers to Officers.

3.2.4 Part 4 – Procedure Rules

3.2.5 Council Procedure Rules should be amended to provide for the Leader to report to Council on appointment and changes to the Executive. The standard procedure for Annual Council should now omit election of Leader (except in the year in which the current Leader's term of office expires) and the election of other Executive Members

4.0 Other Changes to the Constitution

4.1 Members' Questions at Council

4.1.1 Two additional paragraphs are proposed for the Council Procedure Rules relating to Members' questions.

4.1.2 "The questioner should always state "I refer to the Order Paper" rather than reading out the full text of the question.

4.1.3 The Chairman has the right to prevent any Member asking or giving a protracted supplementary question or answer."

4.2 Member/ Officer Relations Protocol

4.2.1 Some changes to the Member/Officer Relations Protocol are suggested. The proposed changes are:

1. Members must use a Council email address when acting in capacity as Councillor

4.3 Audit Committee and Financial Regulations

4.3.1 Two changes to the terms of reference of the Audit Committee are proposed. The first proposal is that the Audit Committee rather than Council should approve the statement of accounts. Secondly, the Audit Committee should review the Council's finances (including borrowing , loans, debts investment and banking arrangements). If the Audit Committee is to approve the statement of accounts there is a consequential change to the Reserves Policy.

4.3.2 The current policy allows the Council to vary Executive recommendations on new reserves when it considers the final accounts. With delegation to the Audit Committee of the approval of the accounts a different approval procedure is needed.

4.3.3 The required change is

Delete paragraph 18 of the Reserves Policy and replace by an addition to Financial Regulations as follows:

4.4 Reserves

4.4.1 The Executive may establish an earmarked reserve and approve appropriations thereto from an under spending where the purpose of that reserve is to defer the expenditure of money included in a budget or supplementary estimate approved by the Council and where the later expenditure will be in respect of the service for which the budget or supplementary estimate was approved.

4.4.2 Proposals to appropriate more than £100,000 to a single reserve or more than £500,000 in aggregate in any year shall be subject to the prior approval of the Council.

4.5 Members on Outside Bodies

4.5.1 It is suggested that Members on outside bodies report on their work to the Portfolio Holder on an annual basis.

5.0 Scrutiny Committees

5.1 Members are asked to consider whether Scrutiny Committee's work plan should be determined entirely by the each Scrutiny Committee and not affected by the agenda for the Executive unless, of course, the Scrutiny Committee chooses to an item on the Executive agenda. This involves the deletion of the following paragraphs:

5.1.1 "To consider any item in the Forward Plan, within the remit of the Committee, to be considered by the Executive (except items of urgent business) before the item is considered by the Executive if requested by the Chairman of the Scrutiny Committee. The relevant report to the Executive will made available to the Scrutiny Committee.

5.1.2 The agenda for Executive meetings shall include an item entitled 'Issues arising from scrutiny'. The reports and recommendations of Scrutiny Committees referred to the Executive shall be included in the agenda within one month of the Scrutiny Committee completing its report/recommendations.

6.0 All the changes to the Constitution are contained in **Essential Reference Paper 'B'**.

6.1 Implications/Consultations

6.2 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

Local Government and Housing Act 1972

Local Democracy, Economic Development and Construction Act 2009

Constitution Guidance

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ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/Objectives (delete as appropriate):	<p>Fit for purpose, services fit for you <i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i></p> <p>Leading the way, working together <i>Deliver responsible community leadership that engages with our partners and the public.</i></p>
Consultation:	The Monitoring Officer has consulted the Section 151 Officer and the Head of Paid Service.
Legal:	The legal implications have been taken into account in amending the Constitution.
Financial:	N/A
Human Resource:	No comments.
Risk Management:	A Constitution which reflects the Council's structure and delegation is important to the smooth running of the organisation.