

Council

Date of Meeting: 11 May 2022

Report by: James Ellis, Head of Legal and Democratic Services

Report title: Review of Constitution

Ward(s) affected: All

Summary

In accordance with Council Procedure Rules 2.1.2 (k), which require Council to review and update the Constitution if necessary, a comprehensive review of the Constitution has taken place and any amendments arising from this exercise are recommended.

RECOMMENDATIONS FOR COUNCIL:

(a) that the updates and consequential amendments to the Constitution identified in the attached appendices are approved;

1.0 Proposal(s)

1.1 As above.

2.0 Background

2.1 The Council's procedure rules require that, if necessary, a review of the Constitution be approved at the annual meeting of Council. The Council may also approve updates and changes to the Constitution at ordinary meetings throughout the year.

2.2 An Officer Constitution Review Group and a Member Constitution Review Group were set up to complete a comprehensive review of the council's constitution and identify and collate changes.

2.3 The Officer Constitution Review Group was made up of the

Chief Executive, Head of Legal and Democratic Services, Head of Housing and Health and the Democratic Services Manager.

- 2.4 The Member Constitution Review Group membership was Councillor Williamson (Chair), Councillor Deering, Councillor Ward-Booth, Councillor Wilson, Councillor Crystall and Councillor Redfern.
- 2.5 The Officer Review Group identified suggested amendments to the Constitution and presented these changes to the Member Group for discussion and approval. The main updates are set out in the following paragraphs and shown as tracked changes in Appendix A and all the recommended changes are described in Appendix B.
- 2.6 All tracked changes to the Constitution are available as a background paper which can be provided on request.
- 2.7 The main changes are as follows:
- 2.8 Change to neutral terminology – the Member Group have proposed a change from “Chairman” to “Chair” throughout the Constitution to bring into line with other organisations. A comparison of terminology throughout the councils in Hertfordshire found that the majority were now using the term “Chair”.
- 2.9 Increase the Key Decision limit (Appendix A) – the current limit in the Constitution is £100,000 and the Member Group has proposed to increase the key decision limit to £200,000. Legislation sets out the definition of a Key Decision as “an executive decision which, is likely to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget” and it was felt that the new limit was more in keeping with the legislation and was “significant” in relation

to the council's budget.

- 2.10 Creation of a Standards Committee (Appendix B) - The Review Group has proposed the formation of a new Standards Committee. This would remove the Standards function from the Audit and Governance Committee. It is proposed that the Committee will have seven East Herts Members and up to three Town or Parishes Councillors co-opted to the Committee. The Committee will meet twice a year and a Sub-Committee called when required.
- 2.11 Creation of the Joint Information Communication Technology Committee (Appendix C) - Members and Officers have agreed a new Joint Information Communication Technology Committee with Stevenage Borough Council to oversee the shared service and the provision of ICT. The Committee membership will be three Members from each authority.
- 2.12 Leader's Announcements on the Council agenda (Appendix D) - currently the Leader has to wait to the Executive report to speak to Council. Therefore the Constitution Review Group has recommended the addition of a new standard item will allow for the Leader to make any announcements as necessary at the start of the meeting.
- 2.13 Refresh of the rules on petitions (Appendix D) – The Member Group have proposed a definition of a petition to be added to the Constitution and have proposed a threshold on the number of signatures needed for a petition to be presented to Council. The group were provided with a comparison of the petition rules from all the councils in Hertfordshire to come up with a number. The suggested threshold for petitions to be presented to Council is 150 signatures or more. Petitions with 50-149 signatures will be provided with a written response from the relevant Executive Member. Petitions with fewer than 50 signatures will not be valid.

- 2.14 Public and Member Questions to Council (Appendix D) - The Member Group have suggested moving the deadline for submitting a question to Council from 12 noon, two working days before the meeting to 12 noon, three working days before the meeting to allow for more time to collate a response. The Group have also proposed that a 15 minute time limit be introduced to Public Questions to bring into line with Members' Questions.
- 2.15 Refresh of the Overview and Scrutiny Committee (Appendix E) – a refresh of the Overview and Scrutiny Committee has been undertaken to implement the recent changes made to the committee into the Constitution. This includes an updated Terms of Reference, updated guidance on Rapid Reviews, clarification on the establishment of Task and Finish Groups and the addition of public participation rules. Currently, the public are able to propose items for scrutiny but there is no mechanism by which they can attend to present their case or ask questions. The Member Group have proposed that speaking rules be invoked when an item is on the agenda proposed by a member of the public.
- 2.16 Refresh of the Audit and Governance Committee's Terms of Reference (Appendix F) - The Terms of Reference have been updated for both Overview and Scrutiny (para 2.15) and the Audit and Governance Committee to give clarity as to what each committee can scrutinise.
- 2.17 Refresh of the arrangements for the disciplinary action of the Statutory Officers (Appendix G)– Officer Employment Procedure Rules as required under the Local Authorities (Standing Orders)(England) Regulations 2011 (as amended by the Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015.

- 2.18 Increase the level of debt recoverable by the Chief Financial Officer from £10,000 to £50,000 (Appendix H) - Following advice from the Head of Strategic Finance and Property, the Member Constitution Review Group has proposed to increase the debt write off limit from £10,000 to £50,000. The level of debt accumulated by individuals or entities when bankruptcy occurs will more than likely exceed £10,000 and this amendment aligns with the aims of the Transformation Programme by making the debt write off process more efficient. Other limits have been increased amongst Officers in the Scheme of Financial Delegations to make processes more efficient.
- 2.19 Refresh of Officer Delegations (Appendix I) – a refresh of the Officers’ Responsibility for Functions has been undertaken with each of the Heads of Service to ensure all the relevant powers had been delegated to carry out their role.
- 2.20 Refresh of Contract Procedure Rules (Appendix J) – a refresh of the existing provisions has been undertaken, as the rules had not been updated since Brexit. The Officer and Member Constitution Review Groups received recommendations from the council’s Contracts and Procurement Lawyer, which are recommended for approval.
- 2.21 The Members’ Planning Code of Good Practice (Appendix K) – the Group has proposed to replace the current version with that produced by Lawyers in Local Government (LLG).
- 2.22 The Constitution has been reordered to make it more user friendly and so that each section contains the relevant information specific to that topic. The order proposed is as follows:

Section 1	Introduction
Section 2	Purpose, Interpretation and Suspension of the Constitution

Section 3	Full Council
Section 4	The Executive
Section 5	The Overview and Scrutiny Committee
Section 6	Regulatory Committees
Section 7	The Standards Committee
Section 8	Other Committees
Section 9	Finance, Contract and Legal Matters
Section 10	Officers' Responsibility for Functions
Section 11	Officer Functions
Section 12	Access to Information Procedure Rules
Section 13	Budget and Policy Framework Procedure Rules
Section 14	Members' Code of Conduct
Section 15	Officers' Code of Conduct
Section 16	Member/Officer Protocol
Section 17	Members' Planning Code of Good Practice
Section 18	Members' Gift and Hospitality Code of Conduct
Section 19	Media Protocol
Section 20	Members' Allowances Scheme

2.23 It should be noted that the Constitution includes, at Part 6, the Members' Allowances Scheme. This area of the Constitution was considered by the Independent Remuneration Panel when it conducted its review of Members' allowances. The

report can be found later in the agenda relating to the recommendations of the Panel.

3.0 Reason(s)

3.1 To ensure the Constitution is up to date to enable clarity of decision-making and procedures throughout the year.

4.0 Options

4.1 None.

5.0 Risks

5.1 That decisions are not taken in accordance with correct authority, and risk challenge.

6.0 Implications/Consultations

6.1 The Leader and the Executive have been consulted.

Community Safety

No

Data Protection

No

Equalities

No

Environmental Sustainability

No

Financial

None

Health and Safety

No

Human Resources

No

Human Rights

No

Legal

Yes, as indicated above.

Specific Wards

No

7.0 Background papers, appendices and other relevant material

- 7.1 The main changes to the Constitution listed in the report are shown as tracked changed at Appendices A to K.
- 7.2 Other routine changes such as terminology, capital letters and rewording are shown at Appendix L.
- 7.3 Tracked changes to all areas of the Constitution where amendments are being made are available on request, as a background paper.

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