

EAST HERTS COUNCIL

ANNUAL COUNCIL - 18 MAY 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 the Constitution.

RECOMMENDATION: that:	
(A)	the amendments to the Constitution be approved; and
(B)	the provision for the use of Council email addresses by Members is changed/ remains unchanged (see paragraphs 6.1 – 6.2).

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 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 have been made recently. Therefore this report considers minor amendments only.

3.0 **Development Control Fees**

3.1 The government is proposing changes to the planning application fees regime which would decentralise responsibility for setting fees to local planning authorities. It is also proposing to allow authorities to charge for resubmitted applications and to set higher

fees for retrospective applications. Fees would be set on a non-profit making basis. The fees will be calculated by analysing the cost of processing planning applications.

It is proposed therefore that the Director of Neighbourhood Services be given delegated authority to determine fees for planning applications.

4.0 Fees and Charges

- 4.1 Fees and charges are agreed by Members based on the Council's fees and charges policy. Sometimes minor changes to fees and charges become necessary once they have been implemented in the light of practical experience. Currently the only mechanism for making these changes is by means of a non-key decision. It is proposed that this is delegated to the relevant Director in consultation with the relevant Portfolio Holder provided it is in accordance with the Council's fees and charges policy.

5.0 Land Drainage Functions

- 5.1 The Council's engineering staff occasionally exercise statutory powers relating to land drainage. The exercise of these statutory functions is not currently delegated to officers. It is proposed that the following changes are made to the Constitution.

To exercise the following functions relating to land drainage:

LAND DRAINAGE ACT 1991

General drainage powers to maintain, construct and improve drainage works (Section 14)

Disposal of spoil from works to watercourse (Section 15)

Powers to require works for maintaining flow of watercourses (Sections 25, 26 and 27)

Powers of entry for internal drainage boards and local authorities (Section 64)

PUBLIC HEALTH ACT 1936

Power to deal with ponds and ditches (Section 260)

Power to require culverting of watercourses and ditches where building operations are in prospect (Section 262)

Approval of plans to culvert or cover any stream or watercourse (section 263)

Issue of notices requiring the repair or cleansing of culverts (Section 264).

6.0 Council E-mail Addresses

6.1 At the meeting of Council on 23 February 2011 (Minute 570 refers) changes to the Constitution were agreed. One of these related to Members' use of a Council email address when acting in capacity as Councillor. It was agreed that the Member/Officer Relations Protocol be amended to include:

“Members must use a Council email address when acting in their capacity as a Councillor.”

6.2 Councillor Newman has raised concern that 'acting in capacity as a Councillor' is vague because ever since he was elected, he considers that he has been a representative of the residents of his ward and therefore acted as a Councillor. Councillor Newman considers that the Council email address should be used whenever the subject of the communication is a matter of Council business as opposed to when acting in the capacity of a Councillor. Members' views are sought as to which definition is appropriate.

6.3 Sunbeds (Regulation) Act 2010

The Act which came into force in April 2011 seeks to prevent persons aged under 18 from using sunbeds. Businesses which offer sunbeds for use on their premises are banned from allowing persons aged under 18 to use or have access to their sunbeds, and from offering their sunbeds for use by persons aged under 18. The Act includes regulation-making powers which would allow the further regulation of sunbed use. The Act is enforced by the District Council. The Council has a duty to appoint authorised officers. It is proposed that the Director of Neighbourhood Services be authorised to appoint authorised officers for the purposes of the Act.

6.4 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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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.