

East Herts Council Report

Council

Date of meeting: Wednesday 26 February 2025

Report by: James Ellis – Head of Legal and Democratic Services and Monitoring Officer

Report title: Review of the Constitution

Ward(s) affected: (All Wards);

Summary – In accordance with paragraph 2.6.1 of the Constitution, which requires Council to approve amendments to the Constitution, the Member Constitution Review Group has received suggested amendments from Officers and have recommended them to Council for approval.

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 may approve updates and changes to the Constitution at ordinary meetings throughout the year.

2.2 Officers in Procurement, Planning and Democratic Services have proposed amendments to sections of the Constitution in response to legislation changes or have identified areas that need to be updated.

2.3 All tracked changes to the relevant sections are attached at Appendix A, C and D.

Contract Procedure Rules (CPRs) – Section 9 (Appendix A)

2.4 The changes to the Contract Procurement Rules have been proposed due to the new Procurement Act 2023 which will come into force on 24 February 2025 and the procurement team have therefore reviewed and updated the CPR's accordingly.

2.5 Contract Procedure Rules form an essential part of the control framework within which the Council operates and are a collection of rules, which must be adhered to when officers purchase goods, works or services or dispose of Council plant and equipment. They have been designed to ensure that the Council is compliant with UK legislation, follows best practice and achieves value for money in all its procurement activities.

2.6 The Contract Procedure Rules have been updated as at February 2025 and the changes are detailed in Appendix A attached to this report, the main changes relate to:

- Increasing the threshold for all bands
- To update the rules to reflect the Procurement Act 2023 which becomes law on 24 February 2025
- To change the internal direction regarding the use of a direct award under a Framework agreement.
- To increase the direction given to officers in regard to pre procurement market engagement and contract management to reflect their increased importance.

2.7 The section has been rewritten due to the amount of changes proposed and the previous Section 9 can be found [online](#).

2.8 The proposed changes to the CPR's were considered by the Member Constitution Review Group at their meeting on 30 January 2025 and recommended these changes to Full Council for

approval. The Member Constitution Review Group requested a summary and reasonings for the main changes before making their decision and these are attached at Appendix B.

Planning changes – Sections 3, 6 and 10 (Appendix C)

- 2.9 The planning related sections of the constitution are kept under a regular review to ensure that the constitution is up to date and fit for purpose. As a result of a recent review by officers, a number of minor changes are proposed.
- 2.10 Proposed changes are shown as tracked changes at Appendix C and the rationale for each proposed change is set out in comments in the relevant sections. For completeness, the main elements summarised below:

Section 3 – Full Council (definition of Policy Framework)

- 2.11 Since the adoption of the District Plan in 2018 the majority of masterplans for allocated sites have followed the Council's approach and been endorsed. For those sites that are coming forward on a speculative basis or where the outline planning permission has been granted, masterplanning is dealt with via a discharge of condition. This means that they have to be dealt with within a certain period of time. If not, deemed discharge is assumed. The proposed changes reflect these circumstances and provides flexibility to deal with different circumstances
- 2.12 As a result of these amendments, paragraph 7.12 of the East Herts Gilston Area Charter SPD will be superseded.

Section 6 – Regulatory Committees (DMC Procedures)

- 2.13 Changes are proposed to public speaking arrangements to enable Members of the Committee to question public speakers on the matters they raise to enable the Committee to be fully informed prior to making a decision. The existing arrangements for Ward Councillors to address the Committee are codified.

Section 10 -Officers' Responsibilities for Functions (Head of Planning and Building Control)

2.14 A number of minor changes are proposed and seek to clarify and update the delegations. No substantive changes to the delegations are proposed.

2.15 The main changes relate to:

1) A "catch all" provision (10.15.1) authorising the general functioning of the Council as a Local Planning Authority is introduced as not all of the activities of the Planning Service could easily be listed in the document. Some additional activities have been individually listed however to ensure clarity.

2) The process for a Member Referral of an application to DMC (10.15.1 (f) is expanded upon (use of the referral form and timescales) and two seldom-used criteria for requiring a DMC decision are deleted (10.15.1 (g) and (h)).

2.16 Members may be aware of the "Planning Reform Working Paper: Planning Committees" which discusses proposals to bring forward a national set of criteria for when a decision is needed by a planning committee, which could result in wholesale changes to relevant parts of the East Herts Constitution. The government has not set out a response to the working paper or a timescale for adoption and so it is recommended that the changes set out in the Appendix are still pursued in the meantime.

Member Advisory Committee on Constitution

2.17 The above Committee considered these proposals on the 30 January 2025. They recommended that the wording of Section 6 be simplified to avoid repetition and to allow all speakers to be questioned and that paragraph 10.15.8 (Member Referrals for Enforcement action) be not deleted. Both these recommendations have been accepted and actioned.

Council Procedure Rules – Section 3 (Appendix D)

2.18 The wording in paragraph 3.20.1 relating to the Motion on Notice deadline has been amended to make the deadline clearer. The day of the deadline has not been changed. The time of the deadline has been changed from 10am to 12 noon to bring into line with the Petition and Member/Public Questions deadline.

2.19 The Member Constitution Review Group suggested adding an example into the Constitution to show the working out of six clear working days.

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 Not approving the Constitution amendments could mean that the Council is not compliant with new legislation (Contract Procedure Rules) and the Constitution would not be up to date.

5.0 Risks

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

6.0 Implications/Consultations

Community Safety

No

Data Protection

No

Equalities

The proposed changes to the Constitution have no impact on equalities.

Environmental Sustainability

No

Financial

There are no financial implications associated with the proposed constitutional changes.

Health and Safety

No

Human Resources

No impact on Human Resources are envisaged as a result of these changes.

Human Rights

No

Legal

Yes – as indicated above. The Contract Procedure Rules have been updated due to new legislation.

Specific Wards

No

7.0 Background papers, appendices and other relevant material

- 7.1 Appendix A – Contract Procedure Rules
- 7.2 Appendix B – Summary of changes to the Contract Procedure Rules
- 7.3 Appendix C – Section 3, 6 and 10 planning tracked changes
- 7.4 Appendix D – Section 3 Motion on Notice tracked changes

Contact Member

None

Contact Officer

James Ellis

Head of Legal and Democratic Services,

Contact Tel. No. 01279 502170

james.ellis@eastherts.gov.uk

Report Author

Katie Mogan, Democratic and Electoral Services
Manager

katie.mogan@eastherts.gov.uk