

WELWYN HATFIELD BOROUGH COUNCIL
COUNCIL – 1 FEBRUARY 2021
REPORT OF THE MONITORING OFFICER

REVIEW OF THE COUNCIL'S CONSTITUTION

1 Executive Summary

- 1.1 The purpose of this report is to seek approval to changes to the Constitution as part of the ongoing review and modernisation of the Council's governance processes following consideration by the Constitution Review Group (CRG) and in accordance with one of the key recommendations in the corporate peer challenge action plan (as agreed at the Council meeting on 22 July 2019). The revision of the Constitution is an important part of the modernisation programme.

2 Recommendations

- 2.1 That Council notes and agrees CRG's recommendations of the 14 December 2020 as set out in Appendix 1 to this report.
- 2.2 That Council approves the revised Financial Regulations section of the Constitution as provided in Appendix 2: key changes summarised in Appendix 3

3 Explanation

- 3.1 The cross-party Constitutional Review Group (CRG) was re-appointed at the 2019 Annual Council meeting to review the Constitution and make recommendations for change to update and streamline the Council's governance arrangements to reflect the Council's modernisation programme. The review of the Constitution is a continuing and ongoing responsibility.
- 3.2 **Financial Regulations** - CRG were given details of the proposed changes to the Financial Regulations aspects of the Constitution. This area was due to be reviewed and the timing coincided with recent changes made to the Chartered Institute of Public Finance and Accountancy (CIPFA) Financial Management Code.
- 3.3 Language within this section was revised, moving away from the previous "procedure rules" to "regulations" to bring it in line with industry practice.
- 3.4 The regulations have been re-written to focus on identifying the correct controls required to be put in place, with a move away from providing detailed instructions within the document.
- 3.5 Parts of the previous text were removed to avoid duplication and further streamline the document.

Implications

4 Legal Implication(s)

- 4.1 Section 9P of the Local Government Act 2000 (as amended) requires a local authority to prepare and keep up to date a Constitution.
- 4.2 There is also Government Guidance 'DETR New Council Constitutions Local Government Act 2000 Guidance to English Local Authorities'
- 4.3 A Constitution Direction was issued by the Secretary of State, 'DETR Local Government Act 2000 (Constitutions) (England) Direction 2000', requiring around 80 matters to be included within council Constitutions. These are prescribed matters that must be included in a local authority's Constitution.
- 4.4 These documents should be read in the context of superseding legislation including the Local Government and Public Involvement in Health Act 2007 and Localism Act 2011.

5 Financial Implication(s)

- 5.1 The financial regulations one of the means by which the Council demonstrates its requirement to put in place arrangements for the proper administration of its financial affairs, as required by Section 151 of the Local Government Act 1972.
- 5.2 The regulations provide the control framework which ensures: funds are protected from fraud or error; that the use of funds is controlled and transparent; that the council has effective financial plans in place; that action is taken where appropriate; and that effective monitoring and reporting is in place.
- 5.3 The removal of some of the detailed procedures from this section of the Constitution, and delegation to the Section 151 Officer will allow the detailed procedures to be more regularly and reviewed and be more responsive to changes in statutory requirements, systems upgrades and other factors.

6 Risk Management Implications

- 6.1 The risks related to this proposal are:
 - 6.1.1 Risk: Reputational - proposed changes may not meet everyone's requirements resulting in possible adverse publicity
Assessment: Medium
Mitigating Actions: Consider if consultation at appropriate stages may assist.
 - 6.1.2 Risk: Reputational - Council fails to take the opportunity to modernise the Constitution.
Assessment: Medium
Mitigating Actions: Officers to continue work to with CRG and Group Leaders to help devise and adopt a modern Constitution.

7 Security and Terrorism Implication(s)

- 7.1 Members are obliged to consider security and terrorism implications when making decisions and any proposed changes to committee structures and reporting processes need to ensure such considerations can continue to be

made. There are no implications under this section for the proposals in this report.

8 Procurement Implication(s)

- 8.1 There are no direct procurement implications arising from the content of this report.

9 Climate Change Implication(s)

- 9.1 Removing detailed procedures and delegating to the Section 151 Officer allows quicker flexibility to respond to digital innovation.

10 Human Resources Implication(s)

- 10.1 There is a substantial call on Officer(s) time to service committees and panels including time to draft and produce any major re-writes to the procedures within the Constitution.

11 Health and Wellbeing Implication(s)

- 11.1 There are no specific identified health and wellbeing implications directly arising from the content of this report.

12 Communication and Engagement Implication(s)

- 12.1 The Constitution is a public document and will be updated accordingly on the website to make it available and assist with the transparency of Governance.

13 Link to Corporate Priorities

- 13.1 A modernised and updated Constitution will support the Council's corporate priorities corporate and the peer challenge action plan.

14 Equality and Diversity

- 14.1 I confirm that an Equality Impact Assessment (EIA) has not been carried out in connection with the proposals that are set out in this report as it is not currently required.
- 14.2 However, an EIA may be required when a certain part of the Constitution is reviewed e.g. 'a description of the rights and responsibilities of inhabitants of the authority's area' or 'a description of the arrangements the authority has in place for access of the public, members of the authority and officers of the authority to meetings of the authority' and the need for an EIA will be considered at the relevant time.

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Appendix A	Minutes from Constitution Review Group 14 December 2020
Appendix B	Financial Regulations
Appendix C	Summary of Changes