

WELWYN HATFIELD BOROUGH COUNCIL  
COUNCIL – 18 SEPTEMBER 2024  
REPORT OF THE EXECUTIVE DIRECTOR (FINANCE AND TRANSFORMATION)

REVIEW OF THE CONSTITUTION

**1 Executive Summary**

- 1.1 The purpose of this report is to consider changes to the Constitution as attached with tracked changes and to recommend adoption of a revised Constitution.
- 1.2 The constitution is kept under regular review, and the changes set out in this report have been considered by the Constitution Review who unanimously agreed the changes.

**2 Recommendation**

- 2.1 That Council consider and approve the recommended changes to the Constitution.

**3 Explanation**

- 2.2 The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
- 2.3 The Constitution is divided into 16 articles which set out the basic rules governing the authority's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.
- 2.4 The Constitution is kept under regular review to ensure it remains fit for purpose.
- 2.5 The Constitution Review Group met on 2<sup>nd</sup> September 2024, during which a number of proposed changes to the Constitution were considered and debated. The changes were unanimously agreed by the Group and referred to Council.
- 2.6 This round of updates include:
- a) Changes associated with the updates made to the management structure this year, so that the services, responsibilities and delegations are aligned to the new structure and appropriate roles.
  - b) Minor updates to reflect current working practices of the council and ensure accurateness of the constitution.
  - c) Updates to the contract procurement rules (please note these changes are proposed to take effect from 28 October 2024 to align with the new Procurement Act, further details are set out below)

- d) Updates to the appointments to outside bodies (further information below).

### Procurement Act

- 2.7 When the UK left the European Union in 2020, the government wanted to create a simpler, more flexible, commercial system that better meets our country's needs while remaining compliant with our international obligations.
- 2.8 This has resulted in the development of the Procurement Act 2023, a new law that creates a new and improved set of requirements.
- 2.9 The new law provides a number of benefits to suppliers and buyers, including:
  - a) cutting red tape and supporting innovation
  - b) improving transparency by creating a fully open and transparent system, meaning everyone has access to public procurement data
  - c) faster competition processes for emergency buying, allowing buyers to meet urgent needs quickly and efficiently
  - d) simplifying the process of working with the public sector, supporting more SMEs to bid for contracts
- 2.10 As a result of the new regulations changes have been made to the council's internal procurement rules known as the Contract Procedure Rules. These proposed changes are shown on the attached document.
- 2.11 The provisions of the new Act will only apply to procurements that commence on or after 28 October 2024. The Act will not impact existing contracts or procurements which start before 28th October 2024. The current regulations (Public Contracts Regulations 2015) will continue to apply to procurements that commence before 28 October 2024.

### Appointments to outside bodies

- 2.12 Following the appointments to outside bodies this year, it was agreed that a full review would take place to consider which outside bodies councillor representatives were still required for.
- 2.13 The governance team led on this review and contacted the outside bodies to consider this. A number of organisations have now been removed from the list as councillor attendance is not required.
- 2.14 At this stage, schools have not been reviewed due to the summer period and staff not being available at the schools during this time. This review will continue and a further update, focussing on schools will be presented to the next Constitution Review Group.
- 2.15 In addition to the review of bodies, a process has been set out to ensure that feedback is obtained from the councillors appointed on an annual basis. This will assist in ensuring the list of bodies is kept current, and that information can be

shared with officers, other councillors and to any newly appointed representative to ensure continuity of knowledge.

### **Implications**

#### **3 Legal Implication(s)**

- 3.1 Under Section 9P of the Local Government Act 2000 (LGA 2000) the Council is under a duty to prepare a Constitution and keep it up to date. The Section states that the Constitution must contain:
- The standing orders/procedure rules;
  - The Members' Code of Conduct;
  - Such information as the Secretary of State may direct;
  - Such other information (if any) as the Council considers appropriate.
- 3.2 In December 2000 the Secretary of State issued a Constitution Direction that required around 80 matters to be included within Constitutions, covering amongst other details of procedures for meetings, details of joint arrangements with other local authorities. A Model constitution was also issued in 2000 (Modular Constitutions for English Local authorities) which most Councils, including Welwyn Hatfield, adopted and which continues to form the basis of our Constitution.
- 3.3 Section 9P of the LGA 2000 also provides that a local authority must ensure that copies of its Constitution are available at its principal office for inspection by members of the public at all reasonable hours and must supply a copy of its Constitution to any person who request a copy and who pays to the authority such reasonable fee as the authority may determine. A copy is available free of charge via the Council's website.

#### **4 Financial Implications(s)**

- 4.1 The proposed changes to the constitution will ensure the constitution reflects current legal requirements, best practice and working practices in relation to financial matters.

#### **5 Risk Management Implications**

- 5.1 There are no direct risk management implications arising from this report. It does however ensure that responsibilities for Risk, Business Continuity and Health and Safety are properly aligned to the new management structure and Cabinet, and that appropriate oversight is in place for these.

#### **6 Security and Terrorism Implication(s)**

- 6.1 There are no direct security and terrorism implications arising from this report.

#### **7 Procurement Implication(s)**

- 7.1 These are set out in the body of the report, and will ensure we are compliant with the new Regulations..

**8 Climate Change Implication(s)**

8.1 There are no direct climate change implications arising from this report.

**9 Human Resources Implication(s)**

9.1 There are no HR implications arising from this report.

**10 Communication and Engagement Implication(s)**

10.1 There are no direct communications implications arising from this report.

**11 Link to Corporate Priorities**

11.1 The subject of this report is linked to the Council's Corporate Priority of being a well run council which puts its customers first. The

**12 Equality and Diversity**

12.1 An Equalities Impact Assessment was not completed as the changes do not impact on policy or service provision.

Richard Baker  
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4 September 2024