

WELWYN HATFIELD BOROUGH COUNCIL  
CABINET – 4 APRIL 2017  
ANNUAL COUNCIL – 22 MAY 2017  
REPORT OF THE DIRECTOR (PUBLIC PROTECTION, PLANNING AND GOVERNANCE)

REVIEW OF THE CONSTITUTION

**1. Executive Summary**

- 1.1 The Constitution sets out the local rules that govern how the Council works within national local government legislation. It is regularly reviewed to take account of changes agreed by the Council, where required by statute and other changes, together with general updating. The Council is asked to agree amendments as explained in this report following which the new version of the Constitution will be re-published.
- 1.2 A comprehensive review has been undertaken and changes proposed to take account of the restructuring of the senior management of the Council including responsibility for functions and appointments of Proper Officers, the re-integration of the housing service from the Community Housing Trust into the Council, the creation of a property company, external auditor appointments and the formation of a joint building control service, together with general updating, including to Contract and Financial Procedure Rules and the procedure for call-in of planning applications.

**2. Recommendations**

- 2.1 That the Cabinet agrees and recommends to the Council changes to the Constitution relating to the restructuring of the senior management of the Council including responsibility for functions and appointments of Proper Officers, the re-integration of the housing service into the Council, the creation of a property company, external auditor appointments, the formation of a joint building control service, together with general updating, including to Contract and Financial Procedure Rules and the procedure for call-in of planning applications.
- 2.2 That the Cabinet agrees and recommends to the Council that the Head of Law and Administration as Monitoring Officer be authorised to amend the Constitution to include these changes and to make any other minor amendments where required by Statute or decisions of the Council in accordance with delegated powers.
- 2.3 (Note: The link to the Constitution published on the Council's website is as follows:- <http://www.welhat.gov.uk/constitution> )

**3. Explanation**

The following amendments are proposed:-

### 3.1 Restructuring of the Senior Management of the Council

- (1) To revise the Responsibility for Functions in Part 3 of the Constitution to take account of the restructuring of the senior management of the Council and the appointment of the three new Executive Directors – Executive Director (Resources, Environment and Cultural Services) (Ka Ng), Executive Director (Public Protection, Planning and Governance) (Nick Long) and Executive Director (Housing and Communities) (Simone Russell), together with the delegation of authority from the Cabinet, Committees and Panels to Directors and the further delegation from Directors to Heads of Service. Updated Charts showing the new Management Structure/Responsibilities are being provided in Section 7 of the Constitution.
- (2) To appoint Executive Directors and Heads of Service as Proper Officers for specified functions for the purposes of the Local Government Act 1972, the Local Government Act 2000 and other relevant Acts .
- (3) This is further to the interim arrangements for the delegation of authority to the Directors which were agreed at the Council meeting on 3 October 2016 (Minute 21 refers).

### 3.2 Re-Integration of the Housing Service from the Community Housing Trust into the Council

The revision to the Responsibility for Functions will reflect the re-integration of the housing service from the Community Housing Trust into the Council as agreed by the Cabinet on 6 December 2016 (Minute 101 refers) which took effect from 1 February 2017. This will include the removal of responsibility for housing functions from the Cabinet Housing and Planning Panel which will revert to the Cabinet Planning Panel and the appointment of a new Cabinet Housing Panel by the Cabinet for the Municipal Year 2017/18. The membership of the new Panel will include co-opted representatives of the Tenants' Panel and it will receive the Minutes of those meetings.

### 3.3 Creation of a Property Company

The Special Cabinet meeting on 24 January 2017 (Minute 121 refers) agreed the establishment of a company limited by shares and wholly owned by the Council to enable commercial trading for property related investments under the Localism Act 2011. This income generating investment vehicle has the aim of making significant annual contributions to the Council's General Fund. The operational and governance structure of the company, together with its potential business activities is being provided for in the Constitution.

### 3.4 External Auditor Appointments

The Local Audit and Accountability Act 2014 abolished the Audit Commission and required principal local authorities to appoint their own external auditors by 31 December 2017 for the audit of their accounts from the 2017/18 financial year. As recommended by the Audit Committee on 16 January (Minute 28 refers), the Special Council meeting on 6 February 2017 (Minute 44 refers) accepted an invitation from Public Sector Audit Appointments Ltd and agreed to opt into the national scheme for auditor appointments for each of the five financial years from 1 April 2018 and be an "opted-in" authority for the purpose of the Regulations.

These new arrangements for the appointment of the Council's external auditors are being taken account of in the Constitution.

### 3.5 Joint Building Control Service

The Cabinet on 2 August 2016 (Minute 46.1 refers) agreed to the Council co-operating within the Hertfordshire Joint Building Control Service to provide a joint building control and related service. It was agreed that part of this co-operation should include the formation of a holding company with two subsidiary companies, all private limited by shares and jointly owned, directly or indirectly, by the participating Councils within the Hertfordshire Joint Service. The Cabinet agreed that, in so far as permitted by law, the functions carried out by this Council's building control and related services be transferred to the subsidiary companies and that any remaining statutory building control functions that could not be passed to the new companies could be provided for by any one of the participating authorities within the Hertfordshire joint service. Arrangements for the joint service are proceeding and need to be incorporated into the Constitution.

### 3.6 General Updating

The opportunity has been taken as part of this comprehensive review of the Constitution to undertake some general updating, including to Contract and Financial Procedure Rules and the procedure for call-in of planning applications.

### Implications

#### 4. Legal Implication(s)

The Constitution is regularly reviewed and its operation monitored to ensure that it is relevant, up to date and fit for purpose.

#### 5. Financial Implication(s)

There are no financial implications arising directly from the recommendations in this report.

#### 6. Risk Management Implications

If the Constitution is not regularly reviewed and its operation monitored to ensure that it does remain relevant, up to date taking account of legislation and fit for purpose there is a risk that the basic rules governing the Council's business will not be effective and give rise to legal challenge.

#### 7. Security and Terrorism Implication(s)

There are no security and terrorism implications inherent in relation to the proposals in this report.

#### 8. Procurement Implication(s)

There are no procurement implications inherent in relation to the proposals in this report.

**9. Climate Change Implication(s)**

There are no climate change implications inherent in relation to the proposals in this report.

**10. Link to Corporate Priorities**

The subject of this report is linked to statutory requirements under the Local Government Act 1972 and other relevant legislations. The proposals in this report make changes to the Council's Constitution which will be updated and republished.

**11. Equality and Diversity**

An Equality Impact Assessment (EIA) has not been carried out in connection with the proposals that are set out in this report. It is considered that there are no differential impacts.

**12. Background Papers**

None

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