

WELWYN HATFIELD BOROUGH COUNCIL
COUNCIL – 12 OCTOBER 2023
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 adopt the revised Constitution.
- 1.2 The constitution is kept under regular review and subject to approval by the Constitution Review Group, the changes will then be considered by Full Council. The Constitution Review Group reviewed the amended Constitution on the 6 September 2023.

2 Recommendation

That Full Council agrees the revised Constitution.

3 Explanation

- 3.1 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.
- 3.2 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.
- 3.3 The constitution is kept under regular review to ensure it remains fit for purpose.
- 3.4 The Constitution Review Group met on 10 July 2023, during which a number of proposed changes to the Constitution were debated in detail. The changes were unanimously agreed by the Group and referred to Council.
- 3.5 On the 19 July 2023, Council agreed the amendments to the Council's Constitution except for changes relating to the Council's Estate Management Scheme, and asked for this area to be referred back to the Constitution review group for further consideration.
- 3.6 Changes recommended in this review include:

Section of the Constitution	Area considered
Article 4 – Full Council	Addition of Gambling and Licencing Policies to the policy framework as required in legislation
Article 8 – Non Executive Committees	Removal of Licencing Policy text following

	addition in Article 4
Article 12 - Officers	Updates regarding Regulation of Investigatory Powers Act 2000 (responsible officers and Senior Responsible Officer)
Article 14 – Finance, Contract and Legal Matters	Correction of typographical error
Part 3, 4a – Responsibility for non-executive functions	<p>Full Council - Updates regarding street trading and licensing.</p> <p>Standards – clarification of complaints overseen by the committee.</p> <p>Standards – Removal of the Annual Governance Statement (this is an Audit Committee Function)</p> <p>Overview and Scrutiny – Addition of oversight to the annual Ombudsman reports received.</p> <p>Licensing – Review and refresh of terms of reference for the committee and sub-committee, to ensure legislative requirements are met.</p>
Part 3, 4b – Responsibility for executive functions	<p>Cabinet - Addition of responsibilities regarding public space protection orders.</p> <p>Cabinet Housing Panel – Removal of reports from the Housing Company (no longer trading)</p> <p>Addition of Housing Maintenance and Climate Change groups. (Climate change subject to further review, but added in current form)</p>
Part 3, 4f – Chief Executive	Further updates to Health and Safety and Responsible Officers, incorporating the Fire Safety Act and Building Safety Act
Part 3, 4g – Executive Director Place	<p>Addition of paragraph 1.48</p> <p>Addition of para 5.44</p>
Part 3, 4h – Executive Director (Finance and Transformation)	Addition of Engagement Responsibilities (communications and engagement)
Part 3, 4i – Service Director (Resident and Neighbourhoods)	Update of responsible officers

	Correction / clarification of running order and procedure
Part 4, Section 1 – Council Procedure Rules	Addition of requirement to submit amendments to motions to Monitoring Officer.
Part 4, Section 2 – Rules of General Application to all Committees and Petitions	Update to procedures for approval of minutes.
Part 4, Section 3 – Access to information procedure rules	Minor amendments (consistency)
Part 4, Section 4 – Budget and Policy Framework	Correction of typographical error
Part 4, Section 6 – Procedure Rules for Planning Meetings	Updates regarding Estates Management Scheme and appeals.
Part 4, Section 9 – Contract Procedure Rules	Addition of Section 151 Officer approval for loan agreements.
Part 5, Section 11 – Code of Conduct for Members *Papers to Follow*	Addition of alternative procedure for appointment of agency staff.
	Updates regarding Estates Management Scheme and appeals.
Part 5, Section 14 – Openness of Local Government Bodies Regulations 2014	Addition of Engagement Responsibilities (communications and engagement)

Implications

4 Legal Implication(s)

- 4.1 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.
- 4.2 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.

4.3 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.

4.4 The Constitution Direction requires that the Constitution contains:

- a description of the register of interests of members and co-opted members of the authority required under Section 81 of the Act, together with the procedures for publicising, maintaining and updating that register; and a register stating:
- the name and address of every member of the local authority executive for the time being and the ward or division (if any) which he represents; and
- the name of every member of each committee of the local authority's executive for the time being.

These are contained in the Constitution with photographs of the Cabinet Members but can be contained more conveniently by hyperlinks to the web pages of Committees and Members' interests which can be updated more easily during the year.

5 Financial Implications(s)

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

6 Risk Management Implications

6.1 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.

7 Security and Terrorism Implication(s)

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

8 Procurement Implication(s)

8.1 Some minor amendments have been made to the contract procedure rules, including a review of the off payroll working requirements (taxation regulations)

and adding clarity to procurement decisions required for direct awards from approved procurement frameworks.

9 Climate Change Implication(s)

9.1 There are no direct climate change implications arising from this report. The changes do ensure that the Climate Change Committee is reflected in the constitution.

10 Human Resources Implication(s)

10.1 There are some minor changes to Human Resource matters, to reflect current working practices and employment policies and procedures.

11 Communication and Engagement Implication(s)

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

12 Link to Corporate Priorities

12.1 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 report also links to the successful running of the council, and all its services, which will assist in the delivery of all corporate priorities.

13 Equality and Diversity

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

Richard Baker
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