

WELWYN HATFIELD BOROUGH COUNCIL
COUNCIL – 23 NOVEMBER 2020
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 23 July 2020 as set out in Appendix 1 to this report.
- 2.2 That Council notes and agrees CRG's recommendations of the 26 October 2020 as set out in Appendix 2 to this report.
- 2.3 That Council approves the revised sections of the Constitution as set out in the relevant appendices to this report as below:
- Article 4 The Council (Appendix 3)
 - Responsibility for Functions: Council and Council Committees (Appendix 4)
 - Contract Procedure Rules (Appendix 5)
- 2.4 That Council notes and agrees CRG's recommendation of the 4th November 2019 regarding motions with a financial implication (Appendix 6).
- 2.5 That Council notes that consequential changes have been made to the Constitution to reflect changes in officer arrangements following the appointment of the interim Chief Executive.

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 **Policy Framework** - CRG were asked to give thought to refining the list that forms the core suite of documents which form the Council's Policy Framework.

The recommended revised list is within Appendix 3 – **Article 4 The Council**. While updating this section of the Constitution, a reference to the Virtual Committee Meeting Procedure Rules has been added within paragraph 4.3 of that document.

- 3.3 **Responsibility for Functions** – following the changes to the scrutiny process as agreed by Full Council on 27 May 2020, this section has been updated to reflect the fact that the previous three committees have been replaced by one Overview and Scrutiny Committee.
- 3.4 **Licensing Functions** – at the meeting of the Constitution Review Group on 26 October 2020 the group noted that the Council is responsible for licensing a diverse range of functions and currently has a number of committees involved in licensing work but with relative little business being considered at those committees. Additionally, it may be necessary on occasion under the current arrangements for Council time to be taken up with detailed licensing discussions. Having considered the matter, the CRG therefore recommend:
- a) keeping the Licensing and Regulated Entertainment committee and its current remit, but renaming it “Alcohol and Regulated Entertainment Licensing Committee”
 - b) combining the Hackney Carriage Committee and Licensing Committee into a new committee called “Licensing Committee” which will have the terms of reference shown in the amended Responsibility for Functions table in Appendix 4.
 - c) delegating all residual licensing functions, which are currently reserved to Council to the new “Licensing Committee”, this will include the agreement of the statements of licensing policy, making of early morning alcohol restriction orders, setting of hackney carriage terms and conditions and setting of hackney carriage fares.
 - d) empowering the Licensing Committee to set up topic groups as required to assist with its work
 - e) where fees are not set by statute and may be locally set, the Licensing Committee be empowered to make recommendations to Council as part of the annual budget process
- 3.5 **Contract Procedure Rules** – at the meeting of CRG on 26 October 2020 the group agreed changes to the Council’s Contract Procedure Rules to enable all competitive procurements are undertaken by the Procurement Department. The specific changes to the rules are detailed in Appendix 5.

A review of the General Procurement Board (GPB) has been undertaken regarding which contracts should be considered by the GPB and which ones can be dealt with by Officers. Section 25 of the Rules have been updated to reflect these changes. The major change is that only contracts over £1 million need to be considered by a Procurement Board, with Executive Member discretion below this figure.

Other minor updates to the Contract Procedure Rules include an update to the Health and Safety Section (section 4).

Additional Changes – following the appointment of the previous Corporate Director (Resources, Environment and Cultural Services) to the post of Chief

Executive; and the subsequent appointment of the Head of Resources as the Section 151 Officer, consequential amendments have been made to all parts of the Constitution to reflect these changes. 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 No direct financial implications although there has and continues to be a substantial call on Officer(s) time to service the CRG, draft, re-draft and produce any major re-writes to the procedures within the Constitution.

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 Proposed changes to the Contract Procedure Rules are contained within section 3.5 of the report.

9 Climate Change Implication(s)

- 9.1 A streamlined licensing process which succeeds in reducing the number of meetings, number of agenda items and amount of pages in reports will lead to a reduction in the carbon footprint of these meetings through less paper, ink and fuel use for those having to attend.

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 1 Minutes from Constitution Review Group 23 July 2020
- Appendix 2 Minutes from Constitution Review Group 26 October 2020
- Appendix 3 Article 4 – The Council
- Appendix 4 Responsibility for Non-Executive Functions
- Appendix 5 Contract Procedure Rules

