

**COUNCIL
4 JUNE 2020**

***PART 1 – PUBLIC DOCUMENT**

TITLE OF REPORT: CHANGES TO CONSTITUTION RECOMMENDED BY CORPORATE PEER CHALLENGE & FLEXIBILITY OF MEETINGS REGULATIONS CHANGES

REPORT OF: THE SERVICE DIRECTOR LEGAL AND COMMUNITY & MONITORING OFFICER

EXECUTIVE MEMBER: THE LEADER OF THE COUNCIL: COUNCILLOR MARTIN STEARS-HANDSCOMB

COUNCIL PRIORITY: BE A MORE WELCOMING AND INCLUSIVE COUNCIL

1. EXECUTIVE SUMMARY

- 1.1 The recent Local Government Association Corporate Peer Challenge (CPC) made a number of recommendations relating to the Council's Constitution. This report sets out the recommendations in the CPC report and potential amendments to update the Council's Constitution. This report also covers proposed changes to Council Procedure Rules following the introduction of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 '*Flexibility of Meetings Regulations 2020*'.
- 1.2 Note that a further Constitutional amendment report will be presented to the July meeting to cover the Tier 1 and 2 management changes and any other residual Constitutional issues.

2. RECOMMENDATIONS

- 2.1. That Full Council approves the proposed amendments set out in Appendix A, or where alternatives are proposed – such alternatives as are appropriate. Any amendments agreed are to take effect immediately.

3. REASONS FOR RECOMMENDATIONS

- 3.1. To ensure the Council meets its statutory obligations and continues to improve its working practices.
- 3.2. That the decision takes immediate effect, specifically in respect of the updated Committee membership, so that appointments can be approved at this Council meeting to reflect the revised (legally proportionate) membership.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1. The Council could maintain the existing Constitutional provisions or adopt a different approach to the CPC recommendations. As the CPC recommendations are based on peer learning it is considered appropriate to respond as proposed. In terms of the Flexibility of Meetings Regulations 2020, it could choose not to update the Constitution, but that would be undesirable as it could create confusion where there are inconsistencies between the Regulations and the Constitution as currently drafted.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1. The Leader of Council and Cllrs Clark and Levett, as Group Leaders, have been consulted on these proposals. They were also discussed between the Monitoring Officer, Chief Executive, Deputy Chief Executive and Democratic Services Manager. Note that further discussions are taking place regarding the Panels' work programme(s), which it is anticipated will go to Cabinet prior to the two new Panels starting to meet in September 2020.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key Executive decision, it is a Full Council decision and has therefore not been referred to in the Forward Plan.

7. BACKGROUND

Peer challenge:

- 7.1. The Local Government Association (LGA) offers a number of services to authorities, one of them is the CPC and all authorities are encouraged to undertake them every four to five years. It has been a number of years since North Herts last had one. The CPC took place between 21 and 24 January 2020.
- 7.2. The CPC is designed by the LGA to provide a robust and effective improvement tool managed and delivered by the sector, for the sector. Peers are at the heart of the CPC process and consist of Councillors and senior officers from other District/Borough Councils who provide a 'practitioner perspective' and 'critical friend' challenge. The CPC was at no additional cost to the Council.

Flexible Meetings:

- 7.3. Following the coronavirus pandemic, the Flexibility of Meetings Regulations 2020¹ came into force on 4 April and apply to meetings from that date until those held before 7 May 2021. These Regulations introduced new ways to hold Local Authority meetings, including wholly or partly virtual meetings of Councillors, officers, the press and public.

¹ <http://www.legislation.gov.uk/ukssi/2020/392/made>

7.4. The provision made in the Flexibility of Meetings Regulations 2020 apply notwithstanding any prohibition or other restriction contained in the Council's Procedure Rules, albeit that they state that an authority may make standing orders and any other rules which may include provision for—

(a) voting;

(b) member and public access to documents; and

(c) remote access of public and press to a local authority meeting to enable them to attend or participate in that meeting by electronic means, including by telephone conference, video conference, live webcasts, and live interactive streaming.

8. RELEVANT CONSIDERATIONS

Corporate Peer Challenge Recommendations

8.1. The final report from the LGA following the CPC has been reported to Members (Cabinet meeting 24 March²) and an action plan will be developed setting out how the Council will respond to the recommendations.

8.2. Some of the recommendations within the CPC report relate to Constitutional matters, which are of course for Full Council to decide upon. Following consultation with the Leader of the Council it was agreed to bring forward the report on potential Constitutional changes ahead of the wider action plan, so that any changes agreed by Full Council can be implemented for the new civic year.

8.3. The recommendations contained within the CPC report have been extracted into the table at Appendix A (Cabinet Panel Terms of Reference as amended B-D), which also sets out the relevant current Constitutional provisions and proposed changes.

Other proposed constitutional changes

8.4. In addition, there is a proposal to amend the rules around substitutes in order to create more flexibility for the political groups, thereby seeking to ensure full representation at meetings.

Flexible Meetings

8.5. Proposals for Flexible meetings are set out in Appendix A and are based on recommendations from the Lawyers in Local Government and the Association of Democratic Services Officers' model wording.

8.6. These will apply for so long as the Flexibility of Meetings Regulations 2020 remain in force and deemed not to apply if the Regulations are repealed. In that event, or there is amendment or replacement legislation – the provisions will be reviewed and a delegated decision taken in consultation with the Leader to update those Rules, and for that to be reported to the next Council meeting, in line with sections 2.4 and 2.6.6³ of the Constitution.

² <https://democracy.north-herts.gov.uk/documents/s10365/Appendix%20A%20Corporate%20Peer%20Challenge%20Feedback%20Report.pdf>

³ '2.6.6 Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so provides. Such changes shall be reported to the next full Council meeting.'

9. LEGAL IMPLICATIONS

- 9.1. Full Council's terms of reference include "approving or adopting the Policy Framework". The Policy Framework includes the Constitution.
- 9.2. Section 37 Local Government Act 2000 requires the Council to have in place a Constitution and to keep that under review. The Local Government Act 2000 section 9P sets out the requirements of a local authority's Constitution, including the requirements to prepare it and keep it up to date and the requirement to make it available for public inspection.
- 9.3. The CPC is a voluntary process and therefore there is no legal obligation to either host a CPC or act upon the recommendations. However, it is best practice to undertake a CPC and having done so, to act upon the issues identified.
- 9.4. The Flexibility of Meetings Regulations 2020 introduced new provisions in relation to meetings and may be reflected in the Council's standing orders (primarily the Council Procedure Rules); other relevant legal considerations are as set out above.

10. FINANCIAL IMPLICATIONS

- 10.1 There are no significant financial implications arising from this report.

11. RISK IMPLICATIONS

- 11.1. Ensuring the Council has appropriate governance arrangements in place is an important risk mitigation measure. The Council's Constitution is a fundamental part of those governance arrangements.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2 The Flexibility of Meetings Regulations 2020 may be of benefit for those with disabilities, in allowing Members, officers or the public to attend a meeting remotely. This also allows for greater opportunity to foster good relations between those who have a protected characteristic and those who don't.

13. SOCIAL VALUE IMPLICATIONS

- 13.1. The Social Value Act and "go local" requirements do not apply to this report.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 There are no direct implications from this report, other than the potential for staff working from home and attending a meeting in that manner, hopefully improving work/ life balance.

15. ENVIRONMENTAL IMPLICATIONS

- 15.1 In respect of the Flexibility of Meetings Regulations 2020 changes, these have been introduced as a result of the coronavirus pandemic, and therefore as a policy option, the Council has little choice but to follow the requirements. It is, however, anticipated/assessed that these changes allow the Council to take steps to reduce the impact on the environment - by removing the requirement to physically travel to and attend a meeting.

16. APPENDICES

- 16.1 Appendix A – Table of potential constitutional changes
- 16.2 Appendix B-D revised Terms of Reference for Cabinet Panels.

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18. BACKGROUND PAPERS

- 18.1 Corporate Peer Challenge Report.