

COUNCIL
19 JANUARY 2023

***PART 1 – PUBLIC DOCUMENT**

TITLE OF REPORT: CONSTITUTIONAL AMENDMENT REPORT

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

EXECUTIVE MEMBER: THE LEADER OF THE COUNCIL: COUNCILLOR ELIZABETH DENNIS-HARBURG

COUNCIL PRIORITY: A brighter future together

1. EXECUTIVE SUMMARY

1.1 Further to the report in September this report, and its resolution on 4.8.23 (a), this covers follow up wording and other proposed changes regarding Member call-ins and registering to speak; and some Service Directors' responsibilities under section 14 that have changed.

2. RECOMMENDATIONS

- That Full Council
- 2.1. approves the amendments detailed in Appendix A (summarised at paragraph 8 below).
- 2.2. *Notes that guidance to Chairs in relation to 4.8.23(a) is attached at Appendix B. This may be amended as required by the Service Director: Legal & Community.*

3. REASONS FOR RECOMMENDATIONS

3.1. To reflect good decision making practice and keep the Constitution up to date.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1. None.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1. The Group Leaders were consulted regarding the proposed changes to Section 4.8.23(a) and 4.8.24 in October 2022 and no objections to the proposed wording identified, albeit that the Leader stated that she would like guidance be issued for Chairs to manage the process.
- 5.2. The rest of the proposed amendments are either request-based (as identified) or follow on from other remit and responsibilities changes, and therefore are required to reflect up to date operational practice.

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

- 7.1 At the meeting of Full Council on 22 September 2022, the following resolution was passed:

(3) Having taken the part 2 report and Mr Peter Oldham KC's advice into account, instructs the Service Director – Legal & Community to draft an amendment to the Constitution, in consultation with Group Leaders, regarding the removal of Council Procedure 4.8.23 (a) with the exception of Regulatory and Disciplinary Committees as well as certain statutory matters of Full Council, and present that wording to the next Full Council meeting on 10 November 2022.

- 7.2 The meeting on 10 November was cancelled by the Chair of Council, due to the above being the only business on the agenda. This is therefore being brought back to Full Council for consideration and approval now, together with other matters identified/ having changed since that date (the main ones being identified below and in detail in Appendix A).

8. RELEVANT CONSIDERATIONS

The main proposed changes are detailed below.

Council Procedure Rule/ Standing Order 4.8.23 (a)

- 8.1. Following the resolution of 22 September, the pertinent issue to address is the application of the rule to different decisions as well as to the individual Committees themselves. As resolved the rule will still apply to Regulatory and Disciplinary Committees as well as certain decisions of Full Council.
- 8.2. Procedure Rule 4.8.23(a) provides as follows:

4.8.23 Decision Making

(a) In order to vote on an agenda item at any meeting of the Council or a Committee or Sub-Committee, a Member must be present for the entirety of the debate and consideration of that item.

- 8.3. The proposed amendment (identified in Appendix A) is under 4.8.24 (b) and (e).
- 8.4. *Note, however, that there is one other proposal relating to 4.8.24, see below.*

Council Procedure Rule/ Standing Order 4.8.15 Previous decision/ 4.8.24 - 6 month rule as it applies to Sub-Committees

- 8.5. This procedure rule currently applies to Regulatory Sub-Committees, with a Membership of 3, arranged on a 'as required basis', these do not have a Chair, until these are appointed at a required meeting. They may need to revisit certain decisions during proceedings, and currently because of this 6 month/ numbers required to apply to revisit rule/ and its application by virtue of 4.8.24, a Sub-Committee cannot effectively do so. It therefore makes practical sense to disapply this rule, other than to any final disciplinary decision of such a Sub-Committee.

District Councillors having to register to speak when they have called in a Planning decision to Committee – Section 8 (c)(iii)& Appendix 2 to Section 8

- 8.6. Councillors who call in planning applications under the Planning Control Committee's terms of reference, should attend the Committee when this is determined. Currently they

are also required (or their replacement) to register to speak as per Appendix 2 to Section 8, paragraphs 1.2, 1.5 and 1.7 and 2.1. There is also a potential anomaly where any Member can call in, however, the Appendix does not necessarily give a non-ward Member the right to speak. That has been clarified.

- 8.7. A request has been made to remove this requirement and whilst a proposed amendment is put forward to Appendix 2 to Section 8 to reflect this, Councillors should still be mindful of the fact that they only have 5 minutes as part of the group of Members (for or opposing it - unless the Chair extends this for a Major application) and Committee Services may not be aware who has called in the item. Its removal could potentially cause confusion and issues for those preparing to represent their residents/ and on the night (which should be avoided). It is, however, a matter for Members to decide whether to remove this requirement or not.

Section 14

- 8.8. Following senior management changes (and at the request of the relevant Service Director and agreement of the Managing Director) it was agreed that the Service Director: Regulatory would cease to be the designated deputy with effect from 1 January 2023. The Managing Director as Head of Paid Service has decided that due to workloads, this role/ cover will be shared between Senior Directors.
- 8.9. There are also some further minor changes as identified, with regards to Community Halls/ buildings and the Local Strategic Partnership (which is no longer in existence).

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.

10. FINANCIAL IMPLICATIONS

- 10.1 There is a small annual saving from the proposed changes to the Deputy Managing Director's role, equating to 10% of the Service Director salary (approximately £10k including on-costs). This will be incorporated in the revenue budget estimates for 2023/24 onwards to be presented to Full Council for approval in February.
- 10.2 There are no other 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. Otherwise, no specific equality issues identified as a result of this report.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Social Value Act and “go local” requirements do not apply to this decision as this is not a procurement exercise or contract.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 Human Resources has provided advice regarding the Deputy Managing Director and relevant staff have been consulted. Job Descriptions have been updated to reflect the MD deputising arrangements and issued to relevant individuals.

15. ENVIRONMENTAL IMPLICATIONS

- 15.1 None from the amendments proposed.

16. APPENDICES

- 16.1 Appendix A – schedule of proposed changes.
16.2 Appendix B – Guidance to Chairs CPR 4.8.23(a).

17. CONTACT OFFICERS

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18. BACKGROUND PAPERS

- 17.1 Constitution see web-page <https://www.north-herts.gov.uk/council-constitution>