

**\*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

COUNCIL PRIORITY: **People First**

**1. EXECUTIVE SUMMARY**

- 1.1 This report covers proposed wording changes in respect of the appointment of the Executive Leader following the North Hertfordshire (Electoral Changes) Order 2023, and the elections in 2024. This is to correspond with the factual and legislative change post Local Government Boundary Review and The North Hertfordshire (Electoral Changes) Order 2023 and terminology, to improve certainty.

**2. RECOMMENDATIONS**

- That Full Council:
- 2.1. approves the proposed amendments to the Constitution as set out in section 8.4 of this report.

**3. REASONS FOR RECOMMENDATIONS**

- 3.1. To ensure certainty around wording to cover the post all-out elections and better reflect potential situations where an election of a Leader may arise.

**4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1. This could have been dealt with as a delegated decision by the Monitoring Officer, in consultation with the Leader, and reported through to the membership, as per section 2.6.2 (b) of the Constitution (as the wording is inconsistent/ ambiguous). However, given the Council meeting corresponded with the timing of any such decision, it was considered more appropriate to place this before the membership.

**5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS**

- 5.1. The Leader of Council has been consulted. The Deputy Leader received a copy of the draft report.

**6. FORWARD PLAN**

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

## 7. BACKGROUND

- 7.1 The Council's Boundary and electoral arrangements were reviewed in 2022-2023 and following various decisions the Council decided (and the Local Government Boundary Commission for England concluded and then confirmed) new Boundaries and all-out 4 yearly elections from 2024 (see legal implications).
- 7.2 The Constitution contains a number of references to the Leader and being elected once every 4 years. The last election of a Leader was in 2021, and on paper such election would *ordinarily* expire in May 2025 (subject to a number of factual/ and legal situations arising).
- 7.3 It was therefore considered prudent to amend the provisions to ensure it was clear that a new election would be required in May 2024. This would under the Strong Leader model potentially then cover the next 4 year period.

## 8. RELEVANT CONSIDERATIONS

- 8.1. The Council operates under a Cabinet and Strong Leader governance model. The Constitution currently only refer to the normal 4 year term and the situations that may arise – resigns, no longer being a Councillor, motion to remove.
- 8.2. The Standing Orders refer to an election of the Leader at Annual Council meeting 'once every 4 years' (as per 4.8.1 (a)(vi); with specific reference to the Leader under the Executive arrangements under section 5 (5.3.1 & 5.3.2), this denotes an election at Annual Council every 4 years, and a term of office until 'the fourth anniversary of their appointment', subject to a number of events arising (a)-(d). None of these *explicitly* cover the abolition of wards, and all-out election/ or retirement. The nearest is (c) "They are no longer a Councillor" – albeit that could be open to misinterpretation.
- 8.3. The Order that confirmed the electoral Changes in 2023 (The North Hertfordshire (Electoral Changes) Order 2023, provided for abolition of all wards, as per Article 3, and therefore 'retirement'. It would therefore be clearer to reflect this in the Constitution – namely that a new election of Leader is required post all out election in May 2024.
- 8.4. Accordingly it is proposed that the following be amended as per the strike through / new underlined wording (for ease shown red):

### Section 4 Council Procedural Rules (Standing Orders)

#### 4.8.1 (vi)

(vi) elect the Leader of the Council at the first annual meeting following a whole Council election for a four year term\*;

#### Foot note:

*\*Subject to resignation, retirement, passing of a motion of no confidence, long term absence – i.e. in excess of 6 months; or no longer being a District Councillor through other events, such as '6 month rule', or abolition of ward; in all such cases, the subsequent election of a Leader can take place during any other Full Council meeting and will be for the remaining coterminous election cycle.*

### Section 5.3 Leader

#### 5.3.1 Election

The Leader will be a Councillor elected to the position of Leader by the Council at an Annual Meeting. An election will be held on the day of the Annual Meeting when the incumbent's term of office as Leader **has, expired\***.

Foot note:

*\*Subject to Council Procedural Rules – see 4.8.1.*

### 5.3.2 Term of Office

The Leader will hold office until the fourth anniversary of their appointment\*, or until any of the following events arise:

- (a) They resign from the office;
- (b) They are ~~suspended~~ **disqualified** from being a Councillor;
- (c) They are no longer a Councillor; or
- (d) Where the Council passes a resolution removing them from office.

Foot note:

*\*To the extent not covered in (a)-(d), **ibid**.*

5.4(c) and 5.5.3 Also to change the reference from suspended to **disqualified** under 5.3.2 for Deputy Leader for other Cabinet Members to disqualified.

## 9. LEGAL IMPLICATIONS

### General

- 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.

### Specific

- 9.3. The Local Government and Public Involvement in Health Act 2007 introduced the requirement of a Strong Leader and Cabinet model of executive arrangements (with some exceptions due to the size of the authority being less than 85,000 at the time) and or referenda.
- 9.4. Section 9I of the Local Government Act 2000 provides:  
*Election and term of office of leader*  
*Executive arrangements by a local authority which provide for a leader and cabinet executive (England)—*
  - (a) must include provision with respect to the election of the executive leader, including provision for an election where there is a vacancy in the office of executive leader, and
  - (b) may include provision with respect to the term of office of the executive leader.
- 9.5. Section 9IA further provides: Removal of leader
  - (1) *Executive arrangements by a local authority which provide for a leader and cabinet executive (England) must include provision for the council to remove the executive leader by resolution.*
  - (2) *If a council passes a resolution to remove the executive leader, a new executive leader is to be elected—*
    - (a) *at the meeting at which the leader is removed from office, or*
    - (b) *at a subsequent meeting.*

- 9.6. Article 3 of The North Hertfordshire (Electoral Changes) Order 2023 No 1024 provides:  
3.— *Wards of the district of North Hertfordshire and number of councillors*  
(1) *The existing wards of the district of North Hertfordshire are abolished.*  
(2) *The district of North Hertfordshire is divided into the 25 wards listed in the first column of the table in Schedule 1.*  
(3) *Each ward comprises the area identified on the map by reference to the name of the ward.*  
(4) *The number of councillors to be elected for each ward is the number specified in relation to that ward in the second column of the table in Schedule 1.*

As all current wards are abolished and new ones (and membership) effectively created, all the current District Councillors retire on the 4<sup>th</sup> day after the election in 2024. The proposed changes make it clearer and better reflect the requirements of Sections 9I and 9IA.

- 9.7 It is proposed that 'suspended' is replaced by 'disqualified'. This is because it is a better reflection of the wording and definition under section 80 & 81A Local Government Act 1972 (as per section 80 "Disqualifications for election and holding office as member of a local authority in England":  
(d) *has within five years before the day of election or since his election been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;*  
(5A) *See also section 81A (disqualification relating to sexual offences etc (England)).*

## **10. FINANCIAL IMPLICATIONS**

- 10.1 None identified in relation to the report.

## **11. RISK IMPLICATIONS**

- 11.1. Good Risk Management supports and enhances the decision-making process, increasing the likelihood of the Council meeting its objectives and enabling it to respond quickly and effectively to change. When taking decisions, risks and opportunities must be considered.
- 11.2 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.

## **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 None identified.

**15. ENVIRONMENTAL IMPLICATIONS**

15.1 None identified in respect of the specific amendments proposed.

**16. APPENDICES**

16.1 None.

**17. CONTACT OFFICERS**

*Author:*

17.1. Jeanette Thompson, Service Director Legal and Community, Monitoring Officer, email [jeanette.thompson@north-herts.gov.uk](mailto:jeanette.thompson@north-herts.gov.uk);

**18. BACKGROUND PAPERS**

18.1 Constitution see webpage <https://www.north-herts.gov.uk/council-constitution>

18.2 The North Hertfordshire (Electoral Changes) Order 2023 [[CLICK HERE](#)]