

COUNCIL
18 July 2018

PART 1 – PUBLIC DOCUMENT

TITLE OF REPORT: COUNCIL CONSTITUTION (CONFIRMATION OF AMENDMENTS) & FURTHER MINOR PROPOSED CHANGES

REPORT OF: SERVICE DIRECTOR: LEGAL AND COMMUNITY & MONITORING OFFICER
EXECUTIVE MEMBER: MRS L.A. NEEDHAM, LEADER OF THE COUNCIL
COUNCIL PRIORITY: RESPONSIVE AND EFFICIENT

1. EXECUTIVE SUMMARY

This report confirms the amendments made to the Council's Constitution under delegated decision and contains some further proposed minor amendments.

2. RECOMMENDATIONS

That Full Council:

- 2.1 notes the amendments made under delegated decision (with the agreement of the Leader) that came into effect on 1 June 2018 (as per Appendix A).
- 2.2 agrees the further minor amendments at paragraph 8.3.

3. REASONS FOR RECOMMENDATIONS

To ensure the Council meets its statutory obligations and continues to improve its working practices.

4. ALTERNATIVE OPTIONS CONSIDERED

None.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

Consultation and agreement was undertaken with the Leader, Chief Executive and relevant officers regarding the amendments effected through the delegated decision and these subsequent changes.

6. FORWARD PLAN

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

7. BACKGROUND

- 7.1 This report follows the Council Constitution – Annual Review Report 2018, which came before Council on 10 April 2018¹. As Members are aware, at that time the Council was still in the process of consulting on the Senior Management restructure and therefore further amendments to the Constitution could not be proposed until that process had been completed. Delegated authority was therefore sought to amend sections 12, 14 and pages within the Constitution that detailed officer titles and consequential post restructure issues.
- 7.2 As per the resolution of Full Council, the then “*Acting Corporate Legal Manager and Monitoring Officer, in agreement with the Leader, was delegated authority to make such amendments as were necessary to the Constitution to give effect to the Senior Management Restructure and once finalised to report these to the subsequent Council meeting*”.
- 7.3 Amendments were made to the Constitution, Contract Procurement Rules and Financial Regulations with the agreement of the Leader. These were summarised, and links provided to the amended documents as per the Delegated Decision 31 May 2018 (Appendix A). A hard copy of the amended Constitution (with tracked changes) was available for inspection by Members in the Members room. All documents were available on the Council’s website (see 8.1 below) and Members were notified of the Delegated Decision via MIS on 2 June 2018.

8. RELEVANT CONSIDERATIONS

- 8.1. The substance of the amendments was explained in the delegated decision (Appendix A). The changes in the Constitution were to align the delegations for Senior Management to the new structure and then (for clarity and formatting purposes in tabular form) to set out which Executive Member had responsibility for the areas concerned (as opposed to two separate sections). These are quite numerous and for that reason were not attached to the delegated decision and have not been attached to this report. However, the changes made can be viewed as tracked changes on the Delegated Decision page:

https://www.north-herts.gov.uk/sites/northherts-cms/files/Constitution%20Amendments%20-%20sections%201-17%20tracked%20changes_0.pdf

https://www.north-herts.gov.uk/sites/northherts-cms/files/Constitution%20Amendments%20-%20Section%2019%20Financial%20Regulations%20tracked%20changes_0.pdf

¹ <https://democracy.north-herts.gov.uk/ieListDocuments.aspx?CId=136&MId=155&Ver=4>

https://www.north-herts.gov.uk/sites/northherts-cms/files/Constitution%20Amendments%20-%20Section%2020%20Contract%20Procurement%20Rules%20-%20tracked%20changes_0.pdf

- 8.2. The final version 1 June 2018 (without tracked changes) can be seen on the Constitution page:
<https://www.north-herts.gov.uk/home/council-and-democracy/council-constitution>
- 8.3. It was nevertheless indicated, as part of the Delegated Decision (para 7.3), that due to the timescales for making the amendments and ensuring these were in place by 1 June, that some further amendments may be necessary (once the Service Directors were in place). These have now become apparent, and a few amendments are now required. The proposed further amendments are set out in the Constitution with tracking on the report page attached.

The proposed minor amendments are:

- 8.3.1 Section 2.2 Definition (page 8): To the extent necessary “*Democratic Services Manager*” “*Reference to such an officer shall be deemed to include the Service Director: Legal and Community, or such officer sub-delegated to undertake any of the specific functions detailed in the Constitution*” (by the Service Director, until the recruitment to the post has been successfully completed).
- 8.3.2 Section 8.4.5 (c)(i) and (ii) (page 76) still referred to “*Head of Development & Building Control*” and these should be amended to “*Service Director: Regulatory*”.
- 8.3.3 Under Section 9.8.2(g) (page 98) Clarification that the delegate power in respect of Area Committees is only “*revenue*” ones under the Area Committee for £500 and does not include those recommended by the Capital Grants Panel (as per the proposed change to reflect the operational practice). See also 8.3.5 below.
- 8.3.4 Section 14.5.1 (page 125) “*All those functions for which the Council is responsible relating to the treatment of hedgerows, the preservation of trees/ and complaints about high hedges*” should be delegated to the Service Director: Regulatory as opposed to Planning Control Committee. Failure to resolve such issues would lead to an appeal to the Planning Inspectorate thereafter and is not currently contained within the Planning Control Committee’s terms of reference.
- 8.3.5 Section 14.6.9, Delegation to Service Director: Legal and Community to clarify that:
- (iii) A: this includes capital grants following capital grant panel deliberations (page 141).
- (v) Community Safety does not include “*and high hedges*” and this is moved under the Service Director: Regulatory at 14.6.11 (xii) (page 142/ 150); and
- (vi) A: “*flyposting*” reference is to be removed (page 142) as this is no longer relevant.

8.3.6 Section 14.6.10 (page 146) Service Director: Place (vii) to include “*licensing of events on Council land: issuing or refusing a licence (with or without conditions or restrictions) to applicants for events*”.

9. LEGAL IMPLICATIONS

9.1 Full Council’s terms of reference include “approving of 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 constitution 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

There are no financial implications (either revenue or capital) arising from this report.

11. RISK IMPLICATIONS

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 proposals made within this report for changes to the Constitution do not materially affect any groups with protected characteristics, but it is the aim, in revising the Constitution and its content regularly, to make it more ‘user friendly’, ensure transparency and to encourage greater participation in the Council’s decision-making processes.

13. SOCIAL VALUE IMPLICATIONS

The Social Value Act and “go local” policy do not apply to this report.

14. HUMAN RESOURCE IMPLICATIONS

The Senior Management Restructure is not the subject matter of this report; however, changes were made to the Constitution following consultation, consideration of those responses and implementation. Otherwise, no other implications.

15. APPENDICES

Appendix A – Delegated Decision 31 May 2018.

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

17.1 Current NHDC Constitution 2018: <https://www.north-herts.gov.uk/home/council-and-democracy/council-constitution>

17.2 Delegated Decision page 2018 links as per body of the report.