

COUNCIL

Monday, 27 November 2023

CONSTITUTION - ANNUAL REVIEW AND UPDATES

Report of the Service Director – Governance and Support (Monitoring Officer)

Recommendation

It is recommended that Council approves the proposed amendments to the Constitution as set out in appendix 1.

Summary

A review of the Constitution has been carried out by the Monitoring Officer to ensure it remains up to date, fit for purpose and understandable.

Statutory Powers

Local Government Act 2000 section 37

Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

Localism Act 2011

Strategic Implications

1. This report relates to all objectives in the Corporate Plan 2023-26 in that an up to date and legally compliant Constitution is required to underpin the activities and decision making of the Council.

Introduction

2. Eastleigh Borough Council's Constitution sets out the way in which the Council runs and the processes it uses. A good Constitution assists both councillors and staff in the process of democratic decision making and must be understood by all, including members of the public who interact with the Council. A written Constitution is required by law.

3. To ensure the Constitution remains up to date and fit for purpose the Monitoring Officer, as custodian of the Constitution, will carry out an annual review. This report presents to Council the revisions suggested as a result of the Monitoring Officer's annual review.

The Constitution

4. A copy of the current [Constitution](#) is available on the Council's Website.
5. Appendix 1 provides details of the suggested amendments to the Constitution and Council is asked to adopt the amendments as set out and further detailed below.

Update to Committees:

6. Membership of Audit and Resources Committee (Article 9): The Audit and Resources Committee is a key component of the Council's governance arrangements. They are a key source of assurance about the Council's arrangements for managing risk, maintaining an effective control environment and reporting on financial performance. Elected members bring knowledge of the organisation, its objectives and policies to the Committee however good practice shows that co-option of independent members is beneficial to Audit Committees as they can:
 - Bring additional knowledge, experience and expertise to the Committee, particularly in areas of governance, finance, risk management and or audit and enhance effectiveness;
 - Reinforce the political neutrality and independence of the Committee;
 - Maintain continuity of committee membership where memberships has been affected by the electoral cycle.
7. It is recommended that the membership of the Audit and Resources Committee (Article 9) is updated to include the appointment of up to two independent co-opted members (ICMs) with the requirement for relevant knowledge or expertise being clearly determined, including areas such as governance, finance, risk management and/or audit; and
 - a) this is progressed with immediate effect with a view to appointment being ratified at the Annual General Meeting on 20 May 2024.
 - b) with the introduction of a new Joint Area Committee (see paragraph 10), the membership of the Audit and Resources Committee increases to include 11 Councillors (plus up to 2 ICMs) to achieve proportionality.
8. If this is agreed by Council, a report making recommendations in relation to the recruitment and appointment process will be considered by the Audit and Resources Committee on 5 December 2023. Council is asked to note that this role is distinct to the independent persons appointed under the Localism Act

2011 with the specific role of maintaining standards of behaviour through supporting the Monitoring Officer.

9. Horton Heath Development Management Committee (HHDMC – Terms of Reference (Part 2 Article 10): On 24 July 2014, Council approved the creation of the Horton Heath Development Management Committee (HHDMC) to deal solely with planning applications in the area of West End north of the railway line and adjacent/within the Fair Oak and Horton Heath Parish. The Committee to date have met 9 times to approve planning applications as agreed. However, as the programme moves forward further decisions are now required in relation to the development, for example, street-naming and site maintenance. It would be logical for these decisions to be taken by HHDMC and therefore an amendment to the Constitution is recommended.
10. Creation of new Joint Area Committee (JAC) (Part 2 Article 10) – it is proposed that the Council creates an additional Development Management Committee to consider any planning issues that are of Borough-wide significance or impact. The Committee will be referred to as the ‘Joint Area Committee’. The final decision over whether a planning application should be decided by this Committee will be delegated to the Service Director for Planning and Environment in consultation with the Leader of the Council. The relevant Local Area Committee will be consulted on the proposal and their comments reported to the Joint Area Committee. The Committee will be politically proportionate and membership will be made up of the five Local Area Committee Chairs, the Chair of Horton Heath Development Management Committee and five others to achieve proportionality, but exclude other Cabinet members. The Chair of this Committee will be appointed annually and will not be a Local Area Committee Chair.
11. The Scheme of Delegation (Part 3) has been updated for functions in relation to Planning and Development matters and it is proposed that that any planning application which the Local Area Committee Chair or Leader wishes for any reason to submit to the Committee is included as an exception to the delegation to the Service Director – Planning and Environment and Planning Manager and Planning Manager.
12. Updates to Contract Standing Orders have been proposed and are set out in Appendix 1. In summary these updates provide clarification and enhancement on the delegated authority for acceptance of tenders following evaluation.
13. Council is asked to note that further changes to the Constitution will be required in the coming months as the role of the Council as a landlord expands and properties are completed for example the creation of a new Housing Committee, updates to delegated authority and potential amendments to the portfolios. The Monitoring Officer will present reports as necessary to Council.

Financial Implications

14. There are no direct financial implications arising from this report other than the appointment of two independent persons to the Audit and Resources

Committee. It is proposed that a retainer of £600 per year will be payable to each ICM along with an additional £100 per meeting attended. Based on approximately 9 Committee meetings per year this will result in additional expenditure of up to £3,000.

Risk Assessment

15. An up to date Constitution is necessary to ensure effective governance of the Council and that the Council complies with the rules of law.

Equality and Diversity Implications

16. The long-term aim of the Council is to embed within its services, processes and culture an inclusive mindset and approach that values every individual. The Constitution is produced in an accessible format and readily available to the public via the Council's website which complies with accessibility standards.

Climate Change and Environmental Implications

17. There are no Climate Change and Environmental Implications arising from the decision in this report. It is a decision relating to constitutional and governance arrangements.

Conclusion

18. Under provisions contained within the Local Government Act 2000 (and as subsequently amended) the Council is required to prepare and maintain a Constitution. A Constitution ensures procedures are efficient, transparent and accountable. The purpose of this report is to obtain approval from Council for the proposed changes.

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Appendices Attached: one

LOCAL GOVERNMENT ACT 1972 - SECTION 100D

The following is a list of documents which disclose facts or matters on which this report or an important part of it is based and have been relied upon to a material extent in the preparation of this report. This list does not include any published works or documents which would disclose exempt or confidential information.

None