

## PART A

**Report to:** Council  
**Date of meeting:** 11 June 2014  
**Report of:** Head of Democracy & Governance  
**Title:** Changes to the Constitution

### 1.0 SUMMARY

1.1 This report details changes to the Constitution recommended by the Constitution Working Party following its meeting on 29 May 2014

### 2.0 RECOMMENDATIONS

2.1 That the Council's Petition Scheme be amended to make it clear that the 30 signatures required before a petition can be presented to either Cabinet or Council be from residents of the Borough of Watford and that the deadline for receipt of any petition to be considered at a meeting of Cabinet or Council be 7 clear days before the date of the meeting.

2.2 That Rule 2 (h) of the Budget and Policy Procedure Rules be amended to read as follows:

The Council shall, at that meeting, make its final decision on the matter on the basis of a two-thirds majority. If the Council does not agree its original decision or any amendment thereto be a two-thirds majority the motion originally proposed by the Mayor at the original meeting will be deemed to be carried. The decision shall be made public in accordance with Article 4 and shall be implemented immediately.

2.3.1 That membership of the Outsourced Services Scrutiny Panel be agreed at Annual Council and that the Chair of the Panel also be appointed at Annual Council

2.3.2 That the Outsourced Services Scrutiny Panel's membership be increased from 5 members to 7 and that it meet at least 6 times per year.

2.3.3 That the Chair of the Outsourced Services Scrutiny Panel be remunerated at the same level as the Chair of Budget Panel namely Band 2a

2.4 That it be specified in the Constitution that members of the Cabinet are excluded from membership of Audit Committee

2.5 That it be noted that the Elected Mayor is not counted for the purpose of the political balance calculation and is therefore precluded from appointment to any politically

balanced committee

- 2.6 That a new paragraph be added to the Officer Code of Conduct in the Constitution as follows;

### **Conflicts of Interest**

Members of staff, their close family and friends may apply for any of the services offered by the Council in the same way as other members of the public.

If you work in a service that receives applications from the public and either you personally or you become aware that a member of your family or a friend of yours makes an application for the service that you would normally process you must immediately notify your line manager and you must not have any further involvement in dealing with the application without the express authorisation from your Head of Service. You must also complete the notification of potential conflict of interest form available from the intranet. If you are aware that either you, a member of your family or a friend of yours is on a waiting list to receive a service you must renew your form on an annual basis as long as that person remains on the list.

If you are the person with the delegated authority to make a decision regarding the matter you must not exercise that delegation and the matter must be dealt with either by your line manager or the relevant council committee or cabinet.

You must also fill in the conflict of interest form if either you, a member of your family or a friend supply the Council with goods or services either directly or through a company or sit on the management board or are a trustee of a body that receives money from the Council (unless the Council has nominated you or that person to sit on that body as a Council representative).

#### **Contact Officer:**

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**Report approved by:** Managing Director

## 3.0 **DETAILED PROPOSAL**

- 3.1 The Constitution Working Party met on the 29 May 2014 to consider various changes to the constitution. These are their recommendations:

### 3.2 Council Petition Scheme

That the Petition Scheme be amended to make it clear that the required 30 signatories necessary to trigger the petition being presented at Council or Cabinet all be residents of the Borough of Watford, and that any petition to be presented at a meeting of Council or Cabinet arrive with Democratic Services at least 7 clear days before the

date of the meeting, to ensure the petition is placed on the agenda.

### 3.3 Amendment to the Budget & Procedure Rules

Budget & Procedure Rule 2(f) states that

*“If the Mayor objects to the decision of the Council, he/she shall give written notice to the Head of Democracy and Governance to that effect no later than 5.00 p.m. on the 6<sup>th</sup> working day prior to the date the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Head of Democracy and Governance shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting”*

2(h) states that

*“The Council shall, at that meeting, make its final decision on the matter on the basis of a two-thirds majority. The decision shall be made public in accordance with Article 4 and shall be implemented immediately.”*

- 3.3.1 A recent enquiry from the Mayor of Mansfield raised questions about what became of the substantive motion in this situation if the two thirds majority was not achieved and whether any amendments to the Mayor’s original motion also had to be passed on a two thirds majority.
- 3.3.2 The view of the Head of Democracy & Governance is that if the two thirds majority is not achieved the Mayor’s original motion is carried. She is also of the opinion that any amendment to the Mayor’s original motion will only stand with a two thirds majority.
- 3.3.3 It is recommended that 2(h) be amended to read *“The Council shall, at that meeting, make its final decision on the matter on the basis of a two-thirds majority. If the Council does not agree its original decision or any amendment thereto by a two-thirds majority the motion originally proposed by the Mayor at the original meeting will be deemed to be carried. The decision shall be made public in accordance with Article 4 and shall be implemented immediately”*

### 3.4. Outsourced Services Scrutiny Panel

Currently membership of Outsourced Services Scrutiny Panel is agreed by the Overview and Scrutiny Committee and the Chair appointed at the first meeting of the Panel. The Working Party recommends that the Panel be treated in the same way as Budget Panel in view of its increased workload following the abolition of the Shared Services Joint Committee and the decision of Council in March to implement a Lead Authority model for the shared services with Three Rivers and for the Panel to be the scrutinising body for all the shared services.

- 3.4.1 This would mean that membership of the Panel would be set at Annual Council and the Chair would also be selected at Annual Council.
- 3.4.2 In addition, the Working Party recommend that the membership of the Panel be increased from 5 to 7 and that it meet at least 6 times a year.

3.4.3 The Working Party also recommend that the Chair be remunerated at the same level as the Chair of Budget Panel namely Band 2a. As this would be an addition to the special responsibility allowances agreed by the Independent Remuneration Panel when they met in the Autumn and the scheme approved by Council in January it has been necessary to consult them. Officers have done this. They are happy for the position to be remunerated at Band 2a. Council should note that this will also mean an increase to the agreed budget for members remuneration.

### 3.5 Audit Committee

The establishment of an Audit Committee was recommended as good practice by CIPFA and Watford Council's Audit Committee was set up on 2005. The intention was for it to operate independently from Cabinet and Scrutiny and to look at issues with a critical eye. It could challenge Cabinet and summon the Mayor, Portfolio Holders and officers to attend meetings as appropriate.

Whilst the membership of the Audit Committee does not include a Cabinet member the Working Party recommend that this exclusion be specified in the Constitution for clarity.

### 3.6 Mayor not counted for Political Balance Purposes.

Watford has always counted the Mayor when working out political balance under the Local Government and Housing Act 1989. Recent communication with Bedford Council, who also operate an Elected Mayor and Cabinet model, has called this into question. Bedford obtained QC's advice on the point which they have shared and which suggests that the way the Local Government Act 2000, which introduced the Elected Mayor model was drafted makes the assumption that the Elected Mayor is neither a councillor nor an officer and, only in specified circumstances as defined, for example, standards and remuneration are they to be treated in the same way as an ordinary councillor. If that is indeed the case they are then not defined as a member for the purposes of the 1989 Act when calculating political balance. This has the knock on effect of preventing the Mayor from sitting on any politically balanced committees.

Currently the only politically balanced committee the Mayor does sit on is the Appointments Panel. Under the Officer Employment Procedure Rules the Mayor has the right to be notified of any proposed appointment of a Chief Officer and has the right to object to any appointment. Unless the Appointment Panel considers the Mayor's objection not material or well founded the appointment cannot proceed. The same will apply for any panels set up to consider the dismissal of a Chief Officer.

### 3.7 Amendment to the Officer Code of Conduct.

A recent report from the Council's internal auditors on the Housing Service has made a recommendation that *'Employees involved in the allocation of housing should be annually required to declare any interests they have (e.g. relatives on the waiting list). Also the above should include a declaration that the employee is responsible for informing the Housing section if occasion arises for them to deal with an application/allocation from an individual person known to them in a personal capacity'*

This was discussed by officers at the Risk Management and Business Continuity

Steering Group and it was felt it had wider applicability than just the Housing section.

The Council currently has a notification of potential conflict of interest form that can be adapted. However the requirement to declare a potential conflict of interest is not specifically referred to in the officer code of conduct for this purpose but only in relation to dealing with contracts.

It is therefore recommended that a new paragraph be inserted into the code as follows:

#### **“Conflicts of Interest**

Members of staff, their close family and friends may apply for any of the services offered by the Council in the same way as other members of the public.

If you work in a service that receives applications from the public and either you personally or you become aware that a member of your family or a friend of yours makes an application for the service that you would normally process you must immediately notify your line manager and you must not have any further involvement in dealing with the application without the express authorisation from your Head of Service. You must also complete the notification of potential conflict of interest form available from the intranet. If you are aware that either you, a member of your family or a friend of yours is on a waiting list to receive a service you must renew your form on an annual basis as long as that person remains on the list.

If you are the person with the delegated authority to make a decision regarding the matter you must not exercise that delegation and the matter must be dealt with either by your line manager or the relevant council committee or cabinet.

You must also fill in the conflict of interest form if either you, a member of your family or a friend supply the Council with goods or services either directly or through a company or sit on the management board or are a trustee of a body that receives money from the Council (unless the Council has nominated you or that person to sit on that body as a Council representative)” .

## **4.0 IMPLICATIONS**

### **4.1 Financial**

4.1.1 The Shared Director of Finance comments that agreeing to recommendation 3.4.4 will increase the agreed budget for member remuneration by £7,930.

### **4.2 Legal Issues (Monitoring Officer)**

4.2.1 The Head of Democracy and Governance comments that the legal implications are contained within the body of the report.

### **4.3 Equalities**

4.3.1 This report is not considering a new policy.

4.4 **Potential Risks**  
None identified.

4.5 **Staffing**

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4.5.1 No implications

4.6 **Accommodation**

4.6.1 No implications

4.7 **Community Safety**

4.7.1 No implications

4.8 **Sustainability**

4.8.1 No implications

Appendices

None

Background Papers

Report and minutes of Constitution Working Party 29 May 2014

File Reference

None