

Part A

Report to: Council

Date of meeting: 19 March 2019

Report author: Democratic Services Manager

Title: Constitution Review

1.0 Summary

- 1.1 The Mayor, Peter Taylor, appointed Councillor Stephen Bolton to carry out a review of the constitution in May 2018.
- 1.2 Proposals were taken to the Constitution Working Party on 5 February for their consideration and their comments have been taken into consideration when producing this report.
- 1.3 A review has also been carried out by the Planning Advisory Service (PAS) of the Development Management Committee and their proposals were considered by Constitution Working Party and at Development Management Committee in February. The Development Management Committee agreed a number of the PAS recommendations.
- 1.4 The Mayor also requested a review of the Contract Procedure Rules regarding the requirement to take contract exemptions to cabinet for noting. The Rules have been amended as discussed below.

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
If terms of reference are not updated for Major Projects Board then there will continue to be a lack of clarity for councillors	Councillors do not get actively involved in discussions	Updating terms of reference, ensuring councillors' role is clear	Treat	2

Deletion of Highways Forum will result in councillors not being able to participate in meetings relating to highways matters	Councillors will not have input into highways matters	The Highways Liaison Meetings (HLM) are bi-annual and open for all members to attend to have input into highways issues being discussed. It is proposed that these continue. The Transport and Infrastructure Section Head reports on Watford issues to the HLM. If this ceases to be the case then there will be a need for review.	Treat	2
If the terms of reference are not updated for Planning Policy Advisory Group it may not be as effective	Councillors are not able to fully input into the Local Plan process and other planning policy considerations	Updating the terms of reference to ensure they stay relevant for the work of planning policy	Treat	2

3.0 Recommendations

3.1 For Council to agree to:

- Review the terms of reference for Major Projects Board (Appendix B)
- Change the name of Major Projects Board to Major Projects Forum.
- Reduce the number of meetings of the Major Projects Forum from four to three per year.
- Abolish the Highways Forum.
- Review the terms of reference for the Planning Policy Advisory Group (Appendix C)
- Set a schedule of Planning Policy Advisory Group meetings to take place quarterly.
- Review the terms of reference for the Housing Policy Advisory Group (Appendix D)

- Combine the two Licensing Committees into one Licensing Committee to cover all areas of Licensing.
- To review scrutiny proposals and consider what to adopt for the new municipal year
- To consider establishing themed forums on Health and Wellbeing, and Sustainability.
- To add another bullet point in the constitution, as set out in 5.7.2, to help to clarify what negates a motion when an amendment is proposed.
- To agree a revised role profile for the Chairman of the Council (Appendix A)
- To adopt a new way of selecting the Vice Chairman of the Council as outlined in 5.8.4.3
- To approve the Contract Procedure Rules attached as Appendix E
- To cease the Digital Watford Board
- To allow the Leader of the Main Opposition Group a supplementary question during the Mayor's report at Full Council meetings

Further information:

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Report approved by: Head of Democracy and Governance

4.0 Preparation work

4.1 Meetings were held with the Mayor, Councillor Bolton, the Head of Democracy and Governance and the Democratic Services Manager to identify parts of the constitution to review. The following were identified:

- Review of Major Projects Board, Highways Forum, Planning Policy Advisory Group and Housing Policy Advisory Group.

- Review of wording in the constitution around 'negating a motion' in a Full Council meeting.
- Review of the overview and scrutiny committee structure.
- Consideration of whether to combine the Licensing Committee and Licensing Committee (Licensing Act 2003) into one committee.
- Consideration of various ways to select the next Vice Chairman of the Council.

4.2 The Planning Advisory Service also carried out a review of the Development Management Committee (DMC) and recommended some changes to the council. There may be some aspects from this report which members would like to consider adopting following a report to DMC on 6 February. The recommendations will come to March Full Council meeting.

4.3 Research was carried out by the Democratic Services team on the various aspects and meetings were held with Councillor Bolton and officers to discuss scrutiny and committees. Councillor Bolton also consulted a number of councillors.

5.0 Committee Review

5.1 As stated above, the committees reviewed were Major Projects Board, Highways Forum, Planning Policy Advisory Group and Housing Policy Advisory Group.

5.2 Major Projects Board

5.2.1 Previously known as the Procurement and Contracts Board (established in 2003), it was re-constituted to Major Projects Board part way during 2010/2011. The Board was originally set up following the Best Value Procurement Review and the resulting Performance Improvement Plan. It was an advisory group that had a strategic and operational role. It had regular reports from the Procurement Manager and oversaw the implementation of the Performance Improvement Plan. It received information about contracts before they were awarded. It was then changed during 2010/11 to Major Projects Board, following a decision at Cabinet on 13 December 2010. The lead officer was the Managing Director. Its main focus was to act as an advisor to Cabinet on procurement strategy and act as the member interface for all the major projects currently being undertaken by the Council.

5.2.2 During discussions with officers and members, the Board was seen as a useful cross-party briefing. However, members were not clear about their role on the Board; which was viewed by officers as a forum for receiving feedback from members on aspects of ongoing projects.

5.2.3 Meetings were occasionally cancelled, as some projects were taking place over a number of years and there may not be anything to update at the time of the

scheduled meetings.

5.2.4 Meetings of the Major Projects Board were usually exempt under the Access to Information Act, Part B, as information was shared with members about ongoing projects; in particular involving sensitive finance or commercial data.

5.2.5 Future arrangements

5.2.5.1 Renaming the Major Projects Board to Major Projects Forum to reflect that it is not a decision making body, rather it is somewhere for members to discuss and give their feedback on projects.

5.2.5.2 Review the terms of reference in order that they are clear for members on what the remit of the committee is and what is expected of them.

5.2.5.3 The meeting frequency be changed to every four months, therefore three meetings per year.

5.3 Highways Forum

5.3.1 Following the county's decision to abolish the Hertfordshire Highways Joint Member Panels from October 2012, the Highways Forum was established to give Watford members the opportunity to discuss Watford Borough Council led highways projects. Prior to this, Watford officers were able to present through the Joint Member Panel meetings.

5.3.2 The terms of reference of the Highways Forum state that it should consider and give views to Hertfordshire County Council (HCC) on any consultation documents or policies brought forward by the County Council on highways issues that affect Watford. It should also formally respond on behalf of Watford at any briefing meeting called by HCC on highways issues. The Forum could recommend to HCC any highway projects for Watford that they consider should be adopted by HCC.

5.3.3 The Highways Forum has not met since October 2015. Since then the Transport and Infrastructure Section Head has been presenting updates at the Watford Highways Liaison meetings; these meetings allow local councillors to engage with the county on district wide and strategic highways matters. HCC provides access to the agenda so WBC officers can ask for items to be included if they think they would be useful, even if they are WBC-only schemes. Given the compact nature of the borough and the large number of joint highways schemes, it works well to present updates alongside Highways officers in a meeting which all members can attend.

5.3.4 Future arrangements

- 5.3.4.1 Given the access to the HLM agendas and that all members are invited to these bi-annual briefings, it is not considered that the Highways Forum needs to continue. There are considerable benefits to working jointly with Herts Highways to provide these regular updates to members.
- 5.3.4.2 Previously, WBC officers provided details of Traffic Regulation Orders (TROs) via the Highways Forum; these could now be presented at the Highways Liaison Meeting if requested. However details of all TRO decisions are published on the WBC's website. Updates received from HCC are also circulated by e-mail to all members or may be included in the Members' Information Bulletin or in future on the Members Portal.

5.4 Planning Policy Advisory Group

- 5.4.1 The Planning Policy Advisory Group (PPAG) held its first meeting in December 2006. It is chaired by the Regeneration and Development Portfolio Holder and supported by the Planning Policy team. It is a cross-party group appointed at Annual Council.
- 5.4.2 PPAG was originally set up to enable members to provide input into the Local Development Framework and to discuss emerging planning documents and matters.
- 5.4.3 Until recently meetings were held sporadically and peaked when there were new documents to be reviewed. Presently, they are scheduled in approximately monthly as Planning Policy are preparing the Local Plan. Meetings are open for all members to attend though they are not held in public as confidential and commercial matters are discussed. It is not a decision-making meeting. This arrangement is particularly valued by planning policy officers.
- 5.4.4 Future arrangements
 - 5.4.4.1 It is proposed to have an advanced schedule of quarterly meetings. These dates could also be used for member briefings on planning policy if needed rather than setting up extra dates.
 - 5.4.4.2 It is suggested that joint meetings with Housing Policy Advisory Group may be beneficial when there are planning issues to be discussed which also affect housing (this has happened previously when requested by the services.)
 - 5.4.4.3 It is proposed to review the terms of reference of the group to ensure they are fit for purpose for the forthcoming work and also to review again in two years to maintain relevance.

5.5 Housing Policy Advisory Group

- 5.5.1 The Housing Policy Advisory Group (HPAG) was agreed by Council at its meeting on 16 November 2011. It is an opportunity for informal meetings, not held in public, which provide a forum for cross party councillors and officers to exchange views on what is happening in housing. Its aim is to provide a steer for policy direction prior to a formal decision at Cabinet and/or Council. Members are able to report the public's views about housing matters.
- 5.5.2 The terms of reference for HPAG were reviewed two years ago with the Portfolio Holder to enable there to be constructive contributions from members to housing policy work. HPAG also provides education to members to set a common understanding of issues and how the council tackles those issues.
- 5.5.3 Meetings take place quarterly which are thought to be the right frequency, though with the opportunity for joint meetings with PPAG where appropriate. HPAG covers an area which is ever changing and needs to be at the forefront of members' minds, especially as it is one of the council's priority areas. It is not a decision-making body.
- 5.5.4 Future arrangements
- 5.5.4.1 In the meetings which have taken place it was clear that HPAG was a forum valued both by members and officers. Therefore, it is proposed that it continues in the same way but looks for opportunities to combine meetings with PPAG where appropriate. In keeping with the rest of the review, officers have looked at the Housing Policy Advisory Group (HPAG) terms of reference which are attached as a draft at Appendix D.

5.6 Licensing committees

- 5.6.1 At present there are two Licensing committees: Licensing Committee and Licensing Committee (Licensing Act 2003).
- 5.6.2 The Licensing Committee is responsible for:
- Approving licensing policies related to hackney carriages, hackney carriage operators and drivers and private hire operators and drivers;
 - Approving the Hackney Carriage fare tariff;
 - Approving byelaws relating to acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis;
 - Approving other policies within Environmental Health, except for those related to the Licensing Act 2003 and Gambling Act 2005.
- 5.6.3 Licensing Committee (Licensing Act 2003) is responsible for the following:

- Considers the Council's Licensing Policy under the Licensing Act 2003 and makes recommendations to Council;
- Considers the Council's Statement of Principles under the Gambling Act 2005 and makes recommendations to Council;
- Approves the Licensing Act Annual Report;
- Approves draft responses to Government consultations related to the Licensing Act 2003 and Gambling Act 2005;
- Approves and makes amendments to the Sex Establishment Venue Policy

5.6.4 Both meetings are run consecutively on the same day. However, as they are two separate meetings, it requires the chair to finish one meeting and start the next with apologies, disclosures of interests etc. repeated. The committees have the same membership.

5.6.5 The committees were initially established when the Licensing Act 2003 came into force in 2005.

5.6.6 Future arrangements

5.6.6.1 Research carried out by the Democratic Services team has shown that a number of councils have combined their Licensing Committees e.g., Dacorum and Hertsmere Councils.

5.6.6.2 It will make the meeting flow better to have the Licensing Committees combined rather than stopping one meeting and starting another within the same evening. It would also be easier for the public to understand. The new singular committee would simply be called the Licensing Committee.

5.7 **Future Scrutiny Arrangements**

Presently there is an Overview and Scrutiny Committee, Budget Panel and Outsourced Services Scrutiny Panel. The Overview and Scrutiny Committee can set up task groups proposed by councillors, officers or members of the public, there is also a standing task group to look at the Community Safety Partnership.

Below is set out proposed future scrutiny arrangements for consideration.

It is proposed to retain the Overview and Scrutiny Committee and one Finance Scrutiny Committee and to have a set number of task and finish groups. It is proposed to change the name of Budget Panel to Finance Scrutiny Committee as it is clearer to the public that it is a scrutiny committee.

5.7.1 Overview and Scrutiny Committee

The Overview and Scrutiny Committee would retain nine members (politically

balanced) and the membership would also include the Chair of the Finance Scrutiny Committee. Presently Overview and Scrutiny has nine scheduled meetings but some of these are 'call-in' only meetings. It is proposed that under future arrangements all nine meetings are held in order to cover the increased remit as shown below.

Areas to be covered:

- Community Safety Partnership scrutiny – the main item of at least one meeting each year to scrutinise the workings of the CSP as per legal requirements
- Quarterly performance reports – to include council performance and also outsourced and shared services performance figures (excluding Finance)
- Contracts for large outsourced services e.g., Veolia, SLM, HQ Theatres, Parking
- To hear call-ins of executive decisions and councillor calls for action
- To have an overview of the work of the Finance Scrutiny Committee and any Task Groups, including receiving final reports of task groups
- Watford 2020
- Regular review of the Notice of Executive decisions
- Follow up progress on agreed scrutiny recommendations
- Scrutiny of topics as identified by members

5.7.2 Financial Scrutiny Committee

It is proposed to reduce the number of members on the committee to seven, rather than the nine members presently on Budget Panel (politically balanced). As mentioned above the Chair should also be a member of the Overview and Scrutiny Committee. Currently, by convention, the chair has been a member of an opposition group. The Financial Scrutiny Committee would meet five times per year which is the same frequency as Budget Panel currently.

Areas to be covered:

- Reviews fees and charges, the draft budget and final budget proposals and forwards any comments on these areas to Cabinet.
- Reviews the quarterly Finance Digest; the Medium Term Financial Plan and the Asset Management and Capital Strategy.
- Awareness of how the council raises its income, e.g. through commercial ventures, council tax, business rates retention
- Recommendations relating to areas not including the budget setting process would go to Overview and Scrutiny
- Annual review of Croxley Business Park

5.7.3 Scrutiny Task Groups

The proposal below is based on the council's current committee structure, taking into account the proposed effects of changing the scrutiny structure (i.e., removing OSSP and CSPTG). It does not account for further changes which could be proposed by the Mayor which require Democratic Services support, particularly evening meetings, or changes made to other existing committees such as Major Projects Board etc. It must also be recognised that as a result of proposed Watford 2020 reductions the Democratic Services team will be reducing in size and officers could be taking on additional civic responsibilities which are not currently part of their roles. This may require members to be more pro-active and contribute towards research for scrutiny task groups independently outside of formal meetings. If further evening meetings are required to support new boards/forums then the number of scrutiny task which can be supported may be reduced.

Proposal: Set up 3 task groups per year, to be chaired by different councillors and if possible by those who are not already a chair of another committee

Each task group to consist of 3- 5 members and to hold a maximum of three formal public meetings. The task groups would not be politically balanced. The dates of the meetings would be established in advance for three task groups and agreed at Annual Council.

Initial topic suggestions could come from discussions with Leadership Team, the Mayor and Portfolio Holders prior to elections for areas where scrutiny could assist policy development. Any further suggestions from members or the public could be given priority as the second or third task groups of the year. Officers' suggestions of topics will be considered and allocated subject to task group availability. The March Overview and Scrutiny Committee meeting will agree the first task group of the next municipal year. Replacements could be nominated to the task group prior to the first meeting if the original member is not re-elected. Overview and Scrutiny Committee will be encouraged to maintain a rolling work programme for task groups.

In order to facilitate member and officer discussions and planning, the chairs of the task groups should be agreed at the Overview and Scrutiny Committee when the task groups are established. This will enable best use of the three formal meetings available rather than using one solely for planning. Officers would write to members in advance to ask who would like to be on the task group and also ask those interested in chairing to put their name forward with reasons for wanting to be chair. These would then be forwarded to Overview and Scrutiny Committee for

consideration; if more than one member put themselves forward there may be a vote at Overview and Scrutiny Committee if consensus cannot be reached.

All task group meetings should be public, unless the content comes under one of the exemption rules for it to be considered Part B. Therefore, agendas and minutes would be published in accordance with the same schedule as the main committees and members of the press and public could attend.

5.8 Additional Forums

5.8.1 The Mayor has proposed setting up additional forums on specific topics. These would cover Health and Wellbeing and Sustainability. Their terms of reference are at appendices F and G.

5.8.2 The Forums would have a membership of nine, which would be cross-party. The meeting frequency would be once or twice per year. Membership would be appointed at Annual Council.

5.8.3 The Chair would not receive an SRA and the Forum would not be decision making, it could only make recommendations. The Forum would be similar in format to Major Projects or HPAG/PPAG.

5.9 Negating of motions at Council

5.9.1 As part of the Constitution Review, it was requested that the wording in the constitution was clarified with regards to what constitutes negation of a motion at Full Council when it is amended.

5.9.2 At present the Constitution states the following:

“Amendments to Motions

a)An amendment to a motion must be relevant to the motion and will either be:
i) to refer the matter to an appropriate body or individual for consideration or reconsideration

ii) to leave out words

iii) to leave out words and insert or add others

iv) to insert or add words

as long as the effect of ii) - iv) is not to negate the motion”

5.10 Future proposals

- 5.10.1 A review of other council's constitutions was undertaken and although largely similar wording was found there were some slight variations which were considered.
- 5.10.2 It is proposed to add the following to the existing wording (presently used by Bristol City Council) set out above to help clarify what negates a motion:
"v) an amendment must not:
1) *be a direct negative of a motion or*
2) *seek to introduce into the motion a new issue unrelated to the subject dealt with in the motion.*"

5.11 Selection of the Vice Chairman

- 5.11.1 At present it is the custom that the Vice Chairman of the Council becomes the Chairman in the following year (subject to re-election if required).
- 5.11.2 The next Vice Chairman of the Council is selected based on seniority. This takes into account the length of service which a councillor has accrued. Previous service is taken into account even if it is not continuous.
- 5.11.3 The present position is that there are a number of members who are relatively new to the council and therefore have not accrued a great number of years' service. Also, some long serving members do not wish to take up the role of Vice Chairman and then Chairman and Portfolio Holders cannot be Vice Chairman or Chairman as they are members of the Executive. The role of Chairman and Vice Chairman require the member to act impartially and therefore they should not hold any other position of authority, e.g. chair or vice chair of a committee or leader of a political group.
- 5.11.4 Future proposals
- 5.11.4.1 It is proposed to alter the way in which the Vice Chairman is selected to enable members who may be interested in the role to put themselves forward for consideration regardless of their length of service. This would make it possible for a councillor to use the role as a development opportunity since the Vice Chairman and Chairman's year contains many occasions for public speaking, meeting community groups, promoting the council within and outside the Borough and, when Chairman, chairing the Full Council meeting.
- 5.11.4.2 It is also proposed to adopt an updated role profile for the Chairman of the Council. This is to enable any member who might be interested in undertaking the role as well as the member in the role to help them understand what the role involves and to clarify the relationship between the Chairman and Elected Mayor. An updated role profile for the Chairman is attached as Appendix A.

5.11.4.3 Below is the suggested method for selecting the Vice Chairman of the Council, it is based on Bournemouth Borough Council's procedure:

“Election of Vice Chairman at Full Council

1. Officers to write to members to ask for nominations for Vice Chairman in February. Nominations cannot include the Elected Mayor or the current Vice Chairman.
2. Any nominations received accompanied by a personal statement will be passed to the Democratic Services Manager for them to contact those nominated to confirm they are happy to have their name put forward for the role. Also to confirm that anyone nominated is not up for election in the following May. Nominations to be received no later than the 28 February.
3. At the Full Council meeting in March the Chairman will announce who has been nominated and ask for those members (and no others) to be formally proposed and seconded.
4. If only one member is proposed and seconded they will be the Vice Chairman for the forthcoming municipal year.
5. If more than one member is proposed and seconded then Council will be asked to vote for their preferred candidate. The candidate with the most votes will be elected as Vice Chairman. If there is a tie in the number of votes for first place the Chairman would have the casting vote. The vote will be held by way of secret ballot.
6. It will continue to be custom and practice that the Vice Chairman will be Chairman in the following Municipal Year.”

5.12 Contract Procurement Rules

- 5.12.1 Under the contract procurement rules any exemptions to complying with the rules in relation to contracts valued below the EU Procurement Rules limit (It is not possible to have an exemption to following the EU Procurement Rules if they apply) have to be approved by the relevant Head of Service and Managing Director and also notified to the relevant Portfolio Holder and then if they are valued at over £50,000 notified to the next available cabinet.
- 5.12.2 The Mayor has asked for this limit to be raised as he is of the view that approval by senior officers and notifying the portfolio holder for contracts below £100,000 is sufficient. The rules have therefore been amended to allow this. The threshold for taking the exemption to cabinet is contracts over £100,000 up to the EU Procurement Regulations limit.

- 5.12.3 Opportunity has also been taken to include a Watford 2020 recommendation, namely all contracting of external legal advisers having to be done via the Head of Democracy and Governance. The rationale is to ensure work that might be better done in house is being done in house and that there is more central oversight of external legal spend.
- 5.12.4 The updated rules are appended at E and Council is asked to approve the amended rules.

5.13 Digital Watford Board

- 5.13.1 Digital Watford Board was formed as an Advisory board to Cabinet regarding the delivery of the corporate priority to “Deliver a Digital Watford to Empower our community”. With the revised corporate plan this priority has been absorbed in other priorities and therefore the Digital Watford Board is no longer required. During its time the Board has delivered a number of projects associated with the development of the borough’s IT infrastructure, notably the development of a free WiFi service in the town centre and the implementation of a Borough wide LORAWAN network.

5.14 Mayor’s report supplementary question

- 5.14.1 At present no supplementary questions are permitted when members are asking questions of the Mayor during the Mayor’s report item at Full Council. Constitution Working Party discussed the proposal that the Leader of the Main Opposition group should have a supplementary question in the Mayor’s report. It was agreed to put the following to Council.
- 5.14.2 The proposal is that the Leader of the Main Opposition Group should be allowed one supplementary question to their own question during the Mayor’s Report item at Full Council. If the Main Opposition Leader was not present at the meeting then the Deputy Leader of the Main Opposition Group could ask a supplementary question to their own question.

6.0 Implications

6.1 Financial

- 6.1.1 The proposed arrangements can be met within the present members allowances budget.
- 6.1.2 There will be a saving from the removal of the Special Responsibility Allowance (SRA) for the Chair of Outsourced Services Scrutiny Panel of £7,930pa. A review of

SRA's could be carried out in the future with the Independent Members Remuneration Panel if members wished to re-visit these.

6.2 **Legal Issues** (Monitoring Officer)

6.2.1 The Head of Democracy and Governance comments that these proposals if agreed will be discussed at the Constitution Working Party and then be recommended to Council.

6.3 **Equalities, Human Rights and Data Protection**

6.3.1 Having had regard to the council's obligations under s149, it is considered that an equality impact assessment is not required. The changes proposed still allow members to carry out their role. The changes proposed to the selection of the Chairman will allow more members to be able to put themselves forward who may be presently excluded from selection due to their length of service.

6.3.2 Having had regard to the council's obligations under the General Data Protection Regulation (GDPR) 2018, it is considered that officers are not required to undertake a Data Processing Impact Assessment (DPIA) for this report.

6.4 **Staffing**

6.4.1 None

6.5 **Accommodation**

6.5.1 None

6.6 **Community Safety/Crime and Disorder**

6.6.1 None

6.7 **Sustainability**

6.7.1 None

Appendices

Appendix A – Updated Role Profile for Chairman of the Council

Appendix B – Draft revised terms of reference for Major Projects Board

Appendix C – Draft revised terms of reference for Planning Policy Advisory Group

Appendix D – Draft revised terms of reference for Housing Policy Advisory Group

Appendix E – Updated Contract Procedure Rules

Appendix F – Terms of reference for Sustainability Forum – to follow

Appendix G – Terms of reference for Health and Wellbeing Forum – to follow

Background papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

- [Watford Borough Council Constitution](#)
- [Bournemouth Council Constitution](#)
- [Bristol City Council Constitution](#)
- [Minutes of the Constitution Working Party 05.02.19](#)
- [Minutes of the Development Management Committee 06.02.19](#)