



## **Committee Agenda**

### **CONSTITUTION WORKING GROUP Tuesday, 1st November, 2022**

You are invited to attend the next meeting of **Constitution Working Group**, which will be held as a:

**Virtual Meeting on Zoom  
on Tuesday, 1st November, 2022  
at 7.00 pm.**

**Georgina Blakemore  
Chief Executive**

**Democratic Services  
Officer:**

V. Messenger Tel: (01992) 564243  
Email: [democraticservices@eppingforestdc.gov.uk](mailto:democraticservices@eppingforestdc.gov.uk)

#### **Members:**

Councillors P Bhanot (Chairman), R Bassett (Vice-Chairman), S Heap, H Kauffman, J McIvor, J Philip, C C Pond, R Pugsley, S Rackham, M Sartin and J H Whitehouse

#### **1. APOLOGIES FOR ABSENCE**

To be announced at the meeting.

To report non-attendance before the meeting, please use the Members Portal webpage <https://eppingforestdc-self.achieveservice.com/service/Member>Contact> to ensure your query is properly logged.

Alternatively, you can access the Members portal from the front page of the Council's website, at the bottom under 'Contact Us'

<https://www.eppingforestdc.gov.uk/your-council/members-portal/>

#### **2. SUBSTITUTE MEMBERS**

To report the appointment of any substitute members for the meeting.

#### **3. NOTES OF PREVIOUS MEETING (Pages 3 - 6)**

To agree the notes of the meeting of the Working Group held on 30 June 2022.

#### **4. TERMS OF REFERENCE & WORK PROGRAMME (Pages 7 - 8)**

To review the terms of reference and progress with the achievement of the current work programme for the Working Group.

**5. CONSTITUTION - REVISIONS & AMENDMENTS (Pages 9 - 24)**

(Monitoring Officer) To consider the attached report on the following:

- (1) To note the amendments in the latest Constitution Update of 18 July 2022;
- (2) To note the proposed minor amendments to the Constitution Part 4 – Financial Regulations, paragraphs A5 and 3.7;
- (3) To review the proposed amendments to remove references to the decommissioned Finance and Performance Management Cabinet Committee in the Constitution within Part 4 – Financial Regulations and Article 7 – The Executive; and
- (4) To review other ad hoc “Finance and Performance Management” references within Part 4 – Financial Regulations.

**6. DOCUSIGN - PROPOSED AMENDMENT TO ARTICLE 15 OF THE CONSTITUTION (NOTE NO. 3(A)) (Pages 25 - 28)**

(Monitoring Officer) To consider the attached report on DocuSign to include minor updates required to the Constitution, Article 15 – Finance, Contracts and Legal Matters, sections, 6, 7 and 8.

**7. PROGRAMME 2025 WORKSTREAM - WHAT SHOULD THE CONSTITUTION LOOK LIKE? (Pages 29 - 30)**

To consider the attached report on whether the Constitution is fit for purpose and if not, for the Working Group to suggest how best to proceed with the workstream project that is due for completion in 2025.

**8. DATE OF NEXT MEETING**

To note that the next meeting of the Working Group will be held on 2 February 2023 at 19.00.

## EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

|                          |   |              |                        |
|--------------------------|---|--------------|------------------------|
| <b>Committee:</b>        | Constitution Working Group  | <b>Date:</b> | Thursday, 30 June 2022 |
| <b>Place:</b>            | Virtual Meeting on Zoom   | <b>Time:</b> | 7.00 - 7.30 pm         |
| <b>Members Present:</b>  | Councillors R Bassett (Vice-Chairman, in the Chair), J McIvor, C C Pond, R Pugsley, M Sartin and J H Whitehouse   |              |                        |
| <b>Apologies:</b>        | P Bhanot, S Heap, H Kauffman and J Philip   |              |                        |
| <b>Officers Present:</b> | N Boateng (Service Manager (Legal) & Monitoring Officer), G Woodhall (Team Manager - Democratic & Electoral Services), V Messenger (Democratic Services Officer) and L Kirman (Democratic Services Officer) |              |                        |

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### 1. SUBSTITUTE MEMBERS

It was noted that there were no substitute members for this meeting.

### 2. NOTES OF PREVIOUS MEETING

#### RESOLVED:

That the notes of the meeting of the Working Group held on 21 April 2022 be agreed as a correct record.

The following matters were raised from the previous notes:

#### (a) Joint Meeting of Development Management Chairmen and Vice-Chairmen -Composition and Function (Note no 30)

Councillor C C Pond queried when other Group Leaders would be asked to nominate a representative for the joint meetings following approval of its Terms of Reference at Annual Council on 26 May 2022.

#### Agreed:

- (1) That the Democratic and Electoral Services Manager, G Woodhall, would contact the other Group Leaders of any political group not otherwise represented on the Committee for their group nominations to the joint meeting, as soon as possible.

#### (b) Constitution - Review of Article 4 The Full Council Terms of Reference - Role of Council Appointees to Outside Bodies (Note no 31)

Councillor J H Whitehouse revisited this item, as she was still concerned more should be done by the representatives appointed to outside bodies in reporting updates of meetings they attended to Full Council. The Councillor also thought many other members did not know what the outside bodies actually did, so it would be useful to know what the Council representatives did and to have more regular reports. Although this matter was discussed at Annual Council on 26 May 2022, suggestions for improvements that could be made included: providing updates via the weekly Bulletin as this could more flexibly match the meetings schedules of outside bodies; and a summary of outside organisations and the respective representatives could feature on the Council website as a reference point.

**Agreed:**

- (2) That Councillor M Sartin would raise this matter at the next Council APG; and
- (3) That Councillor R Bassett would discuss this further with the Working Group Chairman, Councillor P Bhanot, and officers.

**3. TERMS OF REFERENCE & WORK PROGRAMME****(a) DocuSign**

The Monitoring Officer, N Boateng, reported that the Council was looking into adopting DocuSign, not as an alternative to wet signing but in addition, as there was a need that had been highlighted by the Covid pandemic and remote working. She had been working to make sure that electronic signatures were legally binding and agreeable to the Land Registry, which was the case. Other local authorities were already using DocuSign satisfactorily. The Constitution would need to be amended slightly under Article 15 – Finance, Contracts and Legal Matters, sections, 6, 7 and 8, which refer to the Council's common seal. An extra sentence that 'the common seal may be in physical or electronic form as determined by the Monitoring Officer' would give flexibility for either. In relation to anti-fraud concerns, N Boateng would provide a link to Government guidance on DocuSign for the minutes. A report would come to the Working Group to consider at the next meeting.

**(b) Additional work programme items**

Prior to the meeting, members had been asked to suggest any work programme items for this municipal year. The following suggestions were raised at the meeting.

**Local Government Boundary Commission for England Review of Epping Forest** – to check if any amendments to the Constitution were required. As the new arrangements would apply to the elections from May 2024, this should not be required until the order was made by Parliament.

**Constitution hyperlinks** – to be more user friendly, as it was a lengthy document. The Monitoring Officer would think about this and report back in due course.

**Training of new staff on the Constitution** – People, Culture and Wellbeing Service Manager, J Budden, was looking into new officer induction (onboarding). G Woodhall advised all staff training courses were on the Intranet and he had liaised with the People Team about the Constitution member training course. It was agreed this was not an item for the work programme.

**Section 106 Agreements** – in relation to policy and procedures, as to how a S106 was agreed and who had the sign off. Although the S106 was a legal agreement, what the basic parameters should be within a S106 were of concern for the Area Planning Sub-Committees or DDMC, depending on which planning committee was consenting the application. It was agreed that this would be put on the work programme for discussion with the relevant officers on whether a draft S106 could come before the relevant planning committee for final sign off.

**Joint meeting of Development Management Chairmen and Vice-Chairmen** – to monitor how the committee was working with the addition of other Group representatives, as the planning committee chairmen and vice-chairmen were all from the Conservative Group. G Woodhall advised that the joint meeting only held

six-monthly meetings on 15 September 2022 and 14 February 2023, which would be after the final Working Group meeting for this municipal year had taken place on 2 February. It was agreed that members could raise any issues if they arose, so this item would not be added to the work programme.

**Agreed:**

- (4) That the verbal report on DocuSign was noted;
- (5) That N Boateng would provide a link to Government guidance on DocuSign for the minutes;
- (6) That a report would come to the next meeting in November 2022; and
- (7) That S106 Agreements (discussion on policy and procedures) be added to the work programme for the next meeting on 1 November 2022.

*(Post meeting update: Government guidance on DocuSign can be viewed at this weblink:*

<https://www.gov.uk/government/publications/electronic-signatures-accepted-by-hm-land-registry-pg82/practice-guide-82-electronic-signatures-accepted-by-hm-land-registry> )

#### **4. CONSTITUTION - REVISIONS & AMENDMENTS**

##### **(c) Constitution Updates**

The Working Group noted the report that detailed the Constitution Updates of 26 April 2022.

##### **(d) Council Structure**

Councillor M Sartin advised that there was a very old Council structure within Article 13, appendix 1 (page 107) that needed to be replaced with the latest version. G Woodhall advised that this could be replaced under delegated powers by the Monitoring Officer. Councillor C C Pond asked if this latest version could also be published in the Bulletin and amended from time to time.

##### **(e) Council Rules – R2 Record of Attendance**

Councillor J H Whitehouse queried if there was a requirement for members to sign meeting attendance sheets. It was noted this was no longer required since the latest Constitution Update of 26 April 2022 had included a minor amendment by the Monitoring Officer to Rule R2, as the Democratic Services Committee Officer would monitor attendances at hybrid meetings.

**Agreed:**

- (8) That the Council structure within Article 13, appendix 1, would be updated and also published in the Bulletin.

#### **5. DATE OF NEXT MEETING**

It was noted that the next virtual meeting of the Working Group would be held on 1 November 2022 at 19.00.

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**Constitution Working Group  
(Chairman – Councillor P Bhanot)  
Work Programme 2022/23**

| Item   | Timescale       | Progress   | Officer / owner         |
|--|-----------------|--|-------------------------|
| (1) Constitution   | Ongoing         | To consider the ongoing review of the Constitution to ensure alignment with the Council's management structure.  | N Boateng               |
| (2) DocuSign   | 30 June 2022    | <b>Completed</b> Verbal report on DocuSign – to facilitate the signing of documents electronically and using an electronic seal and the updating of the Constitution. (See CWG Note 3(a)). | N Boateng               |
|  | 1 November 2022 | DocuSign – Proposed amendment to the Constitution, Article 15 – Finance, Contracts and Legal Matters, sections, 6, 7 and 8.  |                         |
| (3) Programme 2025 Workstream (5) – What the Constitution should like? | 1 November 2022 | To consider if the Constitution is fit for purpose and if not, to make suggestions on how it can be improved. This workstream project is due for completion in 2025.                       | N Boateng / V Messenger |
| (4) Section 106 Agreements   | tbc             | Discussion on policy and procedures  | N Richardson            |

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## **Report to Constitution Working Group**

**Date of meeting: 1 November 2022**

**Subject: Constitution Revisions and Proposed Amendments**

**Officer contact for further information: N Boateng (01992) 564323**

**Democratic Services Officer: V Messenger (01992) 564243**



**Epping Forest  
District Council**

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### **Recommendations/Decisions Required:**

- (1) That the Working Group note the Constitution Update of 18 July 2022;**
- (2) That the Working Group note the proposed minor amendment to the Constitution, Part 4 – Financial Regulations, paragraphs A5 and 3.7, to change the references made from “Council” to “Audit and Governance Committee”, which is responsible for approving the Annual Statement of Accounts;**
- (3) That the Working Group review and recommend to Council its proposed amendments to the Constitution to remove references to the decommissioned Finance and Performance Management Cabinet Committee within Part 4 – Financial Regulations and Article 7 – The Executive; and**
- (4) That the Working Group review and recommend to Council its proposed amendments to other ad hoc “Finance and Performance Management” references within Part 4 – Financial Regulations.**

### **Report:**

#### **1. Constitution Update of 18 July 2022**

1.1 Following approval by Annual Council on 26 May 2022, the latest Constitution Update of 18 July 2022 included amendments to:

- Article 10 – District Development Management Committee and Area Plans Sub-Committees with the addition of the Terms of Reference for Joint Meeting of the Development Management Chairmen and Vice-Chairmen.

1.2 Following the appointment of the Executive for 2022/23 by the Leader at Annual Council on 26 May, Leader Decision LDR-001-2022/23 detailed the Portfolio Holders and members of the Cabinet Committees for the 2022/23 municipal year and the revised structure and responsibilities of Portfolio Holder Decisions, which was published on 23 June 2022 and incorporated into Part 3 – Scheme of Delegation – Appendix 4 – Portfolio Holder Responsibilities.

1.3 Following approval by the Monitoring Officer, the following minor amendments were also included in the same Constitution Update:

- Article 13 - Officers, appendix 1 – an updated Council structure management and specialist levels, which was published in the Bulletin issues of 22 April and 22 July 2022; and
- Part 4 – Council Procedure Rules – Rule T1 as Council meetings start at 7.00pm.

- 1.4 Members were advised of this Constitution Update in the Bulletin issue for 22 July 2022.
- 1.5 Pursuant to recommendation (1) above, the Working Group is asked to note the latest Constitution Update, which can be viewed on the Council's website at: <https://rds.eppingforestdc.gov.uk/ieListDocuments.aspx?CId=638&MId=11502&Ver=4&Info=1>

**2. Minor amendments to Constitution, Part 4 – Financial Regulations, paragraphs A5 and 3.7**

- 2.1 Article 11 (Audit and Governance Committee) of the Constitution was updated to change delegated authority for approving the Statutory Statement of Accounts from Council to Audit and Governance Committee, which was adopted by Council on 28 October 2021.
- 2.2 Article 4 (The Full Council Terms of Reference) of the Constitution, sub-paragraph 1(c), was reviewed by the Working Group in November 2021 and its recommendations were approved by Council on 5 April 2022 to remove Statutory Statement of Accounts from the list of plans and strategies requiring Council adoption.
- 2.3 Part 4 – Financial Regulations also needs to be amended at paragraphs A5 and 3.7 to correctly show that Audit and Governance Committee is responsible for approving the annual statement of accounts. The Financial Regulations can be viewed in the Constitution Update of 18 July 2022 at this link: <https://rds.eppingforestdc.gov.uk/documents/s111320/Part%204%20Financial%20Regulations.pdf>

The Monitoring Officer proposes to replace 'Council' with 'Audit and Governance Committee' (see below):

Financial Regulation A: Financial Governance (page 262)

A5 The Audit and Governance Committee ~~Council~~ is responsible for approving the annual statement of accounts following detailed scrutiny. ~~by the Audit and Governance Committee~~

Responsibilities of the Chief Finance Officer (page 278)

3.7 To prepare and publish the audited accounts of the authority for each financial year, in accordance with the statutory timetable and with the requirement for Audit and Governance Committee ~~Council~~ to approve the statement of accounts before 30 June.

- 2.4 These minor amendments can be rectified under delegated powers afforded the Monitoring Officer in the Constitution.
- 2.5 Pursuant to recommendation (2) above, the Working Group is asked to note the minor amendments that will be included in the next Constitution Update when it is published.

**3. Finance and Performance Management Cabinet Committee (FPMCC) references proposed to be amended in the Financial Regulations and Article 7 – The Executive, Appendix 2**

- 3.1 The Financial Regulations also contains several references to the FPMCC, which was decommissioned in March 2021. The Cabinet Committee held its last meeting on 23 January 2020, as subsequent financial reports are going directly to Cabinet.
- 3.2 The FPMCC is specifically referenced in the following paragraphs of the Financial Regulations, which can be viewed at this link: <https://rds.eppingforestdc.gov.uk/documents/s111320/Part%204%20Financial%20Regulations.pdf>

- A13 (page 7 (or page 263 of whole Constitution))
- B3 (page 11 (or page 266))
- B14 (page 11 (or page 267))
- C3 (page 12 (or page 268))
- Appendix B, 2.24 (page 27 (or page 283))
- Appendix B, 2.37 (page 28 (or page 284))
- Appendix B, 3.5 (page 32 (or page 288))
- Appendix B, 4.3 (page 33 (or page 289))
- Appendix C, 1.2 (page 36 or (or page 292))
- Appendix C, 1.12 (page 37 (or page 293))

3.3 The FPMCC is also referred to in the Constitution at Article 7 – The Executive, Appendix 2, Committees of the Executive – Terms of Reference (see appendix 1 attached). Please note the Terms of Reference of Audit and Governance Committee are also provided for information (see appendix 2 attached).

3.4 Pursuant to recommendation (3) above, the Working Group is asked to review and recommend to Council its proposed amendments to remove references to the decommissioned Finance and Performance Management Cabinet Committee in the Constitution within Part 4 – Financial Regulations and Article 7 – The Executive.

#### **4 Amendments of other ad hoc “Finance and Performance Management” references in the Financial Regulations**

4.1 Reference is made to the “Finance and Performance Management Scrutiny Panel”, which was decommissioned in June 2015, at Appendix B, 2.26 (page 27 (or page 283 of whole Constitution)). It is proposed this reference is replaced by the Overview and Scrutiny Committee.

4.2 Reference is made to the “Finance and Performance Management Portfolio Holder” at Appendix B, 4.3 (page 33 (or page 289)). It is proposed this is amended to read, “relevant Portfolio Holder”.

4.3 Pursuant to recommendation (4) above, the Working Group is asked to review and recommend to Council its amendments to these ad hoc “Finance and Performance Management” references within Part 4 – Financial Regulations.

#### **Resource Implications:**

The recommendations of this report seek to ensure that the Council’s Constitution remains fit for purpose.

#### **Legal and Governance Implications:**

The Council’s Constitution sets out procedures and rules for the operation of its functions and responsibilities.

#### **Safer, Cleaner, Greener Implications:**

There are no implications arising from the recommendations of this report in respect of the Council’s commitment to the Climate Local Agreement, the corporate Safer, Cleaner, Greener initiative, or any crime and disorder issues within the district.

#### **Consultation Undertaken:**

The proposals/contents of this report have been subject to consultation with the Monitoring Officer.

**Background Papers:**

None

**Risk Management:**

The Council's Constitution sets out procedures and rules for the operation of its functions and responsibilities.

**Equality:**

There are no equality implications arising from the recommendations of this report.

## COMMITTEES OF THE EXECUTIVE - TERMS OF REFERENCE

### 1. FINANCE AND PERFORMANCE MANAGEMENT

- 1.1 To advise and make recommendations to the Cabinet on the annual budget for Council services, the Capital Programme and the setting of the Council tax.
- 1.2 To monitor expenditure by the Cabinet and other Committees within the framework of the Council's budgetary policy and financial objectives and to keep the Cabinet informed of the Council's overall position.
- 1.3 To consider the financial management aspects of the annual Statutory Statement of Accounts, in particular, any significant variations from the Council's budget for the year in question and the medium term financial strategy.
- 1.4 To receive final draft reports from External Audit (including the Audit Management letter and the External Audit Plan) from time to time received by the Council and to make recommendations thereon to the Cabinet.
- 1.5 To consider the work programme of Internal Audit and to make recommendations thereon to the Audit and Governance Committee.
- 1.6 To advise and make recommendations to the Cabinet on risk management and insurance issues.
- 1.7 To be responsible for corporate performance management and the preparation of any plans related to this function.
- 1.8 This Committee comprises no less than 5 Cabinet members and is chaired by the Business Support Services Portfolio Holder. A Vice-Chairman may also be appointed by the Council from members of the Cabinet.

### 2. ASSET MANAGEMENT AND ECONOMIC DEVELOPMENT CABINET COMMITTEE

#### Management of the Council-Owned Property Assets

- 2.1 To consider and make recommendations to the Cabinet, on proposals brought forward by the officers' Asset Management Co-ordinating Group in respect of Council-owned property assets which are suitable for disposal, redevelopment or rationalisation in order to secure a financial return to the Council or an improvement in service provision.

#### North Weald Airfield

- 2.2 To monitor and submit recommendations to the Cabinet as appropriate on:
  - (a) strategic land use issues relating to the future development of the Airfield;
  - (b) strategic matters relating to the business, recreational and other activities conducted there;

(c) proposals for the part redevelopment or part disposal of the Airfield or its disposal;  
and

(d) proposals for the generation of additional income from aviation and other activities at the Airfield.

2.3 The Committee's terms of reference shall not extend to decision-making on existing Council activities on the site which shall remain the prerogative of the relevant Portfolio Holders within the Cabinet or the Cabinet itself.

2.4 In carrying out its responsibilities as above, the Cabinet Committee shall have regard to:

(i) the impact of the Local Plan Spatial Strategy as it develops;

(ii) the opportunities for disposing of property where it is in the best interest of the District for these to be transferred to more appropriate ownership or disposed of by leasehold in order to secure a financial return to the Council;

(iii) the suitability of sites for transfer to registered social landlords;

(iv) partnership schemes which would either assist in the delivery of infrastructure projects or unlock the potential of property holdings of partner bodies.

### **Economic Development**

2.5 To make recommendations to the Cabinet on an Economic Development Strategy for the District and on ways of co-ordinating the management of the Council's property assets to assist with achieving the objectives of that Strategy.

(NB as at 6/7/15)

### **3. LOCAL PLAN CABINET COMMITTEE – TERMS OF REFERENCE**

3.1 To oversee and submit recommendations to the Cabinet as appropriate on:

(a) agreement of documentation for consultation on the draft plan/preferred option and documentation to seek pre-submission representations on the proposed Local Plan;

(b) the final form of the Council's Local Plan (i.e. the version to be submitted to the Planning Inspectorate for Independent Examination); and

(c) responses that should be made to any representations received following consultation on the Local Plan and related documents and supplementary planning documents.

3.2 To be responsible for all aspects (except those matters specified in 3.1 above) including but not restricted to:

(a) monitoring of the achievement of milestones within the Local Plan and Community Infrastructure Levy preparation and review process;

(b) agreement of engagement strategies for consultation periods as necessary;

(c) agreement of documentation for consultation on the Issues and Options; and

(d) agreement of draft options and policy wording to be used as the basis for Sustainability Appraisal.

- 3.3 To note, receive and, if necessary, agree officer reports on consultants' studies which contribute to the establishment of an up-to-date evidence base to influence preparation of the Local Plan.
- 3.4 To agree options for joint or co-ordinated working with neighbouring Councils, which comply with the Council's duty to co-operate and which best meet the needs of this District.
- 3.5 To respond to the Planning Services Standing Scrutiny Standing Panel as appropriate.
- 3.6 To monitor within the budgetary provision for the Local Plan, as approved by the Cabinet and the Council.
- 3.7 The membership of the Committee will comprise of members of the Cabinet, the number to be determined by the Leader of the Council.
- 3.8 That the Committee will be chaired by the Portfolio Holder responsible for Planning matters.

N.B. (1) In the event that the Council's Cabinet is constituted according to the pro rata membership requirements of the Local Government and Housing Act 1989, any political group not having representation on the Committee by virtue of one of the named Cabinet portfolios shall nominate one member of the Cabinet to serve on this Committee.

(2) In the event that seats on the Cabinet are allocated by the Leader of Council solely to one political group, or to an alliance of one or more groups forming an administration, seats on the Sub Committee shall only be allocated to members of that group or alliance who have seats on the Cabinet.

#### **4. HOUSEBUILDING CABINET COMMITTEE**

- 1. To consider and recommend to the Cabinet the Development Strategy for the Council's House Building Programme on an annual basis.
- 2. To consider and sign-off development appraisals and financial appraisals produced by the Council's appointed Development Agent for sites previously identified by the Cabinet as having development potential and that could be included within the Council's House Building Programme.
- 3. To approve the submission of detailed planning applications, and/or if more appropriate outline planning applications, by the Council's appointed Development Agent for sites that the Cabinet Committee considers are suitable for development and viable, having regard to the development appraisals and financial appraisals for the sites.
- 4. To invite ward members to attend meetings of the Cabinet Committee when potential development sites in their ward are under consideration, and to provide an opportunity for ward members to provide comments on proposed developments, before development appraisals and financial appraisals are signed-off and approvals to submit planning applications are given.
- 5. To approve the subsequent development of sites considered suitable for development and viable that receive planning permission, subject to the acceptance of a satisfactory tender for the construction works.
- 6. To approve, and include within financial appraisals, the use of the following sources of funding for the development of individual sites within the Council's House Building Programme:

- (a) The agreed Housing Capital Programme Budget for the House Building Programme;
  - (b) Capital receipts made available through the Council's Agreement with the Department of Communities and Local Government allowing the use of receipts from additional Right to Buy (RTB) sales as a result of the Government's increase in the maximum RTB Discount to be spent on House Building;
  - (c) Financial contributions received from developers for the provision of affordable housing within the District, in lieu of on-site affordable housing provision, in compliance with Section 106 Planning Agreements; and
  - (d) Grant funding received from the Homes and Communities Agency.
7. To approve the submission of the Council's Pre-Qualification Questionnaire to the Homes and Communities Agency (HCA), applying for Investment Partner status with the HCA.
  8. To consider and accept tenders received for the construction works on sites included within the Council House Building Programme.
  9. To determine whether, in addition to the potential development sites already considered by the Cabinet, sites with development potential within the following categories should be added to either the House Building Programme's Primary List or Reserve List and detailed development appraisals and financial appraisals undertaken by the Council's Development Agent:
    - (a) Other specific garage sites comprising 6 or less garages;
    - (b) Specific garage sites where garage vacancies arise with no waiting list of applicants; and
    - (c) Specific areas of Council-owned land on housing sites considered to be surplus to requirements.
  10. To determine whether sites on the Reserve List of potential development sites previously agreed by the Cabinet should be promoted to the Primary List, and detailed development appraisals and financial appraisals undertaken by the Council's Development Agent, due to:
    - (a) There being insufficient numbers of properties that can be viably developed from the Primary List of potential development sites to deliver a House Building Programme of 120 new homes over a six-year period; and/or
    - (b) The Cabinet subsequently deciding to increase the size of the House Building Programme and there being insufficient numbers of properties that can be viably developed to deliver a larger Programme.
  11. To monitor and report to the Cabinet on an annual basis:
    - (a) Progress with the Council House Building Programme; and
    - (b) Expenditure on the Housing Capital Programme Budget for the Council House Building Programme, ensuring the use (within the required deadlines) of the capital receipts made available through the Council's Agreement with the Department of Communities and Local Government allowing the use of receipts



from additional Right to Buy (RTB) sales as a result of the Government's increase in the maximum RTB Discount to be spent on house building.

12. To approve applications to the Homes and Communities Agency (HCA) (or any successor body) to obtain HCA Investment Partner Status (or similar), in order to enable the Council to seek funding from the HCA, and to approve funding bids to the HCA for developments within the Council House Building Programme (*added by Leader Decision – 21.3.14*).
13. To consider and approve the future use of any potential development site previously identified by either the Cabinet or Cabinet Committee as having possible development potential for Council House Building where it either does not gain planning consent, is deemed inappropriate to develop undevelopable by the Cabinet Committee for whatever other reason or where the development appraisal identifies that the site is economically undevelopable. (*Added by Leader Decision – 16.5.14*)
14. To decide, where necessary, the names of developments undertaken through the Council House Building Programme, following consultation with the Parish or Town Councils and Ward Members. (*Added by Leader Decision – 27.8.14*)
15. To appropriate Council-owned land, held for housing purposes and identified for Council house-building for planning purposes under provisions laid out in Section 122 of the 1972 Act and Section 226 (1) (a) of the 1990 Act on the grounds that the land is no longer required for the purposes for which it is currently held in the Housing Revenue Account. (*Added by Leader Decision – 21.10.14*)

(NB as at 6/7/15)

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## Article 11 - Audit and Governance Committee

### Statement of Purpose

1. The role of the Audit and Governance Committee is a key component of the Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial statements and provides a forum for considering ethical issues and ensuring high standards of conduct.
2. The purpose of the Committee is to provide independent assurance to the members of the adequacy of the risk management framework and internal control environment. It provides independent review of the Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal and external audit arrangements, helping to ensure efficient and effective assurance arrangements are in place.
3. The specific functions of the Committee are:

#### **Governance, risk and control**

- (a) to review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances;
- (b) to review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account the internal audit opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control;
- (c) to note the Council's overall approach to value for money in ensuring the authority is making best use of its resources.
- (d) to consider the Council's framework of assurance and ensure it adequately addresses the risk and priorities of the authority;
- (e) to monitor the effective development and operation of risk management in the Council;
- (f) to monitor progress in addressing risk-related issues reported to the Committee;
- (g) to consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions;
- (h) to review the assessment of fraud risks and potential harm to the Council from fraud and corruption;
- (i) to monitor the anti-fraud strategy, actions and resources;
- (j) to review the governance and assurance arrangements for significant partnerships or collaboration;

#### **Internal Audit**

- (k) to approve the Internal Audit Charter;
- (l) to review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations;
- (m) to approve the internal audit strategy and plan, including internal audit resource requirements, the approach to using other sources of assurances and any work required to place reliance upon these other sources. To approve any significant

interim changes to the plan and resource requirements and make appropriate enquires of both management and the Chief Internal Auditor to determine if there any inappropriate scope or resource limitations;

- (n) to consider regular reports from the Chief Internal Auditor which:
- update on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work;
  - highlights concerns about progress with the implementation of agreed actions or where management has accepted a level of risk that the Chief internal Audit considers is unacceptable to the Council;
  - reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement;
- (o) To consider the Chief Internal Auditor's annual report, including:
- the statement of the level of conformance with the Public Sector Internal Audit Standards and results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit;
  - the opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the Committee in reviewing the Annual Governance Statement;
- (p) To support the development of effective communication with the Chief Internal Auditor;

### **External Audit and Financial Reporting**

- (q) to consider the external auditor's annual letter, relevant reports and the report to those charged with governance;
- (r) to review and adopt the Statutory Statement of Accounts (yearly). Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit;
- (s) to consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts;
- (t) to be responsible for the appointment of the Council's external auditors and ensure it is in line with the requirements of the Local Audit and Accountability Act 2014;

### **Treasury Management**

- (u) to be responsible for the scrutiny of the Council's Treasury Management Strategy, including receiving regular reports on activities, issues and trends to support the Committee's understanding of treasury management activities, risks and associated assurances;

## **Accountability arrangements**

- (v) to report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions; and
- (w) to report to the full Council on a regular basis on the Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose.

## **Membership**

4. The Committee shall comprise 7 members, including 5 Councillors and 2 co-opted members. Councillors serving as members of the Committee shall be appointed at the Annual Council meeting of Epping Forest District Council for a term of office of one year and shall be eligible for re-appointment for further terms of office.
5. Seats on the Committee should be allocated so they are not all drawn from one political group and are also open to Councillors who are not affiliated to any political group.
6. Co-opted members shall serve for a period of 3 years from appointment. Such three-year appointments shall be overlapping in terms of their expiry dates. A co-opted member may serve for a total of two such terms as of right but may be considered for two further three-year terms, provided he or she is successful after open competition following public advertisement. Re-appointment for further terms shall be subject to satisfactory attendance.
7. Casual vacancies for members of the Committee who are Councillors which occur shall be filled at the next ordinary Council meeting (but not an extraordinary meeting) with a term of office expiring on the date of the next Annual Council meeting.

## **Eligibility for Membership - Councillor Members**

8. Councillors appointed to the Audit and Governance Committee may not also be members of the Cabinet or any Select Committee appointed by the Overview and Scrutiny Committee with responsibility for reviewing the Council's finances or financial procedures.
9. A Portfolio Holder Assistant (other than any Assistant involved in any portfolio dealing primarily with the Council's finances) appointed by the Leader of the Council shall be eligible for appointment to the Committee.
10. Appointment of Councillors shall be made on the basis of evidence of the aptitude, experience or interest and for this purpose the normal rules for pro rata appointments shall not apply.
11. Formal attendance standards be operated in respect of the three Councillor members when reappointment is under consideration by the Council's Appointments Panel and the Chairman and co-opted members of the Audit and Governance Committee be consulted informally about the appointment or reappointment of Councillors at the appropriate time.

### **Co-opted members**

12. Co-opted members, independent of the Council, shall be appointed by the Council on the basis of their professional expertise, experience and background as relevant to the role and responsibilities of the Audit and Governance Committee. Initial appointments of co-opted members and the filling of casual vacancies shall be made following public advertisement and interview, the latter conducted in accordance with arrangements agreed by the Council. If the number of suitable applicants exceeds the number of co-opted places on the Committee, the Council shall keep a waiting list of suitable applicants should casual vacancies occur.

### **Chairman and Vice-Chairman**

13. The Chairman and Vice Chairman of the Audit and Governance Committee shall be appointed at the first meeting of the Committee in each Council year for a term of one year expiring on the date of the first meeting of the Committee of the next Council year.
14. Casual vacancies in the position of Chairman and Vice-Chairman shall be filled in the same way as required in respect of members of the Committee;
15. Both Councillors and co-opted members serving on the Committee shall be eligible for appointment to the office of Chairman and Vice-Chairman.
16. Where the Chairman of the Committee is a Councillor, the Vice-Chairman will be appointed from among the Co-opted members. Where the Chairman is one of the Co-opted members, the Vice-Chairman shall be a Councillor.
17. The Chairman and Vice-Chairman shall be eligible for re-appointment.

### **Meetings of the Committee**

18. The Committee shall meet at least three times each financial year.
19. The Committee shall be entitled to require any Member, Level 4 or 3 Manager, their representatives or any other officer to attend their meetings in order to discuss any matters under discussion including the annual audit programme.

### **Decision Making**

20. Only the Councillors and co-opted members serving on the Committee shall be entitled to vote.
21. All members of the Committee shall be entitled to all documents, advice and facilities relevant to their membership of the Committee, regardless of their status as either a Councillor or Co-opted member.

### **Other Requirements**

22. All members of the Committee shall respect the confidentiality of Council information and proceedings where appropriate, particularly where exempt or confidential business is involved.

23. All co-opted members of the Committee shall be required to make a statutory registration of interests in the same form as those required of serving Councillors and to be aware at all times of the requirement to clear any interest relating to their work on the Committee.
24. Members of the Committee should seek to attend all meetings of the Committee unless there are exceptional circumstances which prevent this.
25. All members of the Committee should ensure that they participate fully in any training designed to assist them in their responsibilities as members of the Committee. Similarly, all members should act on appropriate advice and other information supplied by the Council to improve their effectiveness.

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## **Report to Constitution Working Group**

**Date of meeting: 1 November 2022**



**Epping Forest  
District Council**

**Subject: DocuSign – Proposed Amendment to Article 15 of the Constitution**

**Officer contact for further information: N Boateng (01992) 564323**

**Democratic Services Officer: V Messenger (01992) 564243**

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### **Recommendations/Decisions Required:**

- (1) That the Working Group consider and recommend to Council for adoption, the proposed amendment to Article 15 of the Constitution.**

### **Report:**

- 1.1. At the Working Group meeting of 30 June 2022, the Monitoring Officer reported that the Council is looking into adopting DocuSign. This is not as an alternative to wet signing but in addition, as there is a need that has been highlighted by the Covid pandemic and remote working.
- 1.2. The Monitoring Officer is assured that electronic signatures are legally binding and agreeable to the Land Registry. In addition, other local authorities are already using DocuSign satisfactorily.
- 1.3. In relation to anti-fraud concerns, a link to Government guidance on DocuSign was provided by the Monitoring Officer for the Working Group's last minutes of 30 June 2022 meeting (see Note no 3(a). For information: Government guidance on DocuSign can be viewed at this weblink: <https://www.gov.uk/government/publications/electronic-signatures-accepted-by-hmland-registry-pg82/practice-guide-82-electronic-signatures-accepted-by-hm-landregistry>
- 1.4. To ensure the Constitution is fit for purpose Article 15 – Finance, Contracts and Legal Matters, needs to be amended slightly at sections 6, 7 and 8. It is proposed that an extra sentence be added, as section (9), to read: The common seal may be in physical or electronic form as determined by the Monitoring Officer to give flexibility (see attached at appendix 1).
- 1.5. Pursuant to recommendation (1) above, the Working Group is asked to recommend to Council that use of DocuSign be approved.

### **Resource Implications:**

The recommendations of this report seek to ensure that the Council's Constitution remains fit for purpose.

### **Legal and Governance Implications:**

The Council's Constitution sets out procedures and rules for the operation of its functions and responsibilities.

### **Safer, Cleaner, Greener Implications:**

There are no implications arising from the recommendations of this report in respect of the Council's

commitment to the Climate Local Agreement, the corporate Safer, Cleaner, Greener initiative, or any crime and disorder issues within the district.

**Consultation Undertaken:**

The proposed amendment has been subject to consultation by the Monitoring Officer.

**Background Papers:**

None

**Risk Management:**

The Council's Constitution sets out procedures and rules for the operation of its functions and responsibilities.

**Equality:**

There are no equality implications arising from the recommendations of this report.

## **ARTICLE 15 - FINANCE, CONTRACTS AND LEGAL MATTERS**

1. This article refers on to the authority's Financial and Contract Rules, which are contained in Part 5 of this Constitution and to Sections 135, 151, 223 & 234, Local Government Act 1972 Part VIII, Local Government Finance Act 1988.

### **Financial Management**

2. The management of the Council's financial affairs will be conducted in accordance with:
  - (a) The Budget and Policy Framework set out in Part 4 of this Constitution; and
  - (b) Financial Regulations within Part 4 of this Constitution.

### **Contracts**

3. Every contract made by the Council will comply with the Contracts Rules set out in Part 4 of this Constitution unless a waiver has first been obtained by report to Portfolio Holder or the Cabinet as appropriate.

### **Legal Proceedings**

4. The Council's Legal Services Manager is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Paid Service considers that such action is necessary to protect the Council's interests. Further details are set out in the scheme of delegation in Part 3 of this Constitution.

### **Authentication of Documents**

5. Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Legal Services Manager or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### **Common Seal of the Council**

6. The Common Seal of the Council will be kept in a safe place in the custody of the Legal Services Manager. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.
7. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed or are required by the Procurement Rules in Part 4 of this Constitution..
8. The affixing of the Common Seal will be attested by person(s) authorised by the Leader or Cabinet as set out in Part 3 (Executive Delegations) of this Constitution.
9. **The common seal may be in physical or electronic form as determined by the Monitoring Officer to give flexibility.**

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## Report to Constitution Working Group

**Date of meeting: 1 November 2022**

**Subject: Programme 2025 Workstream – What the Constitution should look like?**



**Epping Forest  
District Council**

**Officer contacts for further information:** N Boateng (01992) 564323 / V Messenger (01992 654243)

**Democratic Services Officer:** V Messenger

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### **Recommendations/Decisions Required:**

- (1) That the Working Group consider if the Constitution is fit for purpose and if not, to suggest how the Constitution could be improved and/or streamlined, in addition to providing some guidelines on how best to proceed to complete this project in 2025.**

### **Report:**

- 1.1 Democratic and Electoral Services are undertaking a review of their ways of working to enable a fundamental review of the roles, responsibilities, systems, and structures so that the Teams can meet their future challenges together, which is known as Programme 2025.
- 1.2 Seven Programme 2025 workstreams encompass the following areas:
  1. Electoral Review
  2. Election Planning
  3. Developing our IT
  4. Shape of Meetings and Behaviours
  5. What should the Constitution look like?
  6. Our new ways of working
  7. What should our Structure and Roles look like?
- 1.3 Under the ongoing Electoral Review (workstream 1), the outcome of the Local Government Council Size and Boundary Ward Review, will lead to revisions of the Constitution and a review of governance arrangements, which the Working Group will be involved with in due course.
- 1.4 Workstream (5) – What the Constitution should look like? – will require the involvement of the Constitution Working Group, to ensure the Constitution is fit for purpose by 2025.
- 1.5 Democratic and Electoral Services have identified and suggested some improvements to facilitate user ability of the Constitution by members, officers, and the public. These are listed below and include the following:

#### Outcomes

Reduction in size of Constitution.

More use of plain English.

More delegation to Officers to reduce the number of meetings.

Increased agility, e.g: by use of generic job titles rather than names of officers to minimise constant updating.

#### Constraints

Inclusion of sections, such as the 'Financial Regulations' in the Constitution – could such sections be put in a separate document with a link to that document in the Constitution?

Link to the Constitution on the website displays too many sections and is unwieldy to use.

### Risks

Constitution considered difficult to use / impenetrable to all but Legal and Democratic Services staff.

- 1.6 The Constitution Working Group is asked to consider if the Constitution is currently fit for purpose. If it is not, members are asked for their suggestions on how the Constitution could be improved and/or streamlined, in addition to providing some guidelines on how best to proceed with this workstream project that is due for completion in 2025.

### **Resource Implications:**

The purpose of this report seeks to ensure that the Council's Constitution remains fit for purpose.

### **Legal and Governance Implications:**

The Council's Constitution sets out procedures and rules for the operation of its functions and responsibilities.

### **Safer, Cleaner, Greener Implications:**

There are no implications arising from the considerations of this report in respect of the Council's commitment to the Climate Local Agreement, the corporate Safer, Cleaner, Greener initiative, or any crime and disorder issues within the district.

### **Consultation Undertaken:**

None – the report is seeking to start consultations with the Working Group for its views on how best to improve the Constitution.

### **Background Papers:**

None

### **Risk Management:**

The Council's Constitution sets out procedures and rules for the operation of its functions and responsibilities.

### **Equality:**

There are no equality implications arising from the recommendations of this report.