

Bolsover District Council

Standards Committee

15th October 2018

Review of the Council's Constitution

Report of the Head of Corporate Governance and Solicitor to the Council & Monitoring Officer

This report is public

Purpose of the Report

- To recommend proposed amendments to the Council's Constitution for consideration by the Standards Committee prior to submission as part of the Annual Review of the Constitution to Council for adoption.

1 Report Details

- 1.1 The Constitution is the Council's 'rulebook'. It sets out how the Council operates and how it makes decisions. Council approved its latest version of the Constitution at the Annual Council meeting in May 2018. Council also approved amended Terms of Reference for the Strategic Alliance Joint Committee in September 2018. These changes have been implemented in the version that shall be published following this review of the Constitution.
- 1.2 One of the functions of the Standards Committee is to undertake an annual review of the Council's Constitution to ensure it is up to date and in line with legislation and current circumstances. The following areas have been identified for review:

Proposals contained within this report:

- Delegation of decisions to write off debts for rent arrears
- Functions of the Joint Employment Committee
- Edit to Proper Officer Provisions in relation to Elections
- Edits to the Constitution proposed by the Portfolio Holder for Corporate Governance resulting from Member discussions.

Proposals still under review and will be reported to a future meeting:

- Review of Licensing Committee Terms of Reference and Composition
- Joint ICT Committee Terms of Reference
- Review of Members Code of Conduct
- Review of Employee Code of Conduct
- Standards Committee Terms of Reference

- Reflecting Key Decision Limits in other areas of the Constitution
 - Audit Committee Terms of Reference
 - UECC Terms of Reference
 - Safety Committee Terms of Reference
 - Harp Panel TOR / Allocations Policy
 - Functions Scheme and Articles
 - Contract Procedure Rules – Contract Formalities
 - Minor wording changes or updating of job titles (housekeeping)
- 1.3 Details of the proposed amendments in relation to the first list of areas as above are attached at **Appendix 1**. This also outlines the rationale behind each proposal.
- 1.4 Where revised versions of each section have been produced, these are also attached as appendices, showing the tracked changes in comparison to the current documents.
- 1.5 Further amendments in addition to those set out in this report may also be proposed which will correct and up-date terminology, numbering issues and references to job titles but will not amount to substantive changes to the rules or articles.

Joint ICT Committee Terms of Reference

- 1.6 The Terms of Reference for Joint ICT Committee were identified under the Constitution Review in 2017/18 were considered by the Joint ICT Committee at a meeting in April 2018.
- 1.7 The Committee did not consider it necessary to revise their Terms of Reference at that time as they agreed to continue in their role providing oversight of the ICT service and that they would refer any issues requiring decisions back to each authority. Members agreed that the Terms of Reference should be looked at again after May 2019.
- 1.8 As part of the Constitution Review Standards Committee is asked to consider the need to implement any changes necessary in time for the new Municipal Year in May 2019 rather than making changes later in that year, as this may impact on appointments and other matters of implementation. It is therefore proposed that the Standards Committee review the Joint ICT Committee Terms of Reference during 2018/19 and that the Joint ICT Committee be asked for their input in to the review at their Annual meeting in November 2018.
- 1.9 In planning the delivery of the 2018/19 review of the Constitution it has been identified that there is a need for an additional meeting in order for members of the Standards Committee to give due consideration to the proposals put before them. Therefore it is proposed that an informal meeting of the Constitution Working Group be held in late November comprising of the membership of the Standards Committee, from which recommendations can be made for approval at the January Standards Meeting.

- 1.10 Members are requested to set a meeting on one of the following options for dates:

Monday 19th November at 2pm
Friday 23rd November at 2pm
Thursday 29th November at 10am

2 Conclusions and Reasons for Recommendation

- 2.1 To ensure the Council has in place a fit for purpose Constitution which complies with English law.

3 Consultation and Equality Impact

- 3.1 The Chief Executive, Chief Financial Officer, Monitoring Officer and SAMT are consulted at various stages of the Constitution Review.
- 3.2 An Equality Impact Assessment has not been necessary as part of this review.

4 Alternative Options and Reasons for Rejection

- 4.1 Members may consider alternative options to each of the proposals put forward, where legally permitted.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 Failure to ensure the Constitution meets legal requirements can leave the Council open to challenge, as does failure to comply with the provisions of the Constitution. It is therefore essential that Constitution is regularly reviewed and given robust oversight.

5.2 Legal Implications including Data Protection

- 5.2.1 The Council is required under the Localism Act 2011 to prepare and keep up-to-date a constitution that contains its standing orders, code of conduct, such other information that the Secretary of State may direct and such other information that the authority considers appropriate.

5.3 Human Resources Implications

There are no human resources implications arising from the proposals within this review.

6 Recommendations

- 6.1 That the Committee consider the proposals for amendments to the Council's constitution as set out in Appendix 1 to the report and support that they be submitted to Council as part of the Constitution Review.

- 6.2 That the Committee give consideration to the list of areas of the constitution to be reviewed, edit it as necessary and agree for a further report to be submitted to the next meeting.
- 6.3 That the Committee conduct a review of the Joint ICT Committee Terms of Reference during the 2018/19 Municipal Year and request the Joint ICT Committee to feed in to this review at their forthcoming meeting in November 2018.
- 6.4 That a meeting of the Constitution Working Group be set for late November to consider some elements of the Constitution Review and make recommendations to the meeting of Standards in January 2019.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the portfolio holder been informed	Yes
District Wards Affected	None
Links to Corporate Plan priorities or Policy Framework	Demonstrating good governance

8 Document Information

Appendix No	Title
1	Summary of proposals and rationale
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None.	
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