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To: Chair & Members of the
Standards Committee

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Friday, 2 July 2021

Dear Councillor

STANDARDS COMMITTEE – MONDAY, 5TH JULY, 2021 AT 14:00 HOURS

I refer to your recently circulated agenda for the above meeting and now enclose a copy of the papers which were marked 'To Follow'.

Yours faithfully

A handwritten signature in black ink that reads 'Sarah Steenberg'.

Solicitor to the Council & Monitoring Officer

The logo for Bolsover District Council, featuring the word 'Bolsover' in a large, black, serif font, with 'District Council' in a smaller, black, sans-serif font below it. A black swoosh underline is positioned beneath the text.

We speak your language
Polish **Mówimy Twoim językiem**
Slovak **Rozprávame Vaším jazykom**
Chinese **我们会说你的语言**

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STANDARDS COMMITTEE

Monday, 5th July, 2021 at 14:00 in the Council Chamber, The Arc, Clowne

Item No.	PART 1 – OPEN ITEMS	Page No.(s)
6.	Review of the Council's Constitution	3 - 9
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To consider the Standards Committee Work Programme for the 2021/22 municipal year.

Bolsover District Council

Standards Committee

5 July 2021

Review of the Council's Constitution (Part 1)

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

Classification: This report is public

Report By: Nicola Calver, Governance Manager

Contact Officer: Nicola Calver – 01246 217753
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PURPOSE / SUMMARY

To consider the list of areas for review within 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.

RECOMMENDATIONS

1. That the Committee give consideration to proposals for review and support the submission of the proposals to Council as part of the Constitution Review at a future meeting.

Approved by the Portfolio Holder – Corporate Governance

IMPLICATIONS

Finance and Risk: Yes ☒ No ☐

Details:

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

On Behalf of the Section 151 Officer

Legal (including Data Protection): Yes ☒ No ☐

Details:

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

On Behalf of the Solicitor to the Council

Staffing: Yes ☐ No ☒

Details:

There are no human resources implications arising from the proposals within this report. Some areas for review may impact on staff. These implications will be addressed in relation to the specific areas for review.

On behalf of the Head of Paid Service

DECISION INFORMATION

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: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <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
District Wards Significantly Affected	None
Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SAMT <input checked="" type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	Yes Details: Relevant officers are consulted at various stages of the Constitution Review

Links to Council Ambition (BDC)/Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.

Demonstrating Good Governance

REPORT DETAILS

1 **Background** *(reasons for bringing the report)*

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 June 2021.

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.

2. **Details of Proposal or Information**

2.1 The table below sets out how these areas of review will be considered over the municipal year and where the matters need to be considered by other Committees for consultation, these have been identified

Area for Review	Lead Officer	Dates for Consideration
Questions by Members – scope and withdrawal	Governance Manager	July 2021
Delegations Scheme Amendments	Governance Manager	July 2021
Housing Allocations Review Panel (HARP) TOR	Monitoring Officer / Head of Housing Management and Enforcement	July 2021
Deadlines	Monitoring Officer / Governance Manager	July 2021
Petitions Scheme	Monitoring Officer	September 2021
Independent Persons – Terms of Office	Governance Manager	September 2021
Licensing TOR	Governance Manager	September 2021
Proper Officer Provisions	Governance Manager / Legal Team Manager	September 2021
Call-in Procedure	Monitoring Officer, Governance Manager and Scrutiny and Elections Officer	September 2021

Employee Code of Conduct	HR & Organisational Development Manager	November 2021
Minor wording changes or updating of job titles (housekeeping)	Governance Officers	Once final draft version produced

- 2.2 The areas for review for this meeting in the above table are detailed in the appendix to the report and set out the proposal and/or rationale and the sections of the Constitution to be amended.

3 Reasons for Recommendation

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

4 Alternative Options and Reasons for Rejection

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

DOCUMENT INFORMATION

Appendix No	Title
1	Rationale and details of changes
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	

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
Scope of Council Questions by Members	<p>There is currently a disparity between the scope for questions from members of the public and councillors. The scope applied to public questions does not currently apply to questions on notice by councillors. A change to Procedure Rule 9 to include the same scope as for questions from members of the public (as set out below) would bring both Procedure Rules 8 and 9 into line with each other.</p> <p><i>The Monitoring Officer may reject a question if:</i></p> <p><i>(a) it is not about a matter for which the Council has a responsibility or which affects the district;</i></p> <p><i>(b) it is defamatory, frivolous or offensive;</i></p> <p><i>(c) it is substantially the same as a question which has been put at a meeting of the Council in the past six months;</i></p> <p><i>(d) it requires the disclosure of confidential or exempt information;</i></p> <p><i>(e) it breaches any procedure rule;</i></p> <p><i>(f) it relates to an item on the agenda for that Council meeting; or</i></p> <p><i>(g) it relates to a planning application that is in the process of being determined by the District Council.</i></p> <p><i>If a question is rejected the person who submitted it will be notified in writing before the meeting and given the reasons for the rejection.</i></p>	Part 4 – Council Procedure Rule 9

Withdrawal of Questions by Members	<p>There is no provision within the constitution for a Councillor to withdraw a question which has been submitted, accepted and published. Referring to section 9 with the Council Procedure Rules the Constitution is silent on this scenario. This matter has been referred to the Standards Committee to agree clarity by adding a 9.10 to page 80 of the May 2021 Constitution (which is currently being published).</p> <p>9.10: Withdrawal of Questions</p> <p><i>A question which has been accepted and published may be withdrawn by the Member who asked it provided that they indicate this in writing to the Monitoring Officer and the Member to which the question has been asked not later than 24 hours in advance of the meeting.</i></p>	<p>Part 4 – Council Procedure Rule 9</p> <p>Adding in 9.10.</p>
Delegation Scheme Amendment	<p>There are some statutory matters which are missing from the Proper Officer provisions within the Scheme of Delegation. Provisions required for the notification and control powers from transmissible diseases which are given to Proper officers within:</p> <p><i>Public Health (Control of Disease) Act 1984</i></p> <p><i>S11, 18, 20, 21, 22, 24, 29, 31, 36, 40, 42, 43 and 48</i></p> <p><i>Public Health (Infectious Diseases) Regulations 1988</i></p> <p><i>Regulations 6,8,9,10</i></p> <p>Sch 3 and 4</p> <p>As these are in statute, it is just a matter of governance to ensure that they are documented within the Constitution. With Standards Committee approval, these will be added under the Monitoring Officer's delegation</p> <p>13.20 To make appropriate changes to the Constitution arising from any new legislation, administrative errors or conflicts in interpretation.</p>	Proper Officer Provisions

Housing Allocations Review Panel (HARP)	<p>The Housing Allocations Review Panel (HARP) membership (set out at (1) on page 54 of the May 2021 Constitution which is currently being published) needs to be updated as the Housing Needs Manager post has been disestablished. It is proposed to substitute the Housing Needs Manager post with <i>the Community Safety and Enforcement Manager</i> post.</p> <p>Also, it is proposed to change (2) from ‘ The Housing Needs Manager or the Housing Enforcement Manger must be in attendance’ to <i>‘The Housing Enforcement Manager or the Community Safety and Enforcement Manager must be in attendance with at least one other panel member.’</i> This change would ensure clarity on who needed to be present and that the panel should comprise of at least two officers.</p> <p>The changes to job titles will be amended under the housekeeping process. With Standards Committee approval, the second change will be added under the Monitoring Officer’s delegation</p> <p>13.20 To make appropriate changes to the Constitution arising from any new legislation, administrative errors or conflicts in interpretation.</p>	<p>Part 3 – Responsibility for Functions</p> <p>3.6 Committee Terms of Reference – HARP sections (1) and (2)</p>
Deadlines	<p>Clarity is required when no time has been specified in respect of a deadline.</p> <p>This would require the following sentence to be added to the Council Procedure Rules -</p> <p><i>‘Unless otherwise stated, or where ‘working day’ is used as a description, a deadline within this constitution is deemed to be 5.00pm’.</i></p>	<p>Part 4.1 – Council Procedure Rules</p>

**BDC STANDARDS COMMITTEE WORK PROGRAMME
2021/2022**

Meeting date	Item	Comments
5 July 2021	<p>New Councillor Code of Conduct</p> <p>Review of Constitution – Part 1</p> <ul style="list-style-type: none"> • <i>Questions by Members</i> • <i>Delegations Scheme Amendments</i> • <i>HARP TOR</i> • <i>Deadlines</i> 	
20 September 2021	<p>CCC/CSS report & annual summary and LGSCO annual letter and report</p> <p>Review of the Constitution - Part 2</p> <ul style="list-style-type: none"> • <i>Petitions Scheme</i> • <i>Licensing TOR</i> • <i>Call-in Procedures</i> • <i>Proper Officer Provisions</i> 	
8 November 2021	<p>RIPA Annual Review</p> <p>Review of the Constitution - Part 3</p> <ul style="list-style-type: none"> • <i>Employee Code of Conduct</i> 	
24 January 2022	<p>Customer Service Standards and Compliments, Comments and Complaints Report – April to September 2021</p> <p>Gifts & Hospitality Review 2021</p> <p>Joint Whistleblowing Policy Review 2021</p>	

	Review of the Constitution - Part 4	
14 March 2022	Standards Committee Report Review of the Constitution - Part 5	