

Bolsover District Council

Council

3 March 2021

REVIEW OF THE COUNCIL'S CONSTITUTION

Report of the Monitoring Officer

Classification: This report is public

Report By: Sarah Sternberg, Monitoring Officer

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PURPOSE / SUMMARY

To consider proposed amendments to the Council's Constitution for adoption as part of the annual review conducted during the 2019/20 Municipal Year.

RECOMMENDATIONS

1. That the amendments to the Constitution detailed in Appendix 1 and set out in Appendix 2 be approved; and
2. That delegated power be given to the Monitoring Officer to make changes to the Constitution arising from any new legislation, administrative errors or conflicts in interpretation and this be incorporated in to the Delegation Scheme.

Approved by the Portfolio Holder – Corporate Governance

IMPLICATIONS

Finance and Risk: Yes No

Details:

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:

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
<p>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:</p> <p>BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/></p> <p>NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> Please indicate which threshold applies</p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>District Wards Significantly Affected</p>	None
<p>Consultation: Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></p>	Yes Details: Standards Committee

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

Our **Customers** by providing excellent and accessible services – Corporate Governance is also a legal requirement

REPORT DETAILS

1 Background

- 1.1 The Constitution is the Council's 'rulebook'. It sets out how the Council operates and how it makes decisions. Council approved the latest version of the Constitution at the Annual Council meeting in May 2019.
- 1.2 The Council is required by law to prepare and keep up to date a Constitution, which explains how the Council operates, how decisions are made and the procedures which are to be followed to ensure that these are efficient, transparent and accountable to local people.
- 1.3 Article 1 of the Constitution stipulates that the Monitoring Officer must monitor and review how the Constitution is working to make sure it gives full effect to its purpose.
- 1.4 One of the functions of Standards Committee is to undertake an annual review of the Constitution to ensure it is up to date and in line with legislation and current circumstances.
- 1.5 The Review of the Constitution is normally brought Annually to Council. However, it has been determined that Members may wish to see this year's changes in two parts – the first being this report detailing changes suggested but not agreed by Council during the 2019/20 Municipal Year. A second report will be brought to the Annual Meeting in May detailing changes suggested during the 2020/21 Municipal Year.

2. Details of Proposal or Information

- 2.1 The Standards Committee and the Constitution Working Group (*the Constitution Working Group is comprised of the complete membership of Standards Committee*) considered and supported the amendments proposed in the review of the Constitution at its meetings held during the 2019/20 Municipal Year. The following areas of the Constitution and related procedures have been reviewed;

1st July 2019	Proper Officer Provisions	
	Joint Employment Committee and Joint Appeals Committee	
	Budget and Policy Framework Rules – Inclusion of informing Portfolio Holders	
23rd September 2019	Standards Committee Terms of Reference	

	Joint Employment and Appeals Committee	Option 1 preferred – approved at Council on 13 th November 2019
	Questions and Motions	
	Membership of Budget Scrutiny Committee	
24 th February 2020	Delegation Scheme authority to implement legal changes	
	Reserves – approval of Transformation Reserve – Delegation	
	Reserves – approval of expenditure from Reserves by Executive	
	Time limits for Questions and Motions to Council.	
	Budget and Policy Framework/Financial Regulations conflict	
	Small increases in expenditure and effect on the Council's Budget	
	Council Procedure Rules Rule 8 Questions by the public	
	Access to Information – Member attendance during exempt items of Executive	

- 2.2 Each of the areas of review, other than housekeeping changes, have been set out in detail, including the rationale for the amendments proposed, in **Appendix 1**.
- 2.3 All of the amendments have been provided (where necessary) as tracked changes documents in **Appendix 2**.
- 2.4 'Housekeeping' amendments to the Constitution will be made following approval. These changes include formatting, numbering, and updating of job titles where applicable.

3 Reasons for Recommendation

- 3.1 The Standards Committee have carried out the review supported by the Monitoring Officer, Deputy Monitoring Officer and the Governance Manager with a particular focus on certain areas of the Constitution that required attention. These areas have been thoroughly discussed and the amendments proposed are recommended to Council for approval.
- 3.2 It is required by law to keep an up to date Constitution. Part of the role of the Standards Committee is to review the document on a regular basis and make recommendations to Council as necessary

4 Alternative Options and Reasons for Rejection

- 4.1 The Council may make other amendments or reject the amendments proposed as part of this review. However, the rationale for each proposal has been to ensure the Council's procedures comply with the law, are in line with best practice and are practical and up-to-date, as well as in accordance with other decisions taken by the Council. No alternative options are therefore proposed.

DOCUMENT INFORMATION

Appendix No	Title
1 2	Summary of Amendments to the Constitution Tracked Changes to the Constitution (can be viewed here)
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)	