

Bolsover District Council

Annual Council

23 June 2021

Review of the Constitution

Report of the Monitoring Officer and Solicitor to the Council

Classification: This report is public

Report By: Sarah Sternberg, Monitoring Officer

Contact Officer: Nicola Calver, Governance Manager
01246 217753 / nicola.calver@ne-derbyshire.gov.uk

PURPOSE / SUMMARY

To consider proposed amendments to the Council's constitution as recommended by the Standards Committee as part of the Annual Review for adoption by Council.

RECOMMENDATIONS

1. That the amendments to the Constitution detailed at Appendix 1 and set out in Appendix 2 be approved.
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.

Approved by the Portfolio Holder – Corporate Governance

IMPLICATIONS

Finance and Risk: Yes No

Details:

There are no financial or risk implications arising from this report.

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 any other information that the Authority considers appropriate.

On Behalf of the Solicitor to the Council

Staffing: Yes No

Details:

There are no staffing implications arising from this report.

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"/> <i>Please indicate which threshold applies</i>	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 type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input checked="" type="checkbox"/>	Yes Details: The Standards Committee, Monitoring Officer and Deputy Monitoring Officer have been consulted on the preparation of this document

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 Council meeting in March 2021.
- 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 it is working to make sure it gives full effect to its purpose.

2. **Details of Proposal or Information**

- 2.1 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.
- 2.2 The Standards Committee considered the Review of the Constitution at its meetings on 20 July 2020, 29 September 2020, 30 November 2020 and 22 February 2021. The following areas on the Constitution and related procedures have been reviewed during 2020/21:
 - Contract Procedure Rules
 - Review of High Hedges Committee
 - Safety Committee Terms of Reference
 - Council Procedure Rules
 - Delegation Scheme
 - Discharge of Executive Decisions (Planning/Local Development Orders)
 - Revised Cabinet Member Portfolios
 - Union/Employee Consultation Committee Terms of Reference
 - Planning Committee Terms of Reference/Scheme of Delegation
 - Local Plan Steering Group – change of title
 - Homeloss Payments – Delegated Decisions
 - Members Code of Conduct
 - Gifts & Hospitality
 - Extraordinary Council Meetings
 - Housekeeping Changes (such as formatting and job titles).

- 2.3 Each of the areas of review, other than the housekeeping changes, has been set out in detail, including the rationale for the amendments proposed, in Appendix 1.
- 2.4 All of the amendments have been entered into the Constitution at Appendix 2. The amendments appear in the document as 'tracked changes'.

Due to the size of the Appendix 2, a paper copy has not been issued to Members. The document is published on the Council's website and is accessible to Members on their iPads.

3 Reasons for Recommendation

- 3.1 The Standards Committee with support from the Monitoring Officer, Deputy Monitoring Officer and Governance Manager have carried out the review 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 to make such 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, 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	Summary of Amendments to the Constitution
2	Tracked Changes to the Constitution
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	