

Bolsover District Council

Meeting of Standards Committee on 24th April 2023

Review of the Council's Constitution

Report of the Assistant Director of Governance and Monitoring Officer

Classification	This report is public
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PURPOSE/SUMMARY OF REPORT

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.

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 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
Minor wording changes or updating of job titles (housekeeping)	Governance Officers	Once final draft version produced
Committee Terms of Reference	Scrutiny & Elections Officer	February 2023
Scrutiny Procedure Rules	Scrutiny & Elections Officer	February 2023
Call-in Procedure	Scrutiny & Elections Officer	February 2023
Budget and Policy Framework Rules	Scrutiny & Elections Officer	February 2023
Scheme of Delegation	Monitoring Officer	April 2023
Access to Information	Monitoring Officer	April 2023
Executive/Scrutiny Protocol	Scrutiny & Elections Officer	April 2023
Councillor Call for Action	Scrutiny & Elections Officer	April 2023
Members Roles and Responsibilities	Scrutiny & Elections Officer/Governance and Civic Manager	April 2023

Scheme of Delegation

- 2.2 The changes to the Scheme of Delegation for Officer predominantly are proposed to reflect organisational changes. In particular the delegated powers of the former Executive Director of Resources and Executive Director of Strategy and Development have merged into the powers of the Chief Executive Officer.
- 2.3 A revised version of the Scheme of Delegation for Officers is attached at Appendix 1.

Access to Information Rules

- 2.4 The Access to Information Rules within the Constitution set out how the public can attend Council meetings, committees and the Executive and how they can access agendas, reports and minutes of those meetings. Generally the public have the right to attend meetings and see background papers, however there are occasions when the public can be excluded from meetings and this is also set out in the Rules.
- 2.5 Most local authorities' constitutions are based on a model form of constitution including a model form of the Access to Information Rules. These follow the rules as set out in section 100A-H and Schedule 12A of the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012. Bolsover's Rules generally are in line with the model form however there are a number of omissions and points of clarification that need to be addressed. Following a review of Rules in comparison to other local authorities rules a number of changes are suggested.
- 2.6 Of specific note are the changes to the wording of Rule 4.2.12. Under the current wording the responsibility for deciding whether a report should be exempt sits with the report writer in consultation with the Monitoring Officer. This is

inconsistent with all other constitutions looked at as part of this review who places the responsibility with a senior officer such as Monitoring Officer, Chief Executive Officer. It is also inconsistent with the Officer Delegation scheme which has designated the Monitoring Officer as the Proper Officer for determining such matters.

- 2.7 A revised version of the Access to Information Rules is attached at Appendix 2.

Councillor Call for Action (CCfA)

- 2.8 As part of the current review of the Scrutiny elements of the Constitution, officers found that reference to our CCfA procedure had been omitted. It has been noted that the original CCfA procedure (approved by Standards Committee in 2009 and adopted at Council in 2010) had not been incorporated in to Part 4.5 of the Constitution as previously approved. Furthermore due to legislation amendments as a result of the Localism Act 2011, the original CCfA requires amendments. The new section added at 4.5.20 rectifies this and updates Part 4.5 as originally intended.
- 2.9 The legislation which brought this into effect revoked the previous requirement to enable members of the Council to refer any local government matter affecting their ward to a scrutiny committee (with the exception of excluded matters). This was known as Councillor Call for Action. The Council is required to continue with provision in its executive arrangements for crime and disorder CCfAs as the provisions of the Police and Justice Act 2006 still apply. This updated section sets out the required provision for Councillors who are not members of the appropriate Scrutiny Committee to be able to refer an item to one of the Council's Scrutiny Committees as long as the matter is relevant to the functions of the Committee and is not an excluded matter.
- 2.10 A revised Councillor Call for Action is attached at Appendix 3.

Executive/Scrutiny Protocol

- 2.11 Within the revised *Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities* released in May 2019 at paragraph 11(d) and Annex 1, guidance is given on the creation of an Executive/Scrutiny Protocol. The creation of such a Protocol has been discussed previously with Scrutiny Chairs and Executive but due to the impact of the pandemic and other project demands this has not been implemented to date. As part of the current wider review of the sections related to the Council's Scrutiny functions within the Constitution, the Protocol attached at Appendix 3 seeks to meet this element of the guidance. The aim of the Protocol is to outline practical expectations of the relationship between Scrutiny Members and the Executive. The Protocol formalises our existing working arrangements and provides additional clarity on the working relationship that isn't covered by the standard Scrutiny Procedure Rules at Part 4.5.
- 2.12 A proposed Executive/Scrutiny Protocol for insertion into the constitution is attached at Appendix 4.

Members Roles and Responsibilities

2.13 As part of the current review of the Scrutiny elements of the Constitution, officers noted that there was no clarification of the role of a Scrutiny Member. This detail has also been requested by existing Councillors due to the forthcoming election to enable them to clarify role expectations and responsibilities for incoming Councillors. The amendments to Part 5.6 aim to ensure that all possible roles and responsibilities are now addressed.

2.14 A revised Members Roles and Responsibilities section is attached at Appendix 5.

3. Reasons for Recommendation

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

4 Alternative Options and Reasons for Rejection

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

RECOMMENDATION(S)

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

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 the 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

Environment:

Please identify (if applicable) how this proposal/report will help the Authority meet its carbon neutral target or enhance the environment.

Details:

None

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

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: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? <i>(Only Key Decisions are subject to Call-In)</i>	N/A

District Wards Significantly Affected	None
Consultation: Leader / Deputy Leader <input type="checkbox"/> Executive <input type="checkbox"/> SLT <input checked="" type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input checked="" type="checkbox"/>	Details: Relevant officers are consulted at various stages of the Constitution Review

Links to Council Ambition: Customers, Economy and Environment.

DOCUMENT INFORMATION

Appendix No	Title
1	Revised Part 3.1 Scheme of Delegation for Officers
2	Revised Part 4.2 Access to Information Rules
3	Revised Part 4.5 with Councillor Call for Action
4	Proposed Executive/Scrutiny Protocol
5	Revised Part 5.6 Members Roles and Responsibilities

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 Executive you must provide copies of the background papers).

None