

Bolsover District Council

Standards Committee

23rd September 2019

<p>Review of the Council's Constitution (Part 2)</p>

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

This report is public

Purpose of the 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.

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 2019.
- 1.2 Standards Committee at its meeting on 1st July agreed the following areas for review:
- Union/Employee Consultation Committee Terms of Reference
 - Safety Committee Terms of Reference
 - Contract Procedure Rules – Contract Formalities
 - Parental Leave Policy and Constitutional Implications
 - Standards Committee Terms of Reference
 - Review of Employee Code of Conduct
 - Employment Rules
 - Joint Employment and Appeals Committee Terms of Reference
 - Questions and Motions to Council (limitations)
 - Delegation Scheme (MO Delegations)
 - Minor wording changes or updating of job titles (housekeeping)
- 1.3 Additional areas have also been identified, the first by the Section 151 Officer and the second by Members:
- Authorisation to spend from reserves by Executive
 - Membership of Budget Scrutiny Committee
- 1.4 The following table 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
Standards Committee Terms of Reference	Governance Manager	Standards Committee 23 rd September 2019
Joint Employment and Appeals Committee Terms of Reference	Monitoring Officer	Standards Committee 23 rd September 2019
Questions and Motions to Council (limitations)	Deputy Monitoring Officer	Standards Committee 23 rd September 2019
Membership of Budget Scrutiny Committee	Monitoring Officer	Standards Committee 23 rd September 2019
Contract Procedure Rules – Contract Formalities	Monitoring Officer	Standards Committee 25 th November 2019
Delegation Scheme (MO Delegations)	Monitoring Officer	Standards Committee 25 th November 2019
Authorisation to spend from reserves by Executive	Governance Manager/Section 151 Officer	Standards Committee 25 th November 2019
Parental Leave Policy and Constitutional Implications	HR and Organisational Development Manager and Governance Manager	UECC ??? Standards Committee 27 th January 2020
Review of Employee Code of Conduct	HR and Organisational Development Manager	UECC Standards Committee 27 th January 2020
Union/Employee Consultation Committee Terms of Reference	HR and Organisational Development Manager	UECC Standards Committee 27 th January 2020
Employment Rules	Monitoring Officer and Governance Manager	Standards Committee 27 January 2020
Safety Committee Terms of Reference	Health and Safety Manager and HR Organisational Development Manager	Safety Committee Standards Committee 27 th January 2020
Final report and any remaining issues for the year.		Standards Committee 20 th April 2019
Minor wording changes or updating of job titles (housekeeping)	Governance Officers	Once final draft version produced

- 1.5 The first three areas for review in the above table are detailed in **Appendix 1**. This sets out the proposal and rationale and the sections of the Constitution to be amended.

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.
- 2.2 The rationale for each proposal as part of the review is set out in Appendix 1.

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 Equality Impact Assessments may be carried out in relation to specific areas of review where the need arises. Details of any equality issues will be address in relation to each area of review.

4 Alternative Options and Reasons for Rejection

- 4.1 Members may consider alternative options to any 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

- 5.3.1 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.

6 Recommendations

- 6.1 That the Committee give consideration to proposals for review in Appendix 1 and support the submission of the proposals to Council as part of the Constitution Review in May 2020.

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: BDC: <i>Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> NEDDC: <i>Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <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
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	Areas for Review – Proposals and Rationale: <ul style="list-style-type: none"> • Standards Committee Terms of Reference • <i>Joint Employment and Appeals Committee Terms of Reference – To Follow</i> • Questions and Motions to Council (limitations) • Membership of Budget Scrutiny Committee
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.	
Report Author	Contact Number
Nicola Calver, Governance Manager/ Donna Cairns, Senior Governance Officer	01246 217753 01246 242529

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
Standards Committee Terms of Reference	<p>In response to Standards Committee's consideration of the recent Scrutiny Review and the Parliamentary Committee's Review in to Standards in Public Life, a revised Terms of Reference (TOR) is presented for consideration at Appendix 2.</p> <p>The tracked changes in the attached document consider revisions including:</p> <ul style="list-style-type: none"> • Inviting Parish Council representatives to sit on the Committee, without voting rights, as a means to improve transparency, impartiality, and involve the district in Standards matters. • Having an oversight, not only of Member Training on Code of Conduct matters, but of Member attendance at the training. • Reviewing Member attendance at Committee Meetings on behalf of the Authority. • Placing an emphasis on the public face of Standards within Bolsover, by review of the website content, and consideration of training for Parish Councils and promotion of understanding of the code of conduct within the district. • Retaining an independent Chair of the meeting. <p>It would be useful for Members of the Committee to discuss the matter of Independent Persons Terms of Office.</p> <p>The recommendations from the Scrutiny Review are attached at Appendix 3.</p>	Article 9 and the TOR contained within Part 3.
Joint Employment and Appeals Committee	<i>Please see separate report (Appendix 4) to follow.</i>	Pages 61 and 62 Part 3 Responsibility for Functions
Questions and Motions	Please see attached report at Appendix 5 .	Council Procedure Rules at Part 4

<p>Membership of Budget Scrutiny Committee</p>	<p>Currently under the Council's Constitution all the members who are not members of the Executive are automatically members of the Budget Scrutiny Committee. This is because this Committee deals with the scrutiny role in the development of the Council's budget and accordingly it was felt should involve all scrutiny members in the process.</p> <p>It has been proposed by a member that there should be a mechanism for a member to decline to be a member of the Budget Scrutiny Committee.</p> <p>This would involve an alteration to the Scrutiny Procedure Rules at 4.5.1(2).</p> <p>My suggestion was that members be allowed to resign from the Committee following appointment at the Annual Meeting in May and that the Rules be amended to allow this.</p> <p>An alternative suggestion is that members "opt in" to membership of the Committee and effectively choose to be members. Having considered this proposal I don't believe this could work. The Council would not have appointed the membership of the Committee as is required by law. It is only the Council that can appoint to Committees. This is why at the Annual Meeting the membership of all Committees is agreed. In this scenario it is hard to see when and by whom the appointment is made.</p> <p>These appointments have to be made in accordance with the Political Proportionality Rules. Compliance could not be guaranteed if an "opt in" procedure was used as it wouldn't be known until much later who was on the Committee and who was not.</p> <p>Were it possible legally, it would not be certain what the membership off the Committee was. The appointments to Committees at Annual Council is about the public knowing who is representing them on particular Committees. The public would have no idea.</p> <p>It also requires members to take action at a time when everyone is very busy –</p>	<p>Scrutiny Procedure Rules at 4.5.1(2) page 135.</p>
--	---	---

	<p>particularly when everything is new following elections and people are uncertain as to what is needed and what they have to do. This would be an extra burden on scrutiny members.</p> <p>Recommendation that members consider the options.</p>	
--	---	--