

Report of the Head of Governance

Audit and Governance Committee, 15 November 2023

REVIEW OF THE COUNCIL'S CONSTITUTION

1. Purpose of the Report

- 1.1 To set out the approach to the review of the Council's Constitution and the establishment of an elected Member working group.

2. Background

- 2.1 Under section 9P of the Local Government Act 2000 (LGA 2000) the Council is under a duty to prepare and keep up to date a Constitution. Section 9P of the LGA 2000 states that the Constitution must contain:

- The standing orders/procedure rules;
- The Members' Code of Conduct;
- Such information as the Secretary of State may direct;
- Such other information (if any) as the Council considers appropriate.

3. Purpose of the Constitution Review

- 3.1 The Council has a duty to keep its' Constitution under review. This includes all relevant codes and protocols, and the procedure rules for committees, as well as corrections, updates and amendments.
- 3.2 The Constitution needs to provide the framework to enable the Council to operate effectively through:-
- good governance behaviours such as transparency, accountability, leadership and participation
 - effective officer/member relationships
 - clear and effective decision-making with an effective scheme of delegations that utilises officer expertise
 - clarity and consistency
- 3.3 Whilst the Constitution has been updated as and when required, a holistic review is proposed to ensure that the Constitution not only complies with legislative provisions and represents best practice but continues to reflect the values of the Council and facilitates accountable decision-making.
- 3.4 The review also needs to support the Council's wider transformation programme in moving towards the strategic optimum approach that ensures we are operating constitutional arrangements in the most efficient and effective way whilst ensuring we remain compliant with statute.

4. Scope of the Review

- 4.1 The review will be undertaken in phases to include style format and structure, alongside a review of content to ensure that the governance framework facilitates clear and effective decision making whilst streamlining arrangements wherever possible.

5. Constitution Working Group

- 5.1 It is proposed that a cross party working group be established to consider options and proposals to advise the review and the development of the Constitution. Membership would reflect, but not form part of the Council's political balance and comprise:-

4 Labour Group
1 Conservative Group
1 Liberal Democrat Group

- 5.2 Membership would not be limited to those sitting on the Audit and Governance Committee and Group Leaders would be approached for appointments. As representatives of their Groups, it would be important that Working Group members actively engage with councillors in their Group to consider any proposed changes and present the agreed views and comments of their Group back to the Working Group, not just their own perspective.

- 5.3 It is proposed that the following principles be applied to enable Members and officers to work together collaboratively to frame a new Constitution:

- Transparency – makes it clear what our rules are
- Accountability – explains clearly who makes which decisions
- Efficiency – keeps the cost of decision making down
- Accessibility – is accessible to all
- Inclusivity – encourages public participation
- Concise – describes what it needs to succinctly

The proposed Terms of Reference for the working group are attached at Appendix A.

6. Phasing of Review

- 6.1 An initial review has been undertaken to prepare the groundwork for more detailed examination by elected Members. This early stage included a review of legislative requirements and a high level content review.
- 6.2 Work is also ongoing to ensure that current officer delegations are accurate and up to date and any amendments to these will be taken to full Council for approval in the usual manner.
- 6.3 In tandem, a review of the Contract Procedure Rules has been undertaken and amendments are scheduled to be presented to the Audit and Governance

Committee on 15 November 2023 in advance of full Council on 1 February 2024. Any changes agreed will need to be reflected in the Constitution.

6.4 Any drafts of new and/or revised sections would be submitted to the Audit and Governance Committee for formal consideration prior to submission to Full Council for adoption.

6.5 A review timeline is set out at Appendix B.

7. Legal & Risk Implications

7.1 Section 9P of the Local Government Act 2000, every local authority is under a duty to prepare and keep up to date its Constitution. This review and the development of a review programme will help to ensure that these legal requirements are met.

7.2 There are no significant risks arising from this report. Conducting a review process would help to reduce any risks that could arise as a result of the Constitution not properly supporting decision making and delivery of Council services.

8. Recommendations

8.1 That an elected Member working group be established to consider options and proposals to advise the review and the development of the Constitution;

8.2 That the terms of reference for the Constitution Review Working Group as set out in Appendix A of the report be noted; and

8.3 That the approach, programme and timeline for the Constitution Review as set out in the report and Appendix B be noted.

10 Appendices

Appendix A – Elected Member Constitution Review Working Group Terms of Reference

Appendix B – Timeline

Contact officer: Carol Tague, Head of Governance
Date: 31 October 2023

Appendix A – Draft Terms of Reference

Constitution Review Working Group

Aim

To ensure that the Council is governed by a modern and dynamic Constitution which reflects the Council's core values and enables agile, lawful and effective decision-making.

Terms of Reference

The Constitution Review Working Group will review the following aspects of the constitution in order to identify any amendments that could be made to enhance Council business:-

1. Structure, format and presentation:-

- To ensure that content is clear, consistent, accessible to the public and useable for both councillors and officers and future-proofed as far as possible.
- To observe plain English principles when drafting and adopt a clear modern approach to layout.
- To review the structure and determine whether it could be simplified and streamlined.

2. **Legislative content** to ensure that it is up to date and line with current statutory requirements.

3. **Governance framework** to ensure that it continues to align with the Council's values and clearly sets out the Budget and Policy Framework and responsibility for functions.

Membership and Role of the Working Group

1. The Working Group shall comprise 6 elected Members of the Council to be nominated by Group Leaders.
2. The membership of the Working Group will reflect, though will not form part of the Council's political balance.
3. The Chair will be appointed at the first meeting of the Group.

Rules of Operation

1. The Working Group is an informal group and has no power to make decisions. However, it can make recommendations which would be considered by full Council.
2. Meetings shall be held in private.
3. For the purposes of accuracy and transparency, notes and actions shall be taken of the matters considered.
4. Members are reminded that the rules set out in the Code of Conduct with regard to making declarations of interest will apply to the Working Group.

Voting

It is hoped that a consensus will be achieved from the Working Group, however if this is not possible any vote will be subject to a simple majority. In simple majority voting the Chair will have a casting vote.

Quorum

The quorum of a meeting of the Constitution Working Group will be 50% of the membership.

Frequency of Meetings

The Constitution Working Group will meet as and when required. All meetings will be held in private and dates and times of meetings will be agreed by the Working Group.

Administration of the Constitution Working Group

Agendas will be sent out 3 clear working days before the meeting and action notes will be provided seven clear working days after the meeting.

Phase 1 – Initial groundwork September to November (report to full Council 23 November 2023)

Governance Topic	Action/themes	What will the review strand look to achieve	Indicative timetable for decision
Member Engagement Strategy	To establish a politically balanced Task and Finish Group	To develop targeted member engagement approach to gauge as broad a view on any proposed governance changes	Audit & Governance Committee 15/11/23
Statutory constitutional requirements	Review of content to ensure compliance with statutory minimum requirements to be included within Constitutions.	The requirements of The Local Authorities (Standing Orders) Regulations 1993, the Local Authorities (Standing Orders) (England) Regulations 2001, the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 and 2015, Local Government Act 2000 (Constitutions) (England) mapped against the current Constitution to ensure compliance.	Any amendments reported to full Council 23/11/23
High level content review	To ensure that general content, such as role and service titles is up to date and the consistent use language throughout.	A high-level content overview to ensure that all documentation is up to date and consistent, superfluous content removed and opportunities for hyperlinks etc identified.	Any amendments reported to full Council 23/11/23
Legislative review	Review of accuracy and currency.	A legislatively compliant base document on which to start the review process.	Any amendments reported to full Council 23/11/23

Phase 2 – Structure, functions and Scheme of Delegation (report to full 28 February 2024)

Governance Topic	Action/themes	What will the review strand look to achieve	Indicative timetable for decision
Functions and Policy Framework	To set out the responsibility for functions ie Executive, Non-Executive and Local Choice and clearly define the Council's policy framework.	To ensure that decision making is compliant with legal requirements and provide clarity and consistency in the reporting of items to full Council.	A&G Committee 24/01/24 Full Council 02/02/23
Scheme of Delegation (Parts 1 & 3)	A review of the Scheme of Delegation to Officers	This strand will look at different model schemes, with a view to ensuring that BMBC's scheme of delegation facilitates effective and efficient decision making. Alongside this there will be an analysis of current legislative provisions, ensuring that any superseded, new or repealed legislation is accounted for, supported by officer focus groups.	A&G Committee 24/01/24 Full Council 02/02/23

Phase 3 – Member Development (report to full Council 28 March 2024)

Member Development	Review of committee related elected Member learning and development	To consider the introduction of mandatory elements to the elected Member training programme such as planning and licensing.	A&G Committee 20/03/24 Full Council 28/03/24
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