



Report to Full Council

Date: 21 April 2021

Reference number: TBC

Title: Review of the Constitution

Author and/or contact officer: Nick Graham Service Director Legal and Democratic Services
nick.graham@buckinghamshire.gov.uk

Ward(s) affected: none specific

Recommendations: Council is asked to resolve:-

1. To adopt the proposals for changes to the Constitution detailed in Appendices A and B.
2. That the Monitoring Officer has delegated authority to determine the final amendments in relation to any in principle proposals which are adopted with the approval of the Constitution Members Working Group or as detailed within the proposals.
3. That the Monitoring Officer has delegated authority to amend the Constitution with the adopted proposals and the final amendments of in principle proposals together with any associated necessary incidental amendments.

Reason for decision: To update the Constitution to allow better and more transparent decision-making.

Content of report

- 1.1 Under s9P Local Government Act 2000 the Council is required to prepare and keep up to date a Constitution containing the standing orders of the Council and such other information as is required or is desirable. On 27 February 2020 Buckinghamshire Council Shadow Authority adopted the Buckinghamshire Council Constitution to have effect from 1 April 2020. It was also resolved that the Constitution would be reviewed in April 2021 to ensure the Council's operation as a new authority was properly supported and governed by the Constitution.

- 1.2 Oversight of the Constitution is shared between the Audit and Governance Committee (in relation to decision making, the Contract Procedure Rules and the Financial Procedure Rules) and the Standards and General Purposes Committee (ethics and standards and the operation of the Code of Conduct).
- 1.3 The power to change the Constitution is reserved to full Council via recommendation from the Standards and General Purposes Committee. The Monitoring Officer also has delegated authority to make minor amendments where appropriate.
- 1.4 A Constitution Members Working Group consisting of the Chairmen and Vice-chairmen of both the Audit and Governance Committee and the Standards and General Purposes Committee has met a number of times to consider proposed changes and provide initial comments to help inform the review of the Constitution as required by full Council. Feedback from appropriate members and officers to the proposals has also been obtained.
- 1.5 The Councillor Code of Conduct is part of the Constitution and on 25 February 2021 the Standards and General Purposes Committee considered the Local Government Association Model Code of Conduct as a replacement for the current Code of Conduct. Whilst in general agreement with the Model Code some amendments were required before it would be recommended as a replacement Code for Buckinghamshire Council.
- 1.6 The proposals for changes to the Constitution, apart from the Code of Conduct, were presented to the Audit and Governance Committee on 24 March 2021. The proposals were approved without amendment and referred to Standards and General Purposes Committee.
- 1.7 On 8 April 2021 the Standards and General Purposes Committee considered the proposals and resolved to recommend to full Council that the Constitution be updated as detailed in Appendix A to this report.
- 1.8 Comments relating to the proposals were as follows:
 - Paragraph 9 – registration to speak at Planning Committee: Members commented that this should be as easy as possible. It is anticipated that the process for this should be dealt with outside the Constitution to allow changes to be made as circumstances allow.
 - Paragraph 16 – terms of reference for Strategic Sites Committee: this originally included the wording “*exceptionally, smaller schemes may be considered by the Strategic Sites committee*” which had originally been agreed by the Audit and Governance Committee. However after further consideration by officers and the Cabinet Member for Planning it was proposed that this line is not required as the other amendments provide the clarity needed: applications which meet the criteria at a. b. and c. are those which come within the remit of the

Strategic Sites Committee and the remainder is for illustration and example only and are not criteria in themselves. Accordingly the Standards and General Purposes Committee agreed to the removal of this amendment.

- Paragraph 16a – notification of referral to Strategic Sites Committee: due to issues encountered by members it was requested that this was included as a further recommendation.
- Paragraph 24 – approval process for contract waivers: members commented that that as reports to the Audit and Governance Committee were retrospective the removal of the Monitoring Officer approval was not appropriate as this related to overall legality. It was acknowledged that the S151 Officer has responsibility for financial governance which would be part of this. It is considered that commercial rather than legal issues would normally be paramount. As a business case is required for each waiver (subject to proposal 23 that this is removed for waivers under £50,000) this ensures the commercial aspects are properly considered and should include or highlight any individual legal issues for which legal advice should be sought. The report to the Audit and Governance Committee would however show trends and highlight overall governance issues which would be more easily apparent by viewing statistical information.
- Paragraph 25 – delegation in major emergency: the possibility of having other member involvement was suggested to provide further support and alternatives for consultation however it was acknowledged that this was in a major emergency situation which would be likely to require extremely urgent decisions.
- Paragraph 26 – decisions in the absence of Directors: it was suggested that it might be appropriate to extend this to all Corporate Directors.

1.9 Council is asked to note that proposal 33 is included for clarity as the Standards and General Purposes Committee also resolved that Appendix B, being a new Code of Conduct, is also adopted and this would replace the current Code of Conduct at Part H Section 2 of the Constitution.

1.10 Council will note that within Appendix A some of the changes are set out in detail while others are in principle to allow drafting of the proposed changes to take account of member feedback, further legal input or ensure other affected parts of the Constitution can be amended accordingly. It is therefore recommended that the Monitoring Officer determines the final wording of the in principle proposals and any associated/incidental amendments with the approval of the Constitution Working Group, and to then change the Constitution accordingly together with any other necessary incidental amendments.

Other options considered

- 1.11 The proposed changes are considered desirable to allow the Council to operate more effectively, however amendments could also be delayed to allow greater feedback on the proposed changes.

Legal and financial implications

- 1.12 None except as set out in the body of the report.

Corporate implications

- 1.13 The effectiveness of the Constitution is central to the operation of the Council as a whole and supports transparency, governance and good decision making. Reviews to ensure the Constitution is fit for purpose and effective should be undertaken regularly.

Consultation and communication

- 1.14 The Constitution will be updated on the Council's website and will be communicated to members and officers when appropriate to ensure the correct procedures are being used.

Next steps and review

Finalise drafting where appropriate and update the Constitution.

Background papers

None

Your questions and views (for key decisions)

If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the democratic services team. This can be done by telephone 01296 382343 or email democracy@buckinghamshire.gov.uk