

Report for:	Shadow Authority
Meeting Date:	27th February 2020

Title of Report:	Constitution
Shadow Portfolio Holder	Councillor Martin Tett
Responsible Officer	Sarah Ashmead, Deputy Chief Executive & Monitoring Officer
Report Author Officer Contact:	Maria Damigos, mdamigos@aylesburyvaledc.gov.uk
Recommendations:	<ol style="list-style-type: none"> 1. That the Shadow Authority approve and adopt the draft Constitution as the Constitution of Buckinghamshire Council 2. That delegated authority is given to the Monitoring Officer, in consultation with the Leader, to make any minor changes, including clarifications, and necessary textual revisions to the draft Constitution to ensure that the separate sections of the Constitution are consistent, work together as a whole and reflect any changes to legislation 3. That the operation of the Constitution is reviewed in April 2021
Corporate Implications:	Section 9P of the Local Government Act 2000 requires every local authority to prepare a constitution and keep it up to date. There are no direct budget implications arising from this report.
Options: (If any)	Buckinghamshire Council is legally required to have a constitution.
Reason:	Textual amendments will still be required and are appropriate for delegated authority to the Monitoring Officer in consultation with the Leader.

1. Purpose of Report

- 1.1 To put in place the Constitution of Buckinghamshire Council prior to vesting day on 1 April 2020.

2. Executive Summary

- 2.1 The arrangements for the transition from the existing district and county council to the new Buckinghamshire Council are set out in the Buckinghamshire (Structural Changes) Order 2019 (the SCO).



- 2.2 One of the requirements of the SCO is that the Shadow Authority must formulate proposals for the executive arrangements that are to be operated by Buckinghamshire Council. The SCO requires that these proposals are for a leader and cabinet executive within the meaning of 9C(3) of the Local Government Act 2000.
- 2.3 A Constitution Members Working Group chaired by Councillor Martin Tett was established to oversee the development of a draft Constitution. The draft Constitution has been developed by officers from across the five predecessor councils led initially by the interim Monitoring Officer and then the Monitoring Officer, overseen by the Members Working Group.
- 2.4 At its meeting on 18 February 2020 the Shadow Executive approved the executive scheme of delegation and resolved to recommend the draft Constitution for approval to the Shadow Authority.
- 2.5 The draft Constitution is available at Appendix 1. Although the document is navigable via the contents page you may need to adjust the view settings on your browser. In addition the diagrams within the document may not be fully accessible at this time. Cross-referencing, document links (both inside and outside the document), some formatting and some paragraph numbering also need to be finalised after final amendments are incorporated.
- 2.6 Areas or matters still to be resolved are detailed within the body of this report.

3. Content of Report

Structure of the Consttution

- 3.1 The draft Constitution is divided into 10 parts: summary; public participation; Council; committees; Cabinet; joint arrangements; scrutiny; councillors; officers; and interim arrangements.
- 3.2 Each part contains all relevant explanations and rules. For example the roles, responsibilities and procedures for Council, Cabinet and committees are all set out separately under their relevant part.

Scheme of delegation (Part I)

- 3.3 The scheme of delegation to officers deals with all delegations (ie for both executive and non-executive functions). It delegates by exception. Therefore the general delegation gives powers to deal with all matters within the area of responsibility subject to limitations and exceptions.
- 3.4 The general powers in relation to staffing, finance, legal and contracts are given some detail and for clarification details of the general powers within the planning and highways responsibilities are also set out.
- 3.5 Delegations in relation to High Speed Rail are specified to ensure that Buckinghamshire Council does not lose its qualified authority status (see paragraphs 2.18 and 2.19).
- 3.6 There are general limitations requiring consultation with members when exercising delegated powers where appropriate or with the Service Director Legal and

Democratic Services for some enforcement matters. This allows flexibility to decide when consultation should occur and change requirements as harmonisation progresses. Further delegation also means that urgent matters will not be held up.

- 3.7 Although not a delegation itself, the requirement to produce written records and publicity has been included in the scheme of delegation as it relates to how delegations will be exercised. The vast majority of decisions will be published under existing procedures including in registers (eg planning applications). These provisions reflect current legal requirements.

Joint Arrangements

- 3.8 Joint arrangements between one or more of the predecessor councils and external agencies or bodies which are to be included in the Constitution cannot be unilaterally changed by Buckinghamshire Council in relation to membership or any other terms of reference. All such bodies have been contacted in relation to updating the relevant terms.
- 3.9 The current terms of reference are therefore not reproduced within the Constitution at this time to avoid confusion. Instead links to external websites giving access to the terms of reference will be included.

Planning

- 3.10 The terms of reference of the Strategic Sites Committee and the Area Planning Committees are included within the constitution. It is good practice to produce local guidance about the operation of the planning committees and a separate Planning Protocol is therefore included as an appendix to the constitution.

Settling legal actions

- 3.11 The legal exceptions chart (section 2.29 in Part I) gives authority to the Service Director Legal and Democratic Services to settle legal proceedings or processes up to £500,000.

Proper Officers

- 3.12 The list of Proper Officers is contained in Part I. These will continue to be designated as roles are finalised. Any un-specified roles would fall to the Chief Executive.

General

- 3.13 The draft Constitution has been prepared on the basis of best practice by the predecessor councils and local government guidance. It is however recommended that the operation of the Constitution is reviewed after one year and updated as necessary to ensure that it is applicable and practical for Buckinghamshire Council and its residents.

4. Financial Implications

- 4.1 There are no direct financial implications arising from this report.

5. Legal Implications



5.1 These are detailed within the body of this report.

6. Other Key Risks

6.1 Buckinghamshire Council is required to have a constitution from 1 April 2020.

7. Dependencies

7.1 None save as detailed within the report and that communications to all officers and members as well as training on the new procedures will be required.

8. Consultation

8.1 As detailed in the Executive Summary.

9. Communications Plan

9.1 An update and summary for officers and members will be prepared. It will include access details, contents, how to find relevant sections and its requirements from 1 April 2020. A gap analysis of where these are different from predecessor councils to inform targeted briefing notes and/or training will also be carried out.

10. Equalities Implications

10.1 There is no direct impact on groups with protected characteristics. However the Constitution must comply with accessibility requirements. The current document will be updated to ensure this is the case. Equalities implications will be kept under review and updates provided if there is any change.

11. Data Implications

11.1 None.

12. Next Steps

12.1 Once approved, the Constitution will be finalised. Accessibility issues will be addressed and training and communications rolled out.

12.2 The Scheme of Member Allowances will be inserted once approved.

Background Papers	Buckinghamshire (Structural Changes) Order 2019 Local Authorities (Executive Arrangements)(Meetings and Access to Information) Regulations 2012 Local Government Act 1972
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