

Bath & North East Somerset Council		
MEETING	Council	
MEETING DATE:	18 November 2021	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	Constitution Refresh & Update of proposed changes	
WARD:	All	
AN OPEN PUBLIC ITEM		
<p>List of attachments to this report:</p> <p>Appendix 1 Terms of reference Constitution Working Group</p> <p>Appendix 2 Timeline</p> <p>Appendix 3 Interim changes schedule</p>		

1 THE ISSUE

1.1 The Monitoring Officer has been tasked to refresh the Council's Constitution.

2 RECOMMENDATION

The Council is asked to;

- 2.1 Approve the formation of the Constitution Working Group with the terms of reference detailed in Appendix 1**
- 2.2 Note the Timeline for providing an updated Constitution in accordance with Appendix 2**
- 2.3 Approve the interim recommended Constitutional changes detailed in Appendix 3.**

3 THE REPORT

3.1 The Local Government Act 2000 introduced for the first time a requirement for upper tier Councils to adopt a Constitution. Before then it was normal for Councils

to produce a single document setting out their scheme of delegations, financial regulations and standing orders but there was no requirement to do so.

3.2 When constitutions were introduced into local government, through the Local Government Act 2000 they, generally, followed a national template prepared by central government. B&NES Constitution uses that standard format.

3.3 So long as Councils meet the legal requirements, they are free to adopt the constitution they wish. However, Constitutions are an important legal and governance document. Whether a Council has complied with its own constitution can and frequently does become an issue in legal proceedings. The resulting need for accuracy and clarity does not always make constitution documents an easy read for members of the general public.

3.4 Following an in depth review of a significant number of recent Council Constitutional refreshes, the Monitoring Officer view is that the B&NES Constitution compares favourably and is relatively fit for purpose and up to date with legislative requirements. Nevertheless, there is room for improvement. Consequently, it is proposed that the refresh process should follow a set of principles as follows:

- an accessible and modern constitution
- easier and simpler to understand and operate
- streamlined by removing sections not formally required to be within the constitution
- remove duplication
- make it “digitally” compatible to be easily read across screens
- cross reference digital media sources e.g. the council’s website through hyperlinks and searchable text
- include a summary and explanation to provide an overview of how the council operates
- include a glossary for consistent use of terminology
- clarify responsibility for decision making
- check legislation references are current

3.5 In recommending the scope of the refresh this report has considered:

- the constitutional changes the Council has undertaken within the last 3 years
- proposed areas of refresh previously advised by Group Leaders
- refreshes undertaken by other Councils in the last 3 years

3.6 By adopting the lessons learned from other Councils’ constitutional refreshes, and agreeing to the creation of a cross party Constitutional Working Group with terms

of reference set out in Appendix 1 to work to the timetable (Appendix 2), the intention is to provide recommendations for Constitutional changes to Council in May 2022.

- 3.7 A separate workstream led by the Council's procurement team is reviewing Contract standing orders. That is a standalone refresh. but if the recommendations from that group can be incorporated into the updated Constitution recommendations in May 2022 if ready by then, they will be. However, constitutional changes required on an interim basis were identified and these are set out in Appendix 3. Council is asked to approve these changes as an interim measure to ensure the constitution reflects current legislation and best practice.
- 3.8 Finally, it is proposed to undertake a review of the Council's Financial Regulations with the support of the Councils' finance teams in November 2022 to avoid impacting that team in delivering the Councils Annual budget and end of financial year work.

4 STATUTORY CONSIDERATIONS

- 4.1 A local authority is under a duty to prepare and keep up to date its constitution under s.9P Local Government Act 2000 as amended (Localism Act 2011).
- 4.2 The Constitution must contain:
- the standing orders/procedure rules;
 - the members' code of conduct;
 - such information as the SoS may direct;
 - such other information (if any) as the authority considers appropriate
- 4.3 A Constitution Direction was issued by the Secretary of State in December 2000 that required around 80 matters to be included within constitutions, covering members' allowances schemes, details of procedures for meetings, details of joint arrangements with other local authorities and a description of the rights of inhabitants of the area, amongst other things. The Direction is archived but remains applicable by virtue of S.17 (2) (b) of the Interpretation Act 1978.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 If Council agrees the recommendations in this report then it is anticipated that the resources needed to support the recommendation of an updated Council Constitution to the May Annual General Meeting of Full Council can be contained within existing Legal & Democratic Services staffing resource.

6 RISK MANAGEMENT

- 6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

7 EQUALITIES

7.1 Ensuring the Council's constitution is updated to reflect legislative changes and is accessible and easy to read will aid in the delivery of the council's equalities duties.

8 CLIMATE CHANGE

8.1 There are no direct implications arising from the recommendation in this report

9 OTHER OPTIONS CONSIDERED

9.1 None

10 CONSULTATION

10.1 Group Leaders and the Chief Executive have been consulted in the preparation of this report. The Monitoring Officer and Council's S.151 officer have also been consulted.

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Background papers	None
Please contact the report author if you need to access this report in an alternative format	