

<b>Bath &amp; North East Somerset Council</b>		
MEETING	<b>Council</b>	
MEETING DATE:	<b>16 March 2023</b>	
TITLE:	<b>Constitution Refresh – part 2</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<p><b>List of attachments to this report:</b></p> <p><b>Appendix 1</b> Draft new section 3.7 – Policy &amp; Budget Framework rules</p> <p><b>Appendix 2</b> Contract Standing Orders (CSOs) (showing tracked changes)</p> <p><b>Appendix 3</b> CSOs – Summary of amendments</p> <p><b>Appendix 4</b> – Proposed addition to Proper Officer table</p>		
<p><b>Link to the Constitution;</b>  <a href="https://democracy.bathnes.gov.uk/documents/s75537/Constitution.pdf">https://democracy.bathnes.gov.uk/documents/s75537/Constitution.pdf</a></p>		

## **1 THE ISSUE**

- 1.1 In July 2022, the Council adopted a revised Constitution and agreed that the Working Group would continue to meet to consider the further rationalisation work to be done on the Financial Regulations, Contract Standing orders and pick up any glitches identified since the new Constitution was adopted.
- 1.2 The Constitution Working group met on 24<sup>th</sup> February and recommended these proposals to Council.

## **2 RECOMMENDATION**

**The Council is asked to;**

- 2.1 Agree to move the whole of Section 3.9 - Financial Regulations and Budget Management Scheme - to the Library and amend section 3.7 as set out in Appendix 1, and described in paragraphs 3.1 – 3.5.
- 2.2 Agree with the small amendment to the Code of Conduct to reinstate the link to the Councillor role descriptions, in line with Council's earlier wishes, as set out in paragraph 3.6;
- 2.3 Agree the wording in paragraph 3.7 be added to the public speaking rules within the Constitution (and the guidance) to clarify deadlines when a meeting is adjourned after the agenda has been published;
- 2.4 Agree the necessary constitutional and scheme of delegations changes for approval regarding the statutory officers disciplinary process, as set out in paragraphs 3.9 – 3.11 and that the Director of People & Policy be given delegated authority to take all steps necessary to implement these;
- 2.5 Agree the revised Contract Standing Orders, as explained in paragraph 3.12 and appendices 2 and 3;
- 2.6 Note that the full review of the Contract Standing Orders will be brought back to Council once the legislation is in place;
- 2.7 Agree the delegations to the Chief Executive as Electoral Registration Officer and Returning officer for those powers described in paragraphs 3.15 - 3.17 of this report; and
- 2.8 Agree that these changes take effect from 1<sup>st</sup> April 2023.

### **3 THE REPORT**

#### Revised Policy & Budget Framework section

- 3.1 Further work proposed for stage 2 of the review has looked at the Budget and Policy Framework Procedure Rules and the Financial Procedure in preparation for a full review of the Financial regulations and Budget Management Scheme later in 2023 or 2024 with the aim to propose that these sections could be substantially reduced to only contain those sections statutorily required to be included.
- 3.2 A new section has been added at 3.7.3 to cover the process to follow in the event that a motion to Council involves increased expenditure or reduced income not provided for in the Budget/MTFP.
- 3.3 Section 3.7.8 has been expanded to include details in respect of the annual budget setting process and the process for considering alternative budget proposals at the budget setting meeting. It also sets out the purpose of the Budget Management Scheme.
- 3.4 New sections 3.7.9 & 3.7.10 sets out the high-level details on the management and monitoring of the approved budget and MTFP.
- 3.5 Section 3.7.11 provides a high-level purpose statement on the Financial Regulations.

#### Other minor Constitutional amendments

- 3.6 The Standards Committee in March 2019 agreed to amend the Code of Conduct to include a paragraph requiring Members to have regard to the Role Descriptions that had been adopted, and that any Councillor complaints considered by the Standards Committee would use these as a guide. However, when the new Code was adopted in July 2021, this reference was not included so needs to be added back in. As the Code of Conduct is part of the Constitution, Council needs to agree this small amendment to reinstate the reference.
- 3.7 The recent need to postpone a meeting for which the agenda had already been issued (due to the period of national mourning) highlighted some clarification needed to the public speaking deadlines in this circumstance. It is proposed to add the following words to the public speaking rules within the Constitution (and the guidance);

*'If a meeting is postponed, or adjourned, once an agenda has been published, all deadlines for public engagement associated with the original meeting still apply'.*

This clarifies the situation so that the opportunity for the public to register a statement or question remains within the usual time window and is consistent with the wider public speaking scheme.

#### Statutory Officers Disciplinary process

- 3.8 Following the introduction of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and the independent investigator process, the Joint Negotiating Committee (JNC) recently took stock and reviewed how the process had been working in practice. They recommended a model procedure and new Chief Executive's handbook.
- 3.9 The Restructuring Implementation Committee met on 7th February 2023 and agreed the above procedure and recommended to Council the necessary constitutional and scheme of delegations changes for approval and that the Director of People & Policy be given delegated authority to take all steps necessary to implement it.
- 3.10 It is proposed to amend the Terms of Reference of the Restructuring Implementation Committee (3rd paragraph of section 2.27.2, to add the sections in bold and italics below;

***To recommend to the Council the appointment or dismissal of the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer, in accordance with the Statutory Officers Disciplinary process including the power to suspend a statutory officer and appoint external advisors as appropriate.***

***To take any disciplinary action short of dismissal in respect of a Statutory Officer in accordance with the Statutory Officers disciplinary process.***

- 3.11 It is proposed to add the following section to the delegations for the Director of People & Policy (section 2.35.3, page 79 of the Constitution);

***'To suspend a Statutory Officer and if necessary to suspend a Statutory Officer immediately in accordance with the Statutory Officers disciplinary process (insert Link to Library). The exercise of the power of suspension to be subject to consultation with the Chair of Council.'***

#### Contract Standing Orders (CSOs)

3.12 The Government are currently consulting upon the Public Procurement Bill 2022, and once the new legislation is in force, the Contract Standing Orders will be fully revised and brought back to the Constitution working group later in 2023 or 2024.

3.13 In the meantime though, officers have felt for a while that the current CSOs lack clarity, and the team have been through them with the aim of reducing some inconsistencies, out of date requirements, and updating thresholds. They have also included an Appendix on Think Local Guidance.

3.14 The revised CSO's are attached. For ease of reference, a spreadsheet setting out these proposed changes is also attached.

#### Deputy for Electoral Registration Officer/Returning Officer (ERO/RO)

3.15 When Council appointed the Chief Executive as the ERO/RO on 5<sup>th</sup> September 2019, a nominated deputy was not appointed. It is considered prudent to arrange this in the event the postholder were to become incapacitated prior to the elections and therefore unable to act in those capacities.

3.16 The intention is to add the power to the scheme of delegation to enable the Chief Executive as ERO/RO to nominate a deputy(s) so this is in place for the elections in May 2023.

3.17 Council are also requested to delegate a further power to be exercised by the Chief Executive as the RO, relating to the Polling Scheme. All polling stations previously used by B&NES were inside the relevant polling district but where these are no longer available then an alternative within the Polling District can be approved by the RO. However, where no suitable venue is within the polling district then only Council can approve the alternatives proposed. The proposal is to delegate this power so that any arrangements are not held up. This will be covered by an addition to the Proper Officer table (Section 2.36 in the Constitution and as set out in the attached table at Appendix 4).

## **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 Secretary of State 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 The Constitution refresh has only incurred staff & CWG members' time and is therefore cost neutral.

## **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 None.

## **8 CLIMATE CHANGE**

8.1 None.

## **9 OTHER OPTIONS CONSIDERED**

9.1 None.

## **10 CONSULTATION**

10.1 Constitution Working Group, Restructuring Implementation Committee, Political Assistants, Monitoring Officer & S.151 officer have been consulted in the drafting of this report.

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<b>Background papers</b>	Report to Council 21 July 2022
<b>Please contact the report author if you need to access this report in an alternative format</b>	