

Meeting:	Council
Meeting date:	25 November 2020
Title of report:	Bury Constitution Review and Member Development Strategy
Report by:	Deputy Chief Executive Lynne Ridsdale
Decision Type:	This is not a Key Decision
Ward(s) affected	All

Executive Summary:

- Annual Council in May 2020 agreed to commission a review of the Bury Constitution as a matter of priority.
- On 1 July 2020 the Standards Committee agreed terms of reference, scope and time scale for the Constitution Review to be led by the Democratic Arrangements Forum (DAF). It received a progress report on the 12 October 2020.
- DAF has been meeting to carry out the Review in 5 phases. This included a Technical Review to ensure the Constitution was legally compliant with all relevant legislation.
- This Report updates members on the Review and makes Recommendations to improve the Constitution in line with legislation and best practice.
- The Member Development Group met on the 14 September 2020 to review current arrangements for member development following the member survey in August 2020, the Covid-19 pandemic and other challenges facing the Council and recommend the Member Development Strategy set out at Appendix 1 for approval.
- On 12 October 2020, the Standards Committee approved the Member Development Strategy to ensure Councillors are up to date with the Constitution and ethical governance (the Members' Code of Conduct and standards regime).

- On 24 November Cabinet will consider the proposals and a verbal update will be given at the meeting. This report is seeking approval from Council to formally approve the recommended changes to the Constitution.

Recommendations:

That: Council notes the:

1. Work of the Democratic Arrangements Forum in reviewing the Constitution and proposing revisions in line with the Technical Review to ensure legal compliance;
2. Member Survey results set out at section 4 of this report;
3. Work of the Member Development Group in recommending a new Member Development Strategy.
4. Work to update Financial Regulations and Contract Procedure Rules and Council to agree to delegate authority to agree future revisions to the Audit Committee.
5. New Part 3 Section 6 – Additional Arrangements which sets out the role of the DAF and the Independent Remuneration Panel.
6. New Part 7 – Cabinet Portfolios, membership of committees and the Council's Management Structure which will be a useful guide to who does what.

That: Council agrees to adopt the:

7. Contents and Part 1 - Introduction to the Constitution at Annex 1;
8. Revised Part 2 - Articles at Annex 2;
9. Revised Part 3 Section 1 Council Functions at Annex 3 and the Local Choice Functions described at paragraph 12.1 of this report;
10. Revised Part 3 (Sections 3, 4 and 5) Responsibility for Committee, Cabinet and Scrutiny Functions at Annex 4 including a new definition of key decision; a new Employment Panel, Licensing Hearings Sub-Committee and Safeguarding Scrutiny Sub-Committee.
11. Proposal that Committees comprise 9 (Audit and Standards) or 11 members.
12. Revised Part 3 - Officer Scheme of Delegation at Annex 5;
13. Revised Part 4 - Council Procedure Rules (Standing Orders) at Annex 6;
14. Revised Part 4 - Cabinet Procedure Rules at Annex 7;
15. Revised Part 4 - Scrutiny Procedure Rules at Annex 8;
16. New Part 5 - Public Guidance Protocol at Annex 9;
17. Covid-19 Interim Arrangements at Annex 10;
18. Member Development Strategy 2020/23 set out at Annex 11 ;

That Council agrees to :

19. Implement the proposed changes to the Constitution in two phases with Parts 1,2 4,5 and 7 coming in to force on 1 January 2021 and changes to Part 3 – Responsibility for Functions (Committee Terms of Reference) save for new Audit Committee terms of reference , coming into force at the annual council meeting in May 2021.
20. Authorise the Interim Monitoring Officer to publish a final version of the Constitution (removing track changes, correct numbering, editing or formatting errors) and including the minor updates to Part 3: Council and Local Functions

described at paragraph 12.1 and the Access to Information Rules described in paragraphs 13.6 and 13.9, with a version history, Glossary and Index.

21. Request a DAF review of the Overview and Scrutiny function in early 2021 to ensure better alignment with corporate priorities and partnership arrangements.

INTRODUCTION

- 1.1 The Constitution sets out how the Council operates; how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. The Council has a legal duty to publish an up to date Constitution and keep it up to date with any necessary changes being normally considered at the annual council meeting. The Council made a number of changes to the Constitution at its annual meeting in May 2020 and agreed to a further full Review during 2020/21 as a priority.
- 1.2 The Report to Council in May 2020 indicated that the current scrutiny arrangements needed review alongside arrangements for meetings and decision making generally.
- 1.3 Under Article 9 of the Constitution, the Standards Committee is responsible for oversight of the Constitution.
- 1.4 On 1 July 2020, the Standards Committee agreed terms of reference, scope and time scale for the Constitution Review to be led by the Democratic Arrangements Forum (DAF), comprising all political group leaders and chaired by the Mayor. DAF has been meeting to carry out the review in 5 phases.

2. BACKGROUND

- 2.1 The Constitution must contain:

- (a) the Council's standing orders/procedure rules;
- (b) the members' code of conduct;
- (c) such information as the Secretary of State may direct;
- (d) Such other information (if any) as the authority considers appropriate

- 2.2 A Constitution Direction was issued by the Secretary of State in December 2000 that requires 80 matters to be included within council 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.
- 2.3 The Council's Constitution currently comprises 325 pages organised into 7 Parts (many divided into a number of sections). In total there are 54 sections and schedules. The document is difficult to navigate as the contents page does not number the sections and there is no Index and a very limited search facility.

3 ROLE OF DEMOCRATIC ARRANGEMENTS FORUM (DAF)

- 3.1 DAF have been meeting in accordance with these agreed Terms of Reference:

- develop a shortened, streamlined and improved Constitution
- review the decision making process to be explained and set out in the new Constitution
- review the Overview and Scrutiny arrangements across the Council
- provide policy advice to the Constitution Review by the Interim Monitoring Officer/Strategic Advisor.
- carry out a survey of all members on how the Constitution can be improved
- approve the text of amendments to the Constitution to give effect to Council policy.
- Ensure that the partnership arrangements with the CCG are reflected in the new Constitution
- steer the Constitution Review to completion.
- assist the Interim Monitoring Officer/Strategic Advisor in recommending to full council a revised version of the constitution by December 2020 (25 November Council)
- agree a programme of training and development for members and officers on the new Constitution during 2020/21.

4 ALL MEMBER SURVEY

4.1 During July and August 2020, DAF commissioned an all member survey to alert councillors to the Review and to seek ideas for improvement. 17 members agreed to participate. The Survey consisted of a series of questions designed to test agreement to the 7 purposes of the Bury Constitution set out in Article 1. The results are set out in the Table below.

Question	Agree	Disagree	Neither Agree nor Disagree
The Bury Council Constitution provides guidance on how the Council provides leadership to the community and partnership with citizens, businesses and other organisations.	9 (52.9)	4 (23.5%)	4 (23.5%)
The Bury Council Constitution supports the active involvement of citizens in the process of council decision making; it is easy to understand and is up to date	8 (47.1%)	5 (29.4%)	4 (23.5%)
The Bury Council Constitution helps Councillors to represent their constituents more effectively.	8 (47.1%)	8 (47.1%)	3 (17.6%)

The Bury Council Constitution enables decisions to be taken efficiently and effectively.	5 (29.4%)	4 (23.5%)	8 (47.1%)
The Bury Council Constitution ensures that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decision	7 (41.2%)	5 (29.4%)	5 (29.4%)
The Bury Council Constitution creates a powerful and effective means of holding decision makers to public account.	5 (29.4%)	5 (29.4%)	7 (41.2%)
The Bury Council Constitution ensures that proposals and decisions are effectively and fairly reviewed.	10 (58.8%)	2 (11.8%)	5 (29.4%)
The Bury Council Constitution provides a means of improving the delivery of services to the community.	6 (35.3%)	2 (11.8%)	9 (52.9%)

- 4.2 The Survey also asked participants to comment on their answers and identify ways in which the Constitution could be improved. The Table below sets out member's comments. The new Constitution will deal with many of the criticisms about the current document. The suggestions for improvement will be addressed in the new Constitution with diagrams and visual descriptions; new rules on question time; a new Part 7 showing cabinet members, deputy cabinet members, committee chairs and details of senior officers.

Member Survey Comments	August 2020
What's wrong with the Constitution?	How can it be improved?
Unsure if it is in date. It's very difficult to understand Too long, not accessible,	Very little about outside orgs It is a long document and contains a lot of detail. It would be useful to have

<p>confusing in places.</p> <p>Not that easy to understand for the average citizen</p> <p>How do residents know of it?</p> <p>Too confusing</p> <p>Given its length and complexity, I don't think it helps us.</p> <p>Not sufficient scrutiny</p> <p>Amount of time allotted for discussion in Council insufficient.</p> <p>As it is so long and duplicative, then it doesn't make decision making efficient.</p> <p>"Not true...I challenge and no responsefrom Senior Officers CEO and the Leader.</p> <p>If they don't like a question ...there is no response ...so no holding to account ...in fact the opposite!"</p> <p>No one knows how to influence change</p> <p>As the document is not very accessible, then I don't think it does increase accountability to local people.</p> <p>Many constituents deal with issues themselves but after no response turn to me for help ...</p>	<p>plain English summaries of each section, or links for members of the public to access these.</p> <p>More diagrams and visual descriptions</p> <p>Amount of scrutiny allowed does not let the public have their say at meetings. Follow up questions should always be allowed.</p> <p>I think there is too little public awareness of the constitution and how to apply it in holding the council and councillors to account</p> <p>No one knows who anyone is</p> <p>Better communication needed. I am not convinced that local people know who is responsible for decision making on specific issues.</p> <p>Members of the public are not certain n who is responsible for decision makings and how certain decisions, such as planning are made.</p>
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5. LEGAL HEALTH CHECK

- 5.1 The first phase of the Review comprised an independent review of compliance with legislative provisions and best practice. Its recommendations are included in the proposed changes.

6 LGA CORPORATE PEER REVIEW 2018

6.1 In November 2018, the Council invited the Local Government Association (LGA) to undertake a Corporate Peer Review. This provided an independent assessment of the Council's capacity to deliver Members' priorities for Bury.

6.3 The Peer Review looked at the Council's governance arrangements and suggested:

“Given the significant portfolio of transformation work required the council may also wish to consider reviewing its current scrutiny arrangements to ensure that they are able to achieve the right objectives for the council on the journey ahead. This should include the alignment of scrutiny to the corporate priorities and partnership arrangements as well as the type of member support this requires. This review may wish to check whether an appropriate level of challenge is currently in place and if this is fit for the journey ahead.

6.4 The Peer Review recommended:

“Scrutiny should be provided with the appropriate performance information and officer capacity to provide effective challenge and assist with policy development.”

6.5 On 2 September 2020, Cabinet agreed to create a new full time democratic services officer post to lead the development and implementation of a new support service for the Council's overview and scrutiny function. It has also been agreed that the Head of Democratic Services will take on the statutory scrutiny officer role to promote and provide support and guidance to the scrutiny committees.

6.7 During September the Overview and Health Scrutiny Committee and the Health Scrutiny Committee have considered updated strategic work plans to guide their work during the Covid 19 pandemic.

6.8 The Constitution review has identified the need to update and strengthen the Scrutiny Committee Rules in the Constitution. These are set out at Annex 8. The Chairs of the Overview and Scrutiny Committee and Health Scrutiny Committee have been consulted about these proposed changes.

6.9 It is recommended that once the new Constitution is in place in early 2021, there should follow a Review of the Overview and Scrutiny function to ensure better alignment with corporate priorities and partnership arrangements.

7 NEW INTRODUCTION, ARTICLES AND FORMAT FOR THE CONSTITUTION

7.1 It is proposed to rewrite Part 1 of the current Constitution to set out the purpose of the Constitution. This is set out at Annex 1.

7.2 The revised Constitution will be available on the Council's website as a complete document that fully meets all accessibility legislation. This will make searching for key terms within the document easier. The new format will also make use of internal hyperlinks to allow a user to navigate quickly across the document.

- 7.3 Part 2 sets out the Articles of the Constitution which describes the roles and responsibilities of each aspect of the Constitution. A revised set of Articles which reflects all the proposed changes is at Annex 2.

8 RESEARCHING BEST PRACTICE

- 8.1 Officers have used the Model Constitution for Councils in England created in 2014 for the Lawyers in Local Government Group by the law firm, Womble Bond Dickinson. This is a user-friendly suite of documents which can be tailored easily by in-house lawyers and constitutional experts to suit any type of council.
- 8.2 Officers have also reviewed examples of Constitutions across the country especially by councils who have engaged with the NHS to create integrated new arrangements similar to Bury.

9 COMMITTEES' TERMS OF REFERENCE

- 9.1 It is suggested that there should be a diagram showing all the Council's committee and sub-committees and that each Committee has its membership and terms of reference set out in a standard format and includes all sub-committees and Panels. This is set out at Annex 4.
- 9.2 It is suggested that Committees comprise 11 members and that sub-committees comprise between 3 and 5 members.
- 9.3 It had been proposed at DAF that there should be a new Rule that the Chair of the Overview and Scrutiny Committee should always be an opposition member. This has been agreed and is recommended for inclusion at Article 2.6.4.1.

10. PHASE 1 REVIEW OF THE CONSTITUTION

- 10.1 At its first meeting on 16 July 2020, DAF noted the terms of reference for the review and considered a Technical Review including a legal compliance check to ensure compliance with legislative provisions and best practice.

11. PHASE 2 REVIEW OF THE CONSTITUTION –INTRODUCTION AND ARTICLES

On 5 August 2020, DAF considered Phase 2 and agreed to recommend that the Articles be updated as follows:

1. A new revised Part 1 – Summary to introduce the Constitution as set out at Annex 1.
2. Changes to the Committee Structure but requested a review of membership numbers based on 9, 11 and 13 member committees. DAF are recommending that Committees comprise 11 members.
3. Given the lack of business going to the Standards Committee following the enactment of the Localism Act 2011 (the committee has only met three times in the last 5 years), to consider the merger of the Standards Committee with the Audit Committee to create a new Audit and Governance Committee. This proposal has been deleted following consultation.

4. To add an Independent member(s) with specialist audit expertise to strengthen the Audit Committee
5. A new simpler definition of Key Decision based on a financial threshold of £500,000.
6. To make no changes to the Scrutiny function at this time other than to recognise the Children's Safeguarding Scrutiny Sub-Committee in the Constitution.

12. PHASE 3 REVIEW OF THE CONSTITUTION - FUNCTIONS (TERMS OF REFERENCE OF COMMITTEES ETC.)

12.1 Council and Local Choice Functions

Article 4 sets out the Council's statutory functions and Part 3 Section 2 sets out the Local Choice Functions (specified functions which can be delegated to Council or Cabinet). It is proposed to move these into the new Functions Part and present them in a more consistent manner and update any legislative changes. No other changes are proposed to the existing arrangements other than to:

- Transfer responsibility for Financial Regulations and Contract Procedure Rules from Council to Audit Committee.
- Authorise the Monitoring Officer, following consultation with the Chief Executive, to make in year technical updates to the Pay Policy statement to reflect changes to post holder details or approved changes to local or national pay policy
- Authorise the Monitoring Officer to make minor technical changes or those required by law only to the Constitution.

Annex 3 sets out the updated set of Council Functions for approval.

12.2 Cabinet functions and Key Decisions

These are set out at Annex 4 and include all the functions that are the legal responsibility of the Cabinet. They include a new definition of Key Decision. Legislation requires key decisions to be published in a monthly Forward Plan (with concessions for urgency) and to be subject to scrutiny and call-in. The current Bury definition with 10 categories is complex to operate and should be simplified. It is recommended that Bury adopt the following definition of Key Decision:

- Any decision in relation to an executive function which results in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A decision will be considered financially significant if it results in incurring expenditure or making savings of £500,000 or greater; unless the specific expenditure or savings have previously been agreed by full Council.

- Any other executive decision which in the opinion of the Monitoring Officer is likely to be significant having regard to :
 - (a) The number of residents/service users that will be affected in the Wards concerned;
 - (b) Whether the impact is short term, long term or permanent;
 - (c) The impact on the community in terms of the economic, social and environmental well-being.

12.3 Committee Functions

On 3 September 2020, DAF agreed to recommend a revised set of committee functions as set out in Part 2 and a revised Part 3 of the new Constitution including, subject to TU consultation a new Employment Panel of nine members (to ensure cross party membership) to deal with Chief Officer recruitment and discipline to replace the Human Resources and Appeals Panel, a new key decision definition and a review of membership numbers for committees. These are set out at Annex 4.

12.4 Scrutiny Functions

These are set out at Annex 4 and set out the delegated functions for the Overview and Scrutiny committee; new Safeguarding Sub-Committee and the Health Scrutiny Committee.

12.5 Officer Scheme of Delegation

Annex 5 sets out a revised Scheme of Delegation to Officers. The new Constitution will authorise the Chief Executive to maintain an Officer Scheme of Delegation detailing all relevant delegations to chief officers, including the delegation of any proper officer functions which require that a designated officer is the “proper officer” for the purposes of that statutory provision.

The Monitoring Officer has issued Guidance to ensure that officer decisions which by law have to be recorded and published comply. This Guidance together with the proposed new Scheme of Delegation will require all officer decisions involving expenditure in excess of £100,000 to be published.

The Officer Scheme of Delegation will be regularly reviewed to ensure that it is up to date and will be published on the Council’s website.

13. PHASE 4 REVIEW OF THE CONSTITUTION – RULES

13.1 On 7 October, DAF met to carry out a review of the Rules of Procedure in part 4 of the Constitution. These currently comprise 9 sets of rules as follows:

- Part 4 – Section 1 Council procedure rules – Standing orders
- Part 4 – Section 2 Access to information rules

- Part 4 – Section 3 Budget and Policy framework rules
- Part 4 – Section 4 Cabinet procedure rules
- Part 4 – Section 5 Overview and scrutiny procedure rules
- Part 4 – Section 6 Contracts Procedure Rules
- Part 4 – Section 7 Financial regulations
- Part 4 – Section 8 Officer Employment Procedure Rules
- Part 4 – Section 9 – Petition Arrangements

13.2 DAF considered each set of rules and recommend improvements to ensure legislative compliance, editorial consistency and ease of application.

13.3 COUNCIL PROCEDURE RULES – STANDING ORDERS

13.4 These currently comprise 24 Rules which govern meetings of full council, committees and sub-committees. It is proposed to introduce a more comprehensive set of rules which will:

- Be set out in a more logical manner
- Use consistent terminology
- Include custom and practice
- Be more transparent
- use Tables where possible for a quick visual check
- Comply with relevant legislation and case law.

13.5.1 The proposed new Rules compared to the existing are set out in the Table below and set out in full at Annex 6 to this Report. The major changes are highlighted in yellow in the Table below.

Existing Rule	Topic	New Rule	Comment
	Introduction	4.1.1, 4.1.2	Need to introduce the Rules and explain their purpose.
	Application	4.1.3; 4.1.4, 4.1.5; 4.1.6	Need to show which rules apply to committee meetings
	Interpretation	4.1.7; 4.1.8	Chair's ruling is final
	Appointment of chair	4.1.10	In absence of Mayor, Deputy Mayor or appointed Chair. MO to oversee

			process
	Types of Council Meeting	4.1.11; 4.1.12; 4.1.13;	Table to show how meetings called
1	Annual Meeting		
1.1	Timing and Business	4.1.16; 4.1.17; 4.1.18; 4.1.19	Table to show business to be carried out. New 3 hour maximum meeting time rule proposed plus 30 mins Public Questions
	Notice of meetings	4.1.20; 4.1.21;	No change
	Conduct of the Meeting	4.1.22; 4.1.23	Authority of Mayor to rule
1.2	Selection of Councillors on Committees and outside bodies		
2	Ordinary Meetings		
3	Extraordinary Meetings		
3.1	Calling Extraordinary Meetings		
3.2	Business	4.1.14; 4.1.15	Table showing items to be decided at different types of meeting
4; 4.1; 4.2; 4.3; 4.4	Appointment of Substitute Members of Committee and Sub-Committees; Allocation/Number/Powers and Duties /Substitution	4.1.174; 4.1.175; 4.1.176	New rules give more detail and deal with substitution of ungrouped members
5	Date, time and place of	4.1.5	In Table

	meetings		
6	Notice of and summons to meetings	4.1.20; 4.1.21;	No change
7	Chair of meeting	4.1.22; 4.1.23	No change
8	Quorum	4.1.24; 4.1.25; 4.1.26;4.1.27; 4.1.28; 4.1.29;	<p>Defines Quorum as minimum number of members.</p> <p>Quorum is a quarter of the whole number of voting members, or three, whichever is the greater.</p> <p>New rules deal with what happens next and provides a 10 minute grace period</p>
	Variations in order of business	4.1.30; 4.1.31; 4.1.32;	Authority of chair to vary order of business unless mandatory in Table at 4.1.15
	Petitions	4.1.33; 4.1.34; 4.1.35; 4.1.36; 4.1.37;	<p>Petition Scheme updated to allow petition to present Mayor with petition 30 mins before council meeting</p> <p>Details of the Petition Scheme would be in a new Guidance/Code in Part 5 of the new Constitution Public Participation</p>

<p>9</p> <p>9a council ; 9.1; 9.2; 9.3; 9.4;9.5</p> <p>9b committee</p> <p>9.6; 9.7</p>	<p>Duration of Meetings</p> <p>Interruption of meeting</p> <p>Motions and Recommendations not dealt with</p> <p>Recorded Vote</p> <p>Motion which may be moved</p> <p>Close of Meeting</p> <p>Leader’s statement time</p>	<p>4.1.18; 4.1.19</p>	<p>Current rules are confusing</p> <p>New 3 hour rule to be agreed with clear outcomes</p>											
<p>10</p> <p>10.1; 10.2; 10.3; 10.4; 10.5; 10.6; 10.7; 10.8; 10.09; 10.10</p>	<p>Questions by the public</p> <table border="1" data-bbox="542 828 850 1948"> <tr> <td data-bbox="542 828 850 896">General</td> </tr> <tr> <td data-bbox="542 896 850 996">Notice of questions</td> </tr> <tr> <td data-bbox="542 996 850 1097">Order of Questions</td> </tr> <tr> <td data-bbox="542 1097 850 1198">Number of Questions</td> </tr> <tr> <td data-bbox="542 1198 850 1299">Scope of Questions</td> </tr> <tr> <td data-bbox="542 1299 850 1400">Supplementary Questions</td> </tr> <tr> <td data-bbox="542 1400 850 1500">Record of Questions</td> </tr> <tr> <td data-bbox="542 1500 850 1646">Asking the Question at the Meeting</td> </tr> <tr> <td data-bbox="542 1646 850 1747">Answers to Questions</td> </tr> <tr> <td data-bbox="542 1747 850 1825">Written Answers</td> </tr> <tr> <td data-bbox="542 1825 850 1948">Restrictions on asking public questions</td> </tr> </table>	General	Notice of questions	Order of Questions	Number of Questions	Scope of Questions	Supplementary Questions	Record of Questions	Asking the Question at the Meeting	Answers to Questions	Written Answers	Restrictions on asking public questions	<p>4.1.38; 4.1.39; 4.1.40;4.1.41;</p> <p>4.1.42; 4.1.43;</p> <p>4.1.44; 4.1.45</p> <p>4.1.46;4.1.47</p> <p>4.1.48; 4.1.49;</p> <p>4.1.50; 4.1.51</p> <p>4.1.52; 4.1.53;</p> <p>4.1.55</p> <p>4.1.54; 4.1.55</p> <p>4.1.55</p> <p>4.1.56; 4.1.57;</p> <p>4.1.58; 4.1.59</p>	<p>Public Questions – Rules need clarifying generally and updating to confirm 6 clear working days’ notice and give example on timing to help public;</p> <p>Questions can be asked of cabinet members, committee chairs as well as Leader</p>
General														
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		Reference of a question to Leader/Cabinet or a Committee	
11; 11.1; 11.2; 11.3; 11.4; 11.5;	<p>Questions by Members:</p> <p>Notice of Questions</p> <p>Scope of Questions</p> <p>Supplementary Questions</p> <p>Answers to councillor's questions</p> <p>Restrictions on asking questions</p> <p>Member Question Time</p> <p>Combined Authority Update</p> <p>Questions on Notice at Committee and Sub-Committee Meetings</p> <p>Response</p> <p>Supplementary Question</p>	<p>4.1.60; 4.1.61; 4.1.62</p> <p>4.1.63; 4.1.64;</p> <p>4.1.65; 4.1.66; 4.1.67; 4.1.68</p> <p>4.1.69; 4.1.70; 4.1.71; 4.1.72</p> <p>4.1.73; 4.1.74;</p> <p>4.1.75; 4.1.76; 4.1.77; 4.1.78; 4.1.79</p>	<p>New rules are designed to highlight importance of these arrangements to democratic functions; clarify process and allow members to hold to account/question cabinet members and committee chairs as well as Leader</p>
12 12.1 12.2 12.3 12.4	<p>Notices of Motion</p> <p>Notice</p> <p>Motion set out in Agenda</p> <p>Priority Business</p> <p>Scope</p> <p>Motions without Notice</p>	<p>4.1.80;</p> <p>4.1.81; 4.1.82</p> <p>4.1.83; 4.1.84</p> <p>Check 4.1.89; 4.1.90</p> <p>Exceptions</p> <p>4.1.86; 4.1.87; 4.1.88</p> <p>4.1.91; 4.1.92;</p>	<p>New rules to update existing rules</p>
14 14.1 14.2	<p>Rules of Debate</p> <p>No Speeches until Motion Seconded</p> <p>Right to Require Motion in</p>	<p>4.1.93; 4.1.94; 4.1.95; 4.1.96</p> <p>4.1.97; 4.1.98;</p>	<p>New rules and table to simply showing when a member may speak and length</p>

14.3	Writing		of speeches
14.4	Secunder's Speech		
14.5	Content and Length of Speeches When a Member May Speak Again		
14.6	Amendments to Motions	4.1.99; 4.1.100; 4.1.101; 4.1.102; 4.1.103; 4.1.104; 4.1.106; 4.1.107	No change
14.7	Alteration of Motion	4.1.108; 4.1.109; 4.1.110; 4.1.111	No change
14.8	Withdrawal of Motion	4.1.112; 4.1.113;	No change
14.9	Right of Reply	4.1.114; 4.115; 4.1.116; 4.1.117	No change
14.10	Motions which may be moved During Debate	4.1.118; 4.1.119	No change
14.11	Closure Motions	4.1.120; 4.1.121; 4.1.122	No change
14.12	Point of Order	4.1.123; 4.1.124	No change
14.134	Personal Explanation	4.1.125; 4.1.426	No change
1515.1	State of the Borough debate		No change
15.2	Calling of Debate		
15.3	Form of Debate		
15.4			

	Chairing of Debate		
	Results of Debate		
1616.1	Previous Decisions and Motions	4.1.129; 4.1.130a;	No change
16.2	Motion to Rescind a Previous Decision at Council	4.1.13b	
16.3	Motion to Rescind a Previous Decision at Committee	4.1.131; 4.1.132; 4.1.133	
	Motion Similar to One Previously Considered by Council		
17	Voting	4.1.134;	No change
17.1	Majority	4.1.135	
17.2	Chair's Casting Vote	4.1.136; 4.1.137	
17.3	Show of Hands	4.1.138;	
17.4	Ballots	4.1.139	
17.5	Recorded Vote	4.1.140; 4.1.141;	
17.6	Right to Require Individual Vote to be Recorded	4.1.142	
17.7	Voting on Appointments	4.1.143; 4.1.144 4.1.145; 4.1.146	
18	Minutes	4.1.147; 4.1.148;	No change
18.1	Signing the Minutes	4.1.149;	
18.2	No requirement to sign minutes of previous meeting an Extraordinary meeting	4.1.150; 4.1.151;	
18.3	Form of Minutes	4.1.152; 4.1.153	
19	Record of Attendance		No change

20	Exclusion of the public	4.1.154; 4.1.155;	No change
21	Members' conduct	4.1.156;	No change
21.1	Standing to Speak	4.1.157	
21.2	Mayor Standing	4.1.158	
21.3	Member not to be heard further	4.1.159	
21.4	Member to Leave the Meeting	4.1.160;	
21.5	General Disturbance	4.1.161	
22	Disturbance by Public	4.1.162	No change
22.1	Removal of Member of the Public	4.1.163	
22.2	Clearance of Part of Meeting Room	4.1.164	
23	Suspension and amendment of Council procedure rules	4.1.165	No change
23.1		4.1.166;	
23.2	Suspension Amendment	4.1.167	
24	Application to Committees and Sub-Committees		See rules above 4.1.3; 4.1.4, 4.1.5; 4.1.6
	Recording, filming and reporting of meetings	4.1.168; 4.1.169	New mandatory rule
	Interests under the Member code of conduct	4.1.170; 4.1.171	New mandatory rule
	Confidentiality	4.1.172; 4.1.173	New mandatory rule

13.6 ACCESS TO INFORMATION RULES

13.7 These Rules are required by legislation to set out how the public and members can access council meetings; agenda and reports. The Rules set out the special processes that apply to cabinet decisions in relation to call in of key decisions, urgency and special urgency.

13.8 The main changes recommended are as follows:

- To update the regulations to note the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
- To update other legislative references e.g. Charities Act 2011, information that has to be registered under this act is not exempt.

13.9 BUDGET AND POLICY FRAMEWORK RULES

13.10 These Rules are required by legislation and set out the process for cabinet to develop the budget and policy framework for recommendation to council. The Rules also set out the process if council disagree with the cabinet's proposals and the right of the cabinet to have extra time to rework proposals. The Rule also requires decisions by the cabinet which may be outside of the annual budget or policy framework.

13.11 The Rules do not require any change apart from updating references to new parts of the new Constitution.

13.12 CABINET PROCEDURE RULES

13.13 These rules regulate cabinet meetings and cabinet decision making.

13.14 The main changes recommended by DAF and set out at Annex 7 are:

- To call them the Cabinet Rules and substitute Cabinet for Executive to make them easier to understand by the public.
- The Rules dealing with decision making and delegated functions have been moved to the Functions Part of the new Constitution. These Rules will now just deal with Cabinet meeting process.
- Rules dealing with appointment of Deputy Leader form part of the new Functions
- These new Rules set out who can attend and speak at Cabinet.
- It is suggested this includes members of the public and elected members who have submitted a written question in advance with a right to a supplementary if they are in attendance.

- It is suggested this should also include Scrutiny chairs if they are presenting any recommendations to cabinet from their committee.
- It is suggested this includes group leaders and ward members if there is an item affecting their ward
- It also gives the Leader a discretion to invite other members to speak
- The new Rules make it clear that reports are presented by relevant cabinet member with officer support.
- The new rules also deal with seating to make sure it is clear who is on the Cabinet
- It is suggested that the Leader submits a report from cabinet to each ordinary council meeting giving summary of cabinet decisions taken, recommendations on budget and policy framework, any reports required by scrutiny and a summary of any urgent decisions.

13.14 OVERVIEW AND SCRUTINY PROCEDURE RULES

13.15 These rules regulate overview and scrutiny meetings. The existing Rules contain a mixture of topics; rules of procedure, appointment and also terms of reference.

13.16 The Rules have been edited and updated and are set out at Annex 8. It is suggested that the old rules dealing with membership and terms of reference be moved to Part Articles and Section 4 Functions of the new Constitution. The new Rules will focus on procedure at Overview and Scrutiny committee meetings

13.17 The main changes proposed are as follows:

- The definition of quorum will say one quarter of the voting membership or three members whichever is the greater. At present the rule refers to another part of the Constitution.
- It is proposed to have a full section on Task and Finish Groups (proposed new Rule 5.5.10) which are a key aspect of the statutory overview and scrutiny function.
- The existing rule requires that there should be at least 6 ordinary meetings of each Overview and scrutiny Committee each year. The new Rule references the Council's annual schedule of meetings and gives more flexibility to the chair to cancel or postpone meetings and for the committee to agree additional meetings as necessary.
- The new rules include the statutory Councillor Call for Action which allows any member of the council to request an item on the next available Overview and Scrutiny Committee Agenda.

- The new rules set out the overview and scrutiny role in policy review and development and rules relating to scrutiny reports and that the cabinet must consider them.
- The new rule also set out the duty of persons called to attend a scrutiny committee to attend.
- The Call in Rules are updated to take account of best practice and guidance.
- The new rules also details the scrutiny function relating to pre-decision call in and the Forward Plan.

13.18 CONTRACT PROCEDURE RULES AND FINANCE REGULATIONS

13.19 These technical rules regulate financial matters and contracts.

13.20 They are subject to review by the statutory Finance Officer and Monitoring officer. It is proposed that the Audit Committee be authorised to approve further revisions to these rules in the new Constitution,

13.21 OFFICER EMPLOYMENT PROCEDURE RULES

13.22 No changes are proposed to the existing Rules except to designate the Human Resources and Appeals Panel as the Employment Panel, which it is recommended consists of nine members of the council and must include at least one member of the cabinet. It is recommended that the Terms of Reference of the new Employment Panel include the existing terms of Reference for the Human Resources and Appeals Panel including employee appeals against dismissal and grievance, save for restructuring and HR policy matters which are executive functions. The revised Terms of Reference will form part of the Functions part of the new Constitution set out at Annex 4.

14 FINAL PHASE REVIEW OF THE CONSTITUION

14.1 DAF met on the 4 November 2020 to complete their work on reviewing the Constitution. This final review considered the Officer Scheme of Delegation set out at Annex 5 and how best to implement the proposed changes. DAF also recommend a new Protocol dealing with Public Participation set out at Annex 9.

15. PART 7 – CABINET PORTFOLIOS, MEMBERSHIP OF COMMITTEES AND THE COUNCIL’S MANAGEMENT STRUCTURE

14.1 A new Part 7 – Cabinet Portfolios, membership of committees and the Council’s Management Structure is set out at Annex 10. This will be kept up to date by the Monitoring Officer to provide details of cabinet portfolios, committee membership and committee chairs.

16. PART 8 - COVID-19 INTERIM ARRANGEMENTS

16.1. A new Part 8 - Covid-19 Interim Arrangements is set out at Annex 11 to locate all the variations to the Constitution arising from the Covid-19 pandemic and the

legal restrictions on meetings and other processes. The specific rules affected by these Interim arrangements will be added once the final form of the Constitution is agreed.

17. MEMBER DEVELOPMENT STRATEGY 2020/22

- 17.1 The Member Development Group has been appointed to promote learning and development for all councillors. It comprises Political Group Leaders and is chaired by Councillor Rafiq, Cabinet Member for Corporate Affairs.
- 17.2 An all member survey was carried out during August 2020 to seek councillors' views on member development as part of the new Constitution and has been used to inform the Strategy for 2020/21 set out at Annex 11. An action plan to deliver the Strategy and keep members up to date with training and development opportunities is underway and will be monitored by the Member Development Group.

15. COMMUNITY IMPACT / CONTRIBUTION TO THE BURY 2030 STRATEGY

An up to date Constitution will ensure decision are taken lawfully and in an open and transparent manner.

16. EQUALITY IMPACT AND CONSIDERATIONS:

An up to date Constitution will ensure decisions contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. An Equality Impact Assessment has been completed

17. ASSESSMENT OF RISK:

The following risks apply to the decision:

Risk / opportunity	Mitigation
Legal Challenge	An up to date Constitution will ensure decisions are taken lawfully and in an open and transparent manner.

18. CONSULTATION:

The Chairs of the Overview and Scrutiny Committee and Health Scrutiny have been consulted on the revised Scrutiny functions and new Scrutiny Rules. The Chair of the Licensing Committee has been consulted on the proposed variations to the functions of the Licensing and Safety Panel. The Chairs of Audit Committee and Standards Committee has been consulted on the proposed changes.

Briefings have also been held with the Conservative; Labour; Liberal Democrat and Radcliff Independent Groups.

19. LEGAL IMPLICATIONS:

The legal implications are set out in the report and below. The Review and changes, together with the input of elected members is welcomed.

Section 9P of the Local Government Act 2000 as amended sets out the duty of the Council to prepare and keep up to date its constitution as follows:

(1)A local authority must prepare and keep up to date a document (referred to in this section as its constitution) which contains—

(a)a copy of the authority's standing orders for the time being,

(b)a copy of the authority's code of conduct (if any) for the time being under section 28 of the Localism Act 2011,

(c)such information as the Secretary of State may direct, and

(d) such other information (if any) as the authority considers appropriate.

A local authority must ensure that copies of their constitution are available at their principal office for inspection by members of the public at all reasonable hours.

A local authority must supply a copy of their constitution to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

22. FINANCIAL IMPLICATIONS:

There are no financial implications arising from this Report.

23. CONCLUSION AND RECOMMENDATIONS

Members are asked to note the work of the DAF and the Standards Committee in reviewing the Constitution and the progress that has been achieved. The draft documents have been proof read and checked by the legal services team.

An all member briefing will be held prior to Council to further explain the proposed changes. Once agreed, a series of member and officer briefings and training events will be organised to ensure a smooth transition into any new arrangements.

REPORT AUTHORS AND CONTACT DETAILS

Marie Rosenthal – Strategic Advisor m.rosenthal@bury.gov.uk

Janet Witkowski- - Interim Monitoring Officer j.witkowski@bury.gov.uk

ANNEXES

1. Contents and Part 1 - Introduction to the Constitution

2. Part 2 - Articles
3. Part 3 Section 1 and 2, Council Functions
4. Part 3 (Sections 3 , 4 and 5) Responsibility for Committee Functions, Cabinet Functions; and Scrutiny Functions including a new Employment Panel, Licensing Hearings Sub-Committee; Safeguarding Scrutiny Sub-Committee ;
5. Part 3 – Officer Scheme of Delegation
6. Part 4 – Council Procedure Rules (Standing Orders)
7. Part 4 – Cabinet Procedure Rules
8. Part 4 – Scrutiny Procedure Rules
9. Part 5 – Public Participation Protocol
10. Part 8 - Covid-19 Interim Arrangements
11. Member Development Strategy 2020/22.

List of Background Papers:

LGA Corporate Peer Challenge Report – November 2019
 Lawyers in Local Government Model Form of Constitution
 Created by Womble Dickenson Dees
 Reports to Democratic Arrangements Forum July to October 2020
 Reports to Standards Committee on 1 July and 12 October 2020
 Member Survey – Bury Council August 2020
 Technical Review of Constitution –August 2020
 LGA Peer Review 2018
 Reports to Member Development Group 2020

Glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning
DAF	Democratic Arrangements Forum