

<b>Classification</b>	<b>Item No.</b>
Open	

<b>Meeting:</b>	Annual Council
<b>Meeting date:</b>	24 <sup>th</sup> May 2023
<b>Title of report:</b>	Bury Council Annual Constitution Update Report
<b>Report by:</b>	The Monitoring Officer
<b>Decision Type:</b>	<b>Council</b>
<b>Ward(s) to which report relates</b>	<b>All</b>

### **EXECUTIVE SUMMARY:**

The Council's constitution was reviewed and updated during the municipal year 2020/21. In considering the new Constitution, Members agreed that the Constitution should be reviewed annually to ensure that the changes proposed as a result of the review were fit for purpose. This report provides Members with details of which sections were reviewed during 2022/23 and sets out the priority areas for review in 2023/24.

### **RECOMMENDATIONS:**

Members of Council are asked to -

1. Adopt the proposed changes regarding the Protocol on Member and Officer Relations, Committee and Cabinet appointments, and Licensing Functions, as detailed in the report;
2. Note the selections reviewed during the 2022/23 municipal year; and
3. Note the selections proposed for review during the 2023/24 municipal year.

### **INTRODUCTION**

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 review regularly.

### **BACKGROUND**

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.

A Constitution Direction was issued by the Secretary of State in December 2000 requiring 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.

Bury's Council Constitution is organised into 9 Parts (many divided into a number of sections). The existing Council's Constitution is available on the Council's external website.

## **SELECTION FOR REVIEW DURING 2022/23**

One of the primary functions of the Council's Monitoring Officer is oversight and responsibility for the Council Constitution. In undertaking this role, the Monitoring Officer introduced an annual review of the Council's Constitution. Selection for review has been informed by feedback from Elected Members and discussions with fellow Council Officers.

At its meeting in May 2022, Full Council approved revisions to the Officer Employment Procedure Rules, Monitoring Officer Protocol, Public participation guidance, and a number of other amendments. Since that time, further selections have been reviewed and are summarised below.

The following selections were reviewed

### **1. Notices of motion**

At its meeting in November 2022, the Democratic Arrangements Forum agreed amendments to the Notices of Motion provision to clarify and rationalise the process. These changes were agreed by Council in December 2022.

### **2. Contract Procedure Rules**

Standards Committee received a report on Contract Procurement Rules in November 2022, following consideration by Audit Committee. The changes ensured the Rules were future-proofed for upcoming Regulation changes and provided flexibility in the way procurement is delivered operationally and to reflect best practice. In addition, a Procurement Guide and Implementation Plan were also developed. These changes were agreed by Council in December 2022.

### **3. Officer Employment Procedure Rules and Disciplinary Procedure for Head of Paid Service, Monitoring Officer and Chief Finance Officer**

Employment Panel received a report on proposed amendments to the Officer Employment Procedure Rules and Disciplinary Procedure in January 2023.

The amendments followed an update to the national Chief Executive's handbook (which constitutes an element of the conditions of service for Local Authority Chief Executives in relation to the independent investigation process and disciplinary procedures for Chief Executives. The proposed changes made the process more independent, and, in keeping with Bury's current approach, the proposal was for the changes to be the same for the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer. These changes were agreed by Council in March 2023.

#### **4. Establishment of the Locality Board**

Establishment of the Locality Board including draft terms of reference and committee membership were approved by Council in May 2022. Subsequently, minor amendments have been made to the Constitution in order to update references to Strategic Commissioning Board following formal adoption of decision making powers by the Locality Board in April 2023.

#### **5. Changes to Members Allowances**

The Democratic Arrangement Forum gave authority in June 2021 for the Monitoring Officer to establish a new Independent Remuneration Panel (IRP) to carry out a review of all Member allowances. The recommendations of this comprehensive review were received and approved at the Annual Council meeting in May 2022.

#### **6. Member Code of Conduct**

Standards Committee received a report on the Member Code of Conduct in March 2023 and agreed to establish a working group to consider the current code and consider whether revisions should be made. Any recommendations would then be considered by Full Council in due course. This has therefore been scheduled for review in 2023/24.

#### **7. Schemes of Delegation for Directorates**

Each Directorate was tasked with reviewing and updating their existing schemes of delegations for inclusion in the Constitution. These have been received from Operations and Children's Services. Members should note that the review of the scheme of delegations for other services have been proposed for review in 2023/24 owing to the Senior Management restructure currently going through consultation.

#### **8. Protocol on Member and Officer Relations**

Standards Committee received a report on the protocol on member and officer relations in March 2023. The current protocol was reviewed and refined to make it clearer, stronger, and easier to understand. No strategic changes were proposed. The full amended protocol (with changes tracked) is appended to this report and Council are asked to approve these changes and adopt the revised protocol.

#### **9. Financial Regulations**

To conduct its business efficiently, sound financial management policies are required by the Council, including the establishment of financial regulations to

provide clarity about the financial accountabilities of individual officers and Cabinet Members. As these rules are read in conjunction with other constitutional documents, these regulations are currently being reviewed following the revised Schemes of Delegations for Directorates. The amended regulations are anticipated to be submitted to Council in July 2023 for approval.

#### **10. Proposed changes to appointments to committees / cabinet appointments**

Youth Cabinet is proposed to be reduced from nine Councillors down to seven, and a proposal is being made to appoint two Deputy Leaders (with one being the named statutory deputy to represent the Leader as required). The Deputy Leader allowance is to be split between the two posts to ensure the change remains cost neutral.

#### **11. Licensing Functions**

Licensing functions have been amended alongside the scheme of delegations to reflect legislative changes and appropriate sign off mechanisms. The amended functions are included in the Licensing Committee's terms of reference which are appended to this report with changes tracked. Council are asked to approve these changes and adopt the revised Licensing functions.

### **SELECTION FOR REVIEW DURING 2023/24**

Over the course of the next twelve months, the following areas are proposed for review:

#### **1. Member Code of Conduct**

As outlined above. The Standards Working Group is due to meet for the first time following appointments at Annual Council. The outcomes of this review will be reported to the Standards Committee and will be considered by Full Council in due course.

#### **2. Local Choice Functions**

These are functions which in law may be, but don't necessarily have to be, the responsibility of the Cabinet. It is for full Council to decide who shall exercise these functions, and the outcomes of this review will be considered by Full Council in due course.

#### **3. Anti-fraud and corruption - Whistleblowing policy**

Whistleblowing is the raising of a concern, either within the workplace or externally, about a danger, risk, malpractice or wrongdoing or illegality which affects others. The Council's Whistleblowing Policy is an important element of Bury's governance arrangements, and the outcomes of this review will be considered by Full Council in due course.

#### **4. Scheme of Delegations**

As outlined above. The scheme of delegations for services will be carried out once the senior officer restructure has come into effect.

## 5. Ethical Governance

Good governance relies on being ethical, accountable and effective. Ethical Governance refers to values and ethical behaviours, processes, procedures, culture, ways of doing and being that ensure high standards of performance, economy, effectiveness, efficiency, quality, satisfaction.

## 6. Internal Governance Boards

Bury Council has a number of internal Boards to oversee and take operational decisions with input from multiple teams and directorates, most of which have only been operating for fewer than twelve months. In order to ensure there is no duplication or omissions, the Terms of Reference for major internal Boards i.e. Regeneration Board, Capital Programmes Board, Estates Board, and Corporate Governance Board (subject to the outcome of the restructure consultation) will be reviewed and provision for these will be made in the Constitution.

## 7. Governance of Housing Arrangements

Councillors should note that an independent review of the Council's arrangement for the management of Council housing stock has been undertaken. A report will be considered by Cabinet in June 2023 and, dependent on the decisions reached by Members at that meeting, governance arrangements for housing may need to be reviewed.

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## Community impact/links with Community Strategy

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

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## Equality Impact and considerations:

<b>Equality Analysis</b>	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>
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.	

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## Assessment of Risk:

The following risks apply to the decision:

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

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**Consultation:**

Group Leaders and the Mayor at the Democratic Arrangements Forum and Members of the Standards Committee.

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**Legal Implications:**

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. The Bury constitution is made available on our public website.

It is for the Monitoring Officer to monitor and review the operation of the constitution on an ongoing basis and where necessary bring forward amendments to Council.

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**Financial Implications:**

There are no financial implications arising from this report.

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**Report Author and Contact Details:**

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**List of Appendices:**

Appendix 1 – Revised Protocol on Member and Officer Relations

Appendix 2 – Revised Licensing Functions