

Classification	Item No.
Open	

Meeting:	Annual Council
Meeting date:	22 nd May 2024
Title of report:	Bury Council Annual Constitution Update Report
Report by:	The Monitoring Officer
Decision Type:	Council
Ward(s) to which report relates	All

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 2023/24 and sets out the priority areas for review in 2024/25.

RECOMMENDATIONS:

Members of Council are asked to -

1. Adopt the proposed changes regarding Schemes of Delegation and Local Choice Functions (appendix 1 a-g and appendix 2);
2. Note the selections reviewed during the 2023/24 municipal year; and
3. Note the selections proposed for review during the 2024/25 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 website.

SELECTION FOR REVIEW DURING 2023/24

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. The selection for review has been informed by feedback from Elected Members and discussions with fellow Council Officers.

At its meeting in May 2023, Full Council approved revisions to the Protocol on Member and Officer Relations, Committee and Cabinet appointments, Licensing Functions, and a number of other amendments. Since that time, further selections have been reviewed and are summarised below.

The following selections were reviewed:

1. Member Code of Conduct

In 2023, Standards Committee proposed that a working group be established to review the current code of conduct and consider whether revisions should be made following the LGA's revised code of conduct. Membership was made for up of three Members of the Standards Committee (one from each party), one independent person, and the Monitoring Officer. The Working Group met on 9th November 2023 to recommend an amended draft code to Standards Committee. This was subsequently approved by Council in March 2024.

2. Local Choice Functions

These are functions which in law may be, but don't necessarily have to be, the responsibility of the Cabinet, who considered proposed changes at their meeting on 17th April 2024 and are recommending Council's approval of the functions as part of this report (appendix 2).

3. Anti-Fraud, Whistleblowing, and Fraud & Corruption Prosecution

Audit Committee received a report at their meeting on 31 July 2023 providing an overview of the Anti-Fraud and Corruption Strategy, the Whistleblowing (Confidential Reporting) Policy, and the Fraud and Corruption Prosecution Policy. These were updated to incorporate best practice guidance and adhere to the key principles set out in CIPFA's Codes of Practice. These changes were agreed by Council in November 2023.

4. Scheme of Delegations

Each Directorate was tasked with reviewing and updating their existing schemes of delegations for inclusion in the Constitution. These have been received from Operations, Children's Services, BGI, Health and Adult Care (Public Health TBC), and Corporate Core (including Housing). Democratic Services and Legal Services have also reviewed the Chief Executive's delegations and these are appended to the report. Delegations to other Executive Directors will be reviewed in light of the updated Chief Executive delegations, and will be brought to Council in due course.

5. Ethical Governance

Progress has been made in this area, with Standards Committee receiving an Ethical Governance newsletter including information regarding:

- calls for Members' home addresses to be withheld on public registers;
- disciplinary action against 14 current and former Liverpool Councillors regarding inappropriate cancellation of parking fines;
- consideration from the Committee for Standards in Public Life of how the Nolan Principles might become more deeply woven into all aspects of how organisations operate; and
- The Local Government (Disqualification) Act 2022 which updated the disqualification criteria for local authority members standing for or remaining in office subject to relevant notification requirements or orders due to sexual offences.

Ethical Governance remains a priority area for the Council and is included as an item for full review during 2024/25.

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, including Regeneration Board, Capital Programmes Board, Corporate Governance Board, and the Financial Improvement Panel. They have all reviewed and confirmed their Terms of Reference to ensure consistent operational decision making moving forwards.

7. Governance of Housing Arrangements

A Strategic Housing Review was undertaken in 2023 and the outcomes reported to Cabinet on 7 June 2023. An in-principle decision was taken at this meeting to return Six Town Housing to direct Council control and, in the meantime, a programme of immediate improvement was directed. A Tenant Test of Opinion on the in-principle decision was undertaken over the summer and the findings reported to Cabinet in October 2023. A 9.89% response rate was achieved, with 771 returns from our 7,700 tenants, of which 90.5% support the proposal for the Council to deliver the housing management and maintenance service directly.

Subsequently, a compliance audit led by the interim Chief Executive of Six Town Housing highlighted some immediate issues with property standards which were inconsistent with the current management agreement between Six Town Housing and the Council.

After formal consultation with Council and Six Town Housing staff, the formal, legal date of transfer was confirmed for 1 February 2024, with a commitment to working together as one team from 15 January 2024. Cabinet agreed to retain the STH brand, to retain ownership of a number of properties owned by the company, but

to undertake a phased approach to the transition of other branding (uniforms, vehicles, branded collateral etc).

8. Debt write off thresholds

At its meeting in July 2023, the Audit Committee approved two amendments to the debt write off thresholds to reflect the following table; this was subsequently approved by Full Council in September 2023.

Value	Approval Required	Reported to
Up to £1,000	Responsible Budget Holder	Director
In excess of £1,000 but not more than £10,000	Responsible Director in consultation with the Chief Accountant	Section 151 Officer
In excess of £10,000 but not more than £50,000	Section 151 Officer in consultation with the Monitoring Officer	Relevant Cabinet Member
In excess of £50,000	Cabinet	

9. Council Procedure Rules

At its meeting in November 2023, Council approved some amendments to the Council Procedure rules concerning Combined Authority updates, the GM Mayor's attendance once a year at Full Council, Youth Council Motions, and clarification of right of reply timings.

10. Workforce Policies - Officer Employment Procedure Rules

At its meeting in March 2024, following approval by Employment Panel in February, Council approved changes as part of the review of core HR systems, processes and policies to ensure they are fit for purpose, reflective of modern HR practice and align with the organisational culture described by the LET'S values. Changes were approved to six policies, one of which (Officer Employment Procedure Rules) is included in the Council's Constitution and has therefore been updated.

11. Postal Address for Election Candidates

At its meeting in March 2024, Council approved wording to be included at Article 2 – Councillors section 2.2.3 regarding Candidates not using Bury Town Hall as their address on their imprints on electronic campaigning material.

SELECTION FOR REVIEW DURING 2024/25

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

1. Schemes of Delegation

As outlined above, delegations to Executive Directors will be reviewed in light of the updated Chief Executive delegations, and will be brought to Council in due course.

2. Ethical Governance

Good governance relies on being ethical, accountable and effective. This review will look at policies in place which relate to values and ethical behaviours, processes, procedures, culture, ways of doing and being that ensure high standards of performance, economy, effectiveness, efficiency, quality, satisfaction.

3. Public Participation Guidance

A healthy democracy depends upon active citizenship. Residents are encouraged to make conscientious use of their roles as both voters and members of a wider community, and this guide gives an overview of the ways in which they can do that (i.e. attending meetings, asking questions, petitions, etc).

4. Probity in Planning Guidance

This guidance regulates the performance of the Council's planning function, principally as it applies to applications for planning permission, but also to the other areas within the terms of reference of the Planning Control Committee pertaining to development control (e.g. enforcement, listed buildings, conservation areas, tree preservation orders, etc).

5. Housing Governance

The continuation of the review of the Housing Governance arrangements, to include the embedding of the Housing Advisory Board, the establishment of a Housing Scrutiny Committee, and performance/audit reporting, streamlined into the governance functions of the Council.

Community impact/links with Community Strategy

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

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.

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.

Consultation:

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

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.

Financial Implications:

There are no financial implications arising from this report.

Report Author and Contact Details:

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List of Appendices:

Appendix 1 – Schemes of Delegation:

- Operations
- Children's Services
- Business Growth and Infrastructure
- Health and Adult Care (Public Health TBC)
- Corporate Core (inc. Housing)
- Chief Executive

Appendix 2 – revised Local Choice Functions