
Meeting of the Cabinet – 15th December, 2021

Report of the Lead for Law and Governance (Monitoring Officer)

Annual Review of the Constitution

Purpose

1. To consider the annual review of the Constitution. The full [Constitution](#) is available on the Council's website.

Recommendations

2. That the Council be recommended to approve:
 - The recommendations of the Audit and Standards Committee concerning the adoption of the revised Members' Code of Conduct and Standards Arrangements, effective from 6th May, 2022, together with the necessary revision of the Constitution (paragraphs 6 to 12 and Appendix 1).
 - The amendments to the Petition Scheme (paragraphs 13, 14 and Appendix 2).
 - The incorporation of the Best Consideration Protocol into Part 6 of the Constitution (paragraph 15).
 - The amendment of Article 4.02(a) and Cabinet Procedure Rule 1.2(c) to reflect the process for making amendments to the Scheme of Delegation in Part 3 of the Constitution (paragraphs 16 and 17).
 - The arrangements for making nominations concerning the appointment of Honorary Aldermen and Honorary Alderwomen (paragraphs 18 to 21).

Background

3. The Council introduced the Constitution in May 2002. Section 37 of the Local Government Act 2000 requires the Council to keep the Constitution up to date. This is reflected in Article 15, which requires the Monitoring Officer to monitor and review the operation of the Constitution to ensure that the aims and principles are given full effect.
4. Full Council is responsible for approving changes to the Constitution after consultation with the Cabinet. An exception to this is that amendments to the Scheme of Delegation may be made by way of a Delegated Decision Sheet authorised by the Leader of the Council. From time to time, amendments are also made under the Monitoring Officer's delegated powers to update legal provisions and reflect organisational changes.
5. The Constitution promotes the Council's democratic governance arrangements. All previously approved amendments to the Constitution have been implemented. The Cabinet is now asked to consider the specific issues below and make recommendations to the Council.

Members Code of Conduct and Standards Arrangements

6. On 16th July, 2012, Dudley Council approved a report on the necessary actions to implement the statutory standards arrangements as contained in the Localism Act 2011. This included the adoption of a Members' Code of Conduct based on the national model Code available at that time. In addition, the Council approved the development of local arrangements and procedures for dealing with standards allegations and complaints made under the Members' Code of Conduct. These detailed documents are set out in the Council's Constitution. The documents are largely unchanged since they were adopted in 2012.
7. In 2019, the Committee on Standards in Public Life published a report which recommended creating an updated Model Code of Conduct by the Local Government Association (LGA) in consultation with representative bodies of Councillors and Officers of all tiers of local government.
8. During 2020, the LGA conducted a consultation to gather views on its draft Model Member Code of Conduct. Responses to the consultations were gathered by the LGA Research and Information team via an online questionnaire and by email. Over 1600 written responses to the consultation were received by the LGA. In addition, workshops of Members and Monitoring Officers took place to discuss the approach and content of the revised Code. The Council contributed to this consultation.
9. The final Model Code of Conduct for Councillors was subsequently approved by the LGA and made available to all Local Authorities.



10. The Members' Code of Conduct and the associated procedures have worked effectively since they were introduced in 2012. Although there has been no change in the primary legislation, it is now timely to review and update the documents taking account of the new national Model Code of Conduct issued by the Local Government Association.
11. On 6th December, 2021, the Audit and Standards Committee is considering a report on the Members Code of Conduct and Standards Arrangements. The Committee will make a recommendation to the Council on the adoption of a revised Members' Code of Conduct based on the Local Government Association's Model Code of Conduct and to update the associated arrangements for dealing with standards allegations under the Localism Act 2011. The proposal is to introduce the new Code and standards arrangements effective from 6th May, 2022. The updated documents are set out in Appendix 1.
12. Subject to the Council's approval, training will be arranged for all Members of the Council and Co-opted Members on the revised Members' Code of Conduct in due course.

Petition Scheme

13. Although it is no longer a statutory requirement, the Council has retained a Petition Scheme within the Constitution for several years. This is a useful reference document setting out how the Council receives and deals with the various types of petitions that are received on a wide range of subjects.
14. Two practical issues have been identified requiring updates to the existing Petition Scheme. These are highlighted in Appendix 2. Firstly, in cases where a petition contains at least 3,000 signatures, a petition organiser may request that the petition is debated at a meeting of the Full Council. A written request to this effect must be made to the Monitoring Officer when the petition is submitted. Secondly, it is advised as good practice, that petitions should contain a data protection statement. Whilst this is not mandatory, and would not be used as a reason to reject a petition, it clarifies a general point that when an individual signs a petition, there is a reasonable expectation that other people will see the petition before and after it is submitted to the Council.

Best Consideration Protocol

15. On 22nd October, 2021, the Cabinet Member for Regeneration and Enterprise approved Delegated Decision Sheet Reference DRE/27/2021. This authorised the adoption of a protocol for best consideration in respect of the disposal of land and property by the Council. The full Decision Sheet and the approved Protocol is available on the [Council's Website](#). It is proposed that the Protocol is formally incorporated in Part 6 of the Constitution (Codes and Protocols).



Amendments to Part 3 of the Constitution (Scheme of Delegation)

16. Under Article 4.02 of the Constitution, the Full Council retains responsibility for adopting and changing the Constitution. The only exception is any amendments to the Scheme of Delegation in Part 3 of the Constitution which are dealt with by way of a Delegated Decision sheet or where amendments are made by the Monitoring Officer under delegated powers.
17. For clarity, it is recommended that Article 4.02(a) and Cabinet Procedure Rule 1.2(c) are amended to reflect that any amendments to the Scheme of Delegation may be made by the Leader of the Council by way of a Delegated Decision sheet. The Leader of the main opposition group will be notified of any proposed changes to the Scheme of Delegation before a decision is made.

Appointment of Honorary Aldermen and Honorary Alderwomen

18. Although this is not formally part of the Constitution, queries have arisen during the year regarding the criteria for the appointment of Honorary Aldermen and Honorary Alderwomen. The criteria for appointments of Honorary Freemen and Freewomen of the Borough were agreed by the Council on [25th February, 2013](#). However, there is no written criteria for the appointment of Honorary Aldermen and Honorary Alderwomen.
19. The legal position is set out in Section 249 (1) of the Local Government Act, 1972, which provides that the Council may, by a resolution passed by not less than two thirds of the members voting thereon at a meeting specially convened for the purpose, confer the title of Honorary Alderman or Honorary Alderwoman on persons who have, in the opinion of the Council, rendered eminent services to the Council but who are not then Councillors of the Council.
20. Following an informal discussion with Group Leaders, it has been recommended that, in normal circumstances, persons will only be nominated for the position of Honorary Alderman or Honorary Alderwoman if they have previously served on the Council for a minimum of 12 years (or 3 terms of office). Nominations will be made to the Council in the same way as nominations are made for the Freedom of the Borough appointments. Any nominations will initially be made via the Group Leaders.
21. The adoption of this approach will not preclude the Council from considering any nominations where a person has served as a Councillor for less than 12 years. The Council retains sole discretion to determine if it wishes to confer the honorary titles where it considers that a person has rendered eminent services to the Council.

Ongoing Review of the Constitution

22. In accordance with Minute No. 12 of the Annual Council meeting held on 20th May, 2021, the Monitoring Officer has delegated powers to update the Constitution to reflect any decisions made by the Council, any ongoing Council restructuring activity, changes in legislative requirements, statutory provisions or associated regulations or guidance.
23. Maintaining and updating the Constitution is an ongoing duty of the Monitoring Officer. Work will continue to identify any required updates, consolidate various provisions, remove duplication or any content that is no longer relevant. A report on the Constitution is submitted to the Annual Council Meeting in May, where any amendments made to the document are confirmed.

Finance

24. Any costs arising from compliance with the Constitution are met from existing budgets.

Law

25. Section 37 of the Local Government Act 2000 requires the Council to keep its Constitution up to date.

Risk Management

26. This report deals with the Council's Constitution and governance arrangements, which will ensure that the Council considers any ongoing material risks as part of the Council's Risk Management Framework.

Equality Impact

27. The Constitution makes provision for the discharge of the Council's powers and duties relating to equality and diversity including the consideration of any specific implications of proposals affecting children and young people.

Human Resources/Organisational Development

28. The ongoing review of the Constitution is undertaken within existing resources by the Monitoring Officer, supported by the Democratic Services Team. Regular monitoring and updating is necessary to ensure that the Constitution remains fit for purpose and underpins the efficient and effective operation of the Council's governance arrangements.

Commercial/Procurement

29. The Constitution includes governance documents that set a framework in which the Council's commercial/procurement activity is properly undertaken. This includes the Council's Standing Orders relating to Contracts.

Council Priorities

30. This report deals with the Council's Constitution, which underpins the delivery of key Council priorities including the Borough Vision, Council Plan and Future Council Programme.



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List of Background Documents

Appendix 1 – Members' Code of Conduct and Standards Arrangements

Appendix 2 – Petition Scheme

Minutes and reports to the Council dated 16th July, 2012

Minutes and reports to the Council dated 25th February, 2013

Minute No. 12 of the Annual Council meeting held on 20th May, 2021

Delegated Decision Sheet Reference DRE/27/2021

Report to the Audit and Standards Committee dated 6th December, 2021

The Council's Constitution - Full copy on the Council's Website