

Bassetlaw District Council
Audit & Risk Scrutiny Committee

20th July 2023

Report of the Monitoring Officer

Constitution Review

Cabinet Member: Communications, Policy & Performance
Contact: Stephen Wormald

1. Public Interest Test

- 1.1 The author of this report, Stephen Wormald, has determined that the report is not confidential.

2. Purpose of the Report

- 2.1 To update the Audit & Risk Scrutiny Committee on progress of the Constitution review and to seek approval of the proposed amendments to Part 3 of the Constitution for onward referral to full Council.

3. Background and Discussion

- 3.1 At the meeting of the committee on 12th September 2019, members were presented with a report which outlined the rationale and presented proposals for a full review of the Council Constitution, which the committee agreed. The committee nominated four of its members to form a Constitution Working Group (CWG). Members were also advised that Weightmans LLP had been engaged to provide support to undertake the review. Simon Goacher of Weighmans has since drafted proposed amendments to Parts 3 and Part 5 of the Constitution. Simon attended a number of CWG meetings and briefing sessions with Members and Chief Officers.
- 3.2 The Constitution review was paused during the COVID pandemic, but then recommenced during 2022. The review related primarily to Parts 3 (Members' scheme of delegation) and 5 (Rules of Procedure). Part 4 (Officer's scheme of delegation) was reviewed and amended relatively recently and so did not require amendment (other than such amendments required to ensure consistency with amendments to Parts 3 and 5).
- 3.3 The review of Part 5 of the Constitution was completed in 2022. The Audit & Risk Scrutiny Committee approved the amendments to Part 5 on 22nd October 2022. Full Council then approved those amendments on 27th October 2022.

The review of Part 3 has now reached a point where proposed amendments to that Part can be presented to the Committee to approve for subsequent referral to Council.

Proposed changes to the way that Human Resources (HR) decisions are taken are designed to ensure that those decisions are taken at the appropriate level by a Council operating executive arrangements. In general decisions relating to staffing are non-executive functions and so should be taken by Cabinet, but should fall within the delegated authority of the Head of Paid Service. In general terms the Executive has responsibility for setting a budget (including for staffing), the Head of paid Service (or

Chief Officer with delegated authority) has responsibility for making decision relating to staffing that can be made within budget, but would need to seek authority from the Executive if additional budget were required.

There are no proposals to change the role of JEC and an Appointments Panel, Appeals Committee and Chief Officers' Investigation Committee will deal with functions within their respective remits.

- 3.4 The proposed amendments to part 3 of the Constitution are now ready for consideration and approval. The amended Part 3 is attached as Appendix 1. The proposed amendments to the respective bodies and committees are summarized below;

Council

Predominantly minor amendments and clarifications. For example, removal of reference to Cabinet being a body appointed by Council. Council does not appoint the Cabinet, the Leader does.

Cabinet

No longer listing specific policy plans for recommendation to Council, as these could change and require further updates of the constitution. The general description of the policy plans will be retained instead.

Clarify the Cabinet's responsibility for all executive functions.

Remove responsibility for Human Resources matters which are not executive functions.

Overview & Scrutiny Committee

Minor updates. For example, removal of reference to A1 Housing.

Audit & Governance Committee

Renamed from Audit and Risk Scrutiny Committee. This committee does not generally exercise scrutiny functions, and the role of the committee has been clarified.

The requirement that the Chair and Vice-Chair of the Committee should be members of Overview and Scrutiny Committee is removed, as there is no reason for this to be a requirement.

Planning Committee

Confirm delegated authority for Committee members to appear as witnesses at planning inquiries.

On appeals, confirm that, where a decision has been taken against the Officer recommendation, which is appealed and dealt with at public inquiry, then a member of the committee will be required to appear as a witness at the inquiry.

Licensing Committee

Removal of references to environmental health matters, which are no longer dealt with by licensing committee.

Licensing Panels to have additional powers to determine matters relating to Hackney Carriage and Private Hire Vehicles.

Appointments Committee

Appointments to Head of Service could be delegated to the Head of Paid Service if agreed by the Chair.

Appeals Committee

To determine appeals by Chief Officers and Heads of Services and in respect of the dismissal of any employee.

Planning Consultation Group

Authority to approve the wording of the reasons for refusal of a planning application determined by Planning Committee.

JEC

Update number of members from both Union and Employee sides from 5 to 6.

3.5 Corresponding amendments to Part 4 of the constitution relating to staffing matters are attached at Appendix 2.

3.6 Key Decision threshold.

The current financial threshold for a key decision is £100,000. This figure has not been updated for a considerable period of time and is no longer considered to be an accurate measure of what a financially significant decision would be.

Having benchmarked the figure, and considering the number of years since the figure was set, it is now proposed to increase the threshold for a key decision to £250,000.

4. Implications

- a) For service users
The proposed amendments should help to address issues highlighted at previous Council meetings.
- b) Strategic & Policy
The Constitution review is designed to ensure that the Council has robust governance arrangements.
- c) Financial - Ref: 24/700
None
- d) Legal – Ref: 064/07/2023
The Council is meeting its statutory responsibilities by keeping an up-to-date Constitution.

- e) Human Resources
None
- f) Community Safety, Equalities, Environmental
None.
- g) GDPRrunning of the Authority
None
- h) This is not a key decision.

5. Options, Risks and reasons for recommendations

- 5.1 Having an effective Constitution serves to make clear the procedures the Council follows in conducting its business and minimises the risk of decisions being taken outside of the agreed framework.
- 5.2 The Council would be failing in its duty to keep an up-to-date Constitution if it was not the subject of an in depth review from time to time.
- 5.3 Proposed changes to Part 3 are designed to ensure that decisions are taken by the appropriate body or Officer to ensure the efficient.

6. Recommendations

- 6.1 That the Audit and Risk Scrutiny Committee notes the progress of the Constitution review.
- 6.2 To agree the proposed amendments to Parts 4 and 5 of the Constitution and the increase of the threshold for a key decision for onward referral to full Council for approval.

Background Papers

Location