



**Council**

**Thursday 11, July 2019**

**Revisions to the Council's Constitution**

## **Report of the Monitoring Officer**

### **1. Purpose of Report**

- 1.1 This report summarises the revisions to the Constitution as a result of the scrutiny review, and makes recommendations for revising it and adopting a revised scrutiny structure.
- 1.2 This report sets out amendments to the Councillor Code of Conduct to have regard for the recommendations of the Standards Committee following publication of the report into Standards in Public Life issued by the committee for standards in public life in January 2019. The report also recommends adoption of the Best Practice Principles as set out within the Committee's report.
- 1.3 This report also details amendments to the Constitution made by the Monitoring Officer under delegated authority since the last revision in March 2018.

### **2. Recommendation**

It is RECOMMENDED that Council:

- a) Consider and approve the revisions to the Constitution in relation to Scrutiny to adopt the recommendations of the March 2019 Council report;
- b) Adopt the Best Practice Principles and recommendations of the Committee in Standards in Public Life (CSPL);
- c) Consider and approve the revisions to the Constitution made by the Monitoring Officer under delegated authority.

### **3. Reasons for Recommendation**

- 3.1 Between September 2018 and February 2019, the Council undertook a review of its scrutiny function with independent assistance from the Centre for Public Scrutiny. Their report was considered by Council on 7 March 2019. The proposed revisions seek to update the Constitution to reflect the recommendations approved for a transitional period of twelve months.

3.2 On 30 January 2019, the CSPL published its report into standards: Local Government Ethical Standards. The CSPL review was across the breadth of local government in England, including Town and Parish Councils, Principal Authorities, Combined Authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London). CSPL is an independent advisory non-departmental public body. The review considered standards arrangements with a focus on support and safeguarding of local democracy, maintaining high standards of conduct, and to protect ethical practice in local government, particularly in light of the changes made by the Localism Act 2011.

#### **4. Supporting Evidence**

##### **Scrutiny**

4.1 The CfPS is an independent consultancy focused on supporting public sector organisations deliver effective scrutiny and governance. From September to December 2018 they were engaged to undertake a review of the Council's scrutiny arrangements.

4.2 The outcome of the review was reported to Council in March 2019.

4.3 The review included desk research reviewing the Councils current arrangements, best practice from around the sector and the recommendations of the Government Select Committee into Scrutiny within Local Government. Additionally, interviews were undertaken with a range of councillors and officers; an online questionnaire open to all councillors; and a feedback and scoping session with Cabinet and the management team.

4.4 The key lines of enquiry were provided to the CfPS:

- Is Scrutiny performing as efficiently as it could be?
- Is Scrutiny contributing to the overall success of the authority?
- Is Scrutiny fulfilling its purpose – i.e. to hold the Executive to account

4.5 The CfPS concluded that Rushcliffe is a high performing authority with a stable and clear majority. They considered that scrutiny is operating well but could 'always do better'. Additionally, they formed the view that scrutiny is active but its focus could be better placed and that the Executive ambition better supported or enhanced by the scrutiny function. The strengths and weaknesses identified were considered by Council in March 2019.

##### **Standards**

4.6 On the 30 January 2019, the Committee on Standards in Public Life (CSPL) released its report: Local Government Ethical Standards. The CSPL review was across the breadth of local government in England, including Town and Parish Councils, Principal Authorities, Combined Authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London). CSPL is an independent advisory non-departmental public body.

4.7 The purpose of the review was to review the standards arrangements support and safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government, particularly in light of the changes made by the Localism Act 2011. The terms of reference for the review were to examine the structures, processes and practices in local government in England for:

- Maintaining codes of conduct for local councillors;
- Investigating alleged breaches fairly and with due process;
- Enforcing codes and imposing sanctions for misconduct;
- Declaring interests and managing conflicts of interest;
- Whistleblowing;
- Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
- Make any recommendations for how they can be improved;
- Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

4.8 The key recommendations of the report include:

- A new power for local authorities to suspend councillors without allowances for up to six months with a right of appeal for suspended councillors to the Local Government Ombudsman;
- Revised rules on declaring interests and gifts and hospitality;
- An updated voluntary Model Code of Conduct to be introduced with local authorities to retain ownership of their own Codes of Conduct;
- A strengthened role for the Independent Person;
- Monitoring Officers provided with adequate training, corporate support and resources and statutory protections to be expanded;
- Greater transparency about the number and nature of Code complaints;
- Political groups set clear expectations of behaviour by their members and code of conduct training to be mandatory.

A copy of the full CSPL report is available at:

<https://www.gov.uk/government/publications/local-government-ethical-standards-report>

4.9 Many of the committee's recommendations will require primary legislation; implementation is therefore subject to Parliamentary timetabling. However, some of the recommendations can be achieved through secondary legislation or amendments to the Local Government Transparency Code, which could be implemented by government relatively quickly.

4.10 The best practice list is a matter for individual local authorities and can be introduced by the Council straightway. The Council already has some of the best practice in place:

- Prohibition on bullying and harassment in the code of conduct,

- The code of conduct and arrangements under the Localism Act 2011 is clearly published on the website;
- Independent Person arrangements

4.11 Adoption of the principles across authorities will be reviewed by the CSPL in 2020.

4.12 The CSPL report has been reviewed by the Standards Committee and they have recommended that those recommendations not requiring legislation be adopted by way of amendment to the Councillor Code of Conduct and Adopted Arrangements. The Committee has further recommended adoption of the Best Practice Principles.

### **Other Constitutional amendments: Summary of changes:**

The Monitoring Officer has through the year, in accordance with delegated authority made revisions as set out below to the Constitution which Council is invited to accept.

## **Part 3 – Responsibility for Functions and Scheme of Delegation**

### **1.2 Functions of the full Council**

The items as set out below are reallocated to the Governance Scrutiny Group. It is common practice at other councils that the equivalent of an Audit Committee (for Rushcliffe, the Governance Scrutiny Group) approve the Statement of Accounts.

### **1.3 Delegation of Responsibility for Council Functions by Full Council**

The Council's Committees have been updated to incorporate the transitional scrutiny arrangements, with the terms of reference set out in:

Appendix 5:

Corporate Overview Group  
 Governance Scrutiny Group  
 Growth and Development Scrutiny Group  
 Communities Scrutiny Group  
 Licensing Committee  
 Planning Committee  
 Employment Appeals Committee  
 Interviewing Committee  
 Standards Committee

The Member groups have been amended to reflect arrangements as follows:

Rushcliffe Strategic Growth Board

## **Part 4 – Standing orders, Rules and Financial regulations**

### **Questions**

The provisions of Standing Order 11.2 have been updated for consistency to clarify the time by which questions are to be received.

### **Notice of Motions**

The provisions of Standing Order 13 have been updated for consistency to clarify the time by which notice of motions are to be received.

### **Standing Orders Cabinet**

The provisions have been updated to reflect the approved arrangements for questions of the public and opposition groups.

### **Standing Orders, Committees and working groups**

Revisions have been made to Appendix One to clarify arrangements for public speaking at Planning Committee.

## **CODES AND PROTOCOLS COUNCILLOR CODE OF CONDUCT**

The Code and adopted arrangements have been amended to reflect the recommendation to Council.

## **Part 6**

### **Councilors allowance scheme**

The scheme has been revised to reflect decision of Council March 2019.

#### **5. Risk and Uncertainties**

The proposals do not involve the Council in assuming any significant risk.

#### **6. Implications**

##### **6.1. Financial Implications**

There are no direct financial implications arising from these proposals.

##### **6.2. Legal Implications**

Under section 37 of the Local Government Act 2000 the Council has a duty to keep its Constitution up to date and that section also prescribes its

minimum content. The proposals in this report comply with those requirements.

## **7. Equalities Implications**

There are no implications as this alteration to the Constitution does not involve new or changing policies, services or functions, or financial decisions that will have an effect on services.

## **8. Section 17 of the Crime and Disorder Act 1998 Implications**

There are no crime and disorder implications.

## **9. Corporate Priorities**

Transforming the Council to enable the delivery of efficient high quality services. The proposed revisions should make it easier for members of the public, councillors and officers to access, and use, materials which are essential to effective and efficient democratic decision-making .

## **10. Recommendation**

It is RECOMMENDED that Council:

- a) Consider and approve the revisions to the Constitution in relation to Scrutiny to adopt the recommendations of the March 2019 Council report;
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- c) Consider and approve the revisions to the Constitution made by the Monitoring Officer under delegated authority.

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| <b>Background papers Available for Inspection:</b> |                                                                                                                            |
| <b>List of appendices (if any):</b>                | Appendix A – Draft revised Constitution                                                                                    |