

# **A beginners guide to the Constitution**

## **Introduction**

We must, by law, have a Constitution but it is fairly complex. In a nutshell, the Constitution sets out how we operate and how we make our decisions.

We operate the Executive model of governance, but in some authorities there is a directly elected Mayor.

This beginners guide is an attempt to “de-mystify” it and try to put it into plain English.

Try to consider it like a book with different chapters.

## **Part 1 - Summary and Explanation**

This section contains a summary and explanation of how we operate and decisions are made in the Executive/Scrutiny system of governance. Any decisions taken by the Executive can be “called in” by Scrutiny the decision is then considered by Scrutiny Committee.

## **Part 2 – Articles of the Constitution**

This section is split into “Articles”

Article 1 explains the powers, purpose and review of the Constitution. The Constitution does not stay the same, sometimes changes are made. When changes need to be made, a report is considered by the Standards Committee which sends its recommendations to Council for consideration.

Article 2 – this tells you how many councillors there are, who is eligible to stand as a councillor, their term of office and their key roles. Councillors must observe the Members Code of Conduct and Protocol on Member/Officer Relations.

Article 3 – this deals with the citizens rights to information and participation.

Article 4 – this section deals with the Budget and Policy Framework which includes various plans and strategies and functions reserved to the Council.

Article 5 – this deals with the role of the Chair of the Council.

Article 6 – this deals with the establishment of a Scrutiny Committee, its role and functions.

Article 7 – this deals with the Executive, its role, composition, the leader and other members and meetings of the cabinet.

Article 8 – this deals with the appointment of regulatory committees, e.g. Licensing and Planning.

Article 9 – this deals with the Standards Committee, its composition, role and function.

Article 10 – this allows for the establishment of area committees and forums.

Article 11 – this allows for the Council and the Executive, in order to promote the economic, social or environmental well-being of its area, to enter into joint arrangements.

Article 12 – sets out the management structure of the Council, the three statutory officers and their functions.

Article 13 – deals with decision making and the types of decision – those reserved to Council, key decisions of the Executive and decisions of other committees and sub-committees.

Article 14 – this section deals with financial management, contracts, legal proceedings and the authentication of documents.

Article 15 – deals with the duty to monitor and review the Constitution and the procedure to make changes.

Article 16 – deals with the procedure to suspend the Constitution, which rules may be suspended and the publication of the Constitution.

### **Part 3 – Responsibility for Functions**

This part of the constitution deals with responsibility for functions – Council, Local Choice and Executive and Cabinet responsibilities. We currently do not have any Local Choice responsibilities.

All Committees have terms of reference which specify what powers they can exercise and where they have to recommend to Council for a decision to be made.

#### **Part 4.1 – Council Procedure Rules**

This section deals with the dates, time and venue of meetings of the Council and the notice of and summons to attend. It also deals with quorum, how many members need to be in attendance for the meeting to go ahead, the procedure and voting at the meeting.

#### **Part 4.2 – Access to Information Procedure Rules**

This section deals with access to information, right to attend meetings, notice to attend meetings and access to agendas and reports, access to background papers, exclusion of the public from meetings under Schedule 12A. In

addition it outlines the procedure before the Executive can take key decisions included in the Forward Plan.

A key decision, as defined in Article 13 of our Constitution is a decision by the Executive, which is likely to:

- Result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates;

Or

- Be significant in terms of its effects on communities living or working in two or more electoral wards in Bolsover district.

We have decided that the level of expenditure/savings, which is significant for the purpose of defining a Key Decision, is £50,000.

We will also treat a decision which has a significant impact on communities in one ward as a key decision.

A decision taker may only make a key decision in accordance with the Executive Procedure Rules.

#### **Part 4.3 – Budget and Policy Framework Procedure Rules**

This section outlines the plans and strategies forming part of the Budget and Policy Framework and lists stakeholders to be consulted on each plan/strategy. Council will be responsible for adopting the Budget and Policy framework but it will be the responsibility of the Executive to implement it.

The process for developing the framework, decisions outside the framework, urgent decisions outside the framework, transfer of money from one budget to another, in year changes to the framework and Scrutiny call in of decisions outside the framework are outlined.

#### **Part 4.4 – Executive Procedure Rules**

This section deals with how Executive decisions are taken, the Delegation Scheme and Executive functions, what to do if there is a conflict of interest, when and where the Executive will meet and the quorum. In addition it deals with the conduct of meetings, consultation and who may put items on the agenda.

#### **Part 4.5 – Scrutiny Procedure Rules**

This section deals with the number and arrangements for Scrutiny Committee(s), the terms of reference, who may serve on the committee, co-optees, when and where they will meet, quorum and the Chairs. In addition the Scrutiny Committee(s) will agree its own work programme. In addition this

section specifies who may include items on the agenda, its role in respect of policy review and development and its recommendations to Executive or Council. Scrutiny may scrutinise and review decisions and may require attendance by Members of the Executive or Officers to attend. Decisions of the Executive can be “called in” and this procedure is outlined in Part 4.6 of the Constitution.

#### **Part 4.6 – Procedure for “Call In” by Scrutiny Committee**

This section outlines the procedure of how Scrutiny members may “call in” decisions made by the Executive.

#### **Part 4.7 – Financial Regulations**

This section deals with Council finances. All employees must abide by the Financial Regulations.

#### **Part 4.8 – Contracts Standing Orders**

This part also deals with financial matters where a contract is over £50,000 in value. **Any Contract over £50,000 should be included in the Forward Plan.**

Contracts for a lesser value are still governed by Financial Regulations.

Contracts over £50,000 are subject to tender and the procedure is outlined in this part of the Constitution.

#### **Part 4.9 – Officer Employment Procedure Rules**

This section deals with recruitment, appointment, interview panels and disciplinary action.

#### **Part 4.10 – Officer Delegation Scheme**

This section specifies the powers of officers to carry out their duties, for example Proper Officer Appointments, where functions of the Council have been delegated, where exercise of these functions needs to be in consultation with members, management delegations and those in consultation with members.

#### **Part 4.11 – Members Delegation Scheme**

This lists any items that members can determine.

#### **Part 5.1 – Members Code of Conduct**

All members elected to the Council as part of their Declaration of Acceptance of Office undertake to observe the Code of Conduct. The Code of Conduct deals with general obligations, personal interests and disclosure of personal

interests, prejudicial interests and the effect on participation. Within 28 days of being elected, or adoption of the Code by the authority, members must register their personal interests.

The Code of Conduct also deals with the registration of gifts and hospitality, expenses and allowances, the duty to co-operate with officers and Committees. In addition there is a Member/Officer Protocol and Code of Conduct for members involved on the Planning Process. Whilst these do not form part of the Code of Conduct they provide guidance which should be followed.

From time to time complaints are made against members. The Criteria for the Assessment of Complaints about members is contained in this section of the Constitution.

### **Part 5.2 – Employee Code of Conduct**

This Code of Conduct relates to conduct of Council employees. It deals with standards of service, disclosure of information, the need to be politically neutral, and relationships with councillors, the community and contractors.

The code deals with appointment of staff. Officers on an Interview Panel should not be involved where they are related to the applicant, or have a close personal relationship with the applicant.

The code also deals with outside interests, secondary employment, intellectual property, personal interests, equality issues, separation of roles during tendering, corruption, acceptance of gifts and hospitality, use of financial resources and sponsorship.

### **5.3 – Protocol on Member/Officer Relations**

This protocol is guidance to both members and officers in their relations with one another. The guidance also covers officer support to party groups, support services to members and party groups, members access to information and Council documents, confidentiality, officer/chairperson relationship, correspondence, involvement of ward councillors on local issues, wearing of identity badges.

### **5.4 – Code of Good Practice for Members and Officers involved in the Planning Process**

The guidance was developed to assist members of the Planning Committee following some high profile public inquiries over the years. It applies to all members of the committee and lists other publications that are helpful.

In addition to the guidance all members of the Planning Committee must attend training on planning matters and if a member is unsure about whether they need to declare an interest, they must seek the advice of the Council's Monitoring Officer.

## **5.5 – Elected Member/Officer Communication Protocol**

This protocol deals with the channels members should go through to request services and information and is in addition to the Protocol on Member/Officer relations.

## **5.6 – Protocol for Carrying out the Role of Monitoring Officer**

This protocol deals with the role of the Monitoring Officer to ensure that all reports to members have been checked and do not raise issues of concern regarding legality, probity, vires and constitutional matters.

In addition the Monitoring Officer is responsible for preparing a programme of training for members on the ethical framework, with the approval of Standards Committee.

## **5.7 to 5.11 – Job Descriptions**

This section has job descriptions for the Leader, Member of the Executive, Scrutiny Member and Chairman of the Council.

## **Part 6 – Members Allowance Scheme**

This section is the members allowance scheme that has been recommended by the Independent Remuneration Panel and agreed by the Council.

## **And Finally**

This guide is not meant to be comprehensive but to point “users” where to look for further, fuller information contained in the constitution. If you would like any additional assistance please contact the Democratic Services Team on 01246 242427; 242435; 242505; 242528 or 242529 or email [democratic.services@bolsover.gov.uk](mailto:democratic.services@bolsover.gov.uk)