

Item 34

BARNSELEY METROPOLITAN BOROUGH COUNCIL

This matter is not a Key Decision within the Council's definition and has not been included in the relevant Forward Plan

REPORT OF THE EXECUTIVE DIRECTOR CORE SERVICES

MINOR AMENDMENTS TO THE COUNCIL'S CONSTITUTION

1. PURPOSE OF REPORT

1.1 To propose certain minor amendments to the Council's Constitution.

2. RECOMMENDATIONS

2.1 That it be recommended to the Council that the amendments to the Constitution contained in section 4 of the report be approved.

3. INTRODUCTION

3.1 The Council's Constitution is subject to periodic review as part of the proper governance of the Authority. A number of proposed changes have been identified arising from recent review and related internal audit exercises.

4. PROPOSAL AND JUSTIFICATION

4.1 Ethical Standards Complaints

The Constitution currently provides that a three member Standards Panel, appointed from amongst the members of the Appeals and Standards Regulatory Board, should comprise a majority of members from a political group other than that of the member who is the subject of the complaint. These provisions were drafted as part of the implementation of the relevant provisions of the Localism Act 2011 which required the Council to set up its own procedures to deal with ethical standards complaints. This followed the abolition of the Standards Board for England which dealt with complaints nationally.

The political composition of the Council at the time was significantly different. Now that the majority group is substantially larger than any of the opposition groups it is no longer practicable to continue with the current provision.

It is proposed that the Constitution is amended to provide that at least one member of a Standards Panel should be from a political group other than that of the member who is the subject of the complaint.

4.2 Approval of Scrutiny Work Programme

The annual work programme is drawn up by the members of the Overview and Scrutiny Committee following which there is consultation with the Leader of the Council and the work programme is then considered by the Cabinet. The Constitution as worded provides that the Cabinet gives approval to the programme.

Given that the Scrutiny process is to hold the Executive to account it would be more appropriate for the Constitution to say that the Cabinet should note the relevant Programme.

4.3 Approval of Selective Voluntary Early Retirement (SVER) and related discretions under the Local Government Pension Scheme

There has been an internal review of the processes relating to decisions taken under the Council's powers under the Local Government Pension Scheme in the context of SVER. The current officer delegation to approve relevant costs up to £250,000 would benefit from being drafted more clearly than present. The current drafting is implicit that the power to approve restructurings includes the power to approve the related cost of consequential decisions made with regard to the exercise of powers under the Local Government Pension Scheme in relation to access to pension benefits.

It is proposed that the delegation is redrafted to make more specific provision about the exercise of powers in relation to the Local Government Pension Scheme.

The following amendment to the relevant officer delegation is proposed:

The Service Director, Human Resources and Business Support is authorised to:

- i) approve restructurings resulting in changes to the grades, duties and numbers of posts or staff where the cost in any one year does not exceed £250,000 and the sum(s) can be contained within the cash limited budget for the service concerned for current and future years on receipt of a report from the Executive Director or Service Director in question
- ii) approve, in consultation with the Cabinet Spokesperson for Corporate Services, the incurring of costs arising to the Council in relation to Selective Voluntary Early retirement or retirement in the efficiency of the service or the exercise of the Council's discretionary powers under the Local Government Pension Scheme Regulations 2014 in accordance with the relevant policies of the Council where the cost in respect of any particular business case does not exceed £250,000

4.4 Instituting legal proceedings:

The current delegation makes reference to the need for any legal proceedings to be instituted by the Executive Director for Core Services in their capacity as Solicitor to the Council on instruction from the relevant Service Director. This wording is arguably more suited for a private solicitor client relationship than the nature of the professional dialogue which takes place within a local authority where a decision is taken to institute legal proceedings.

It is proposed that the wording be amended to provide for legal proceedings to be commenced by the Executive Director for Core Services in consultation with the relevant Service Director.

This more reflects the nature of the dialogue which takes place within a One Council context.

5. RECOMMENDATION

- 5.1 That the proposed recommendations to the Council be recommended to full Council for approval.

6. BACKGROUND PAPERS

- 6.1 Constitution of Barnsley Metropolitan Borough Council, [published on the Council website](#).

If you would like to inspect background papers for this report, please email governance@barnsley.gov.uk so that appropriate arrangements can be made

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