

# BROMSGROVE DISTRICT COUNCIL

**COUNCIL**

**25<sup>th</sup> September 2019**

## Changes to the Council's Constitution

|                                 |               |
|---------------------------------|---------------|
| Relevant Portfolio Holder       | Cllr G Denaro |
| Portfolio Holder Consulted      | Yes           |
| Relevant Head of Service        | Claire Felton |
| Ward(s) Affected                | All           |
| Ward Councillor(s) Consulted    | N/A           |
| Key Decision / Non-Key Decision | Non-key       |

### **1. SUMMARY OF PROPOSALS**

- 1.1 This report asks the Council to consider proposed changes to the Constitution arising from recommendation of the Constitution Review Working Group, which has met regularly in the months preceding the elections.

### **2. RECOMMENDATIONS**

- 2.1 The Gifts and Hospitality – guide for Councillors is agreed as set out at Appendix 1.
- 2.2 The updated Licensing Code of Practice is agreed as set out at Appendix 2.
- 2.3 The Council Procedure Rules are agreed as set out at Appendix 3.
- 2.4 The Officer Code of Conduct be removed from the Council's Constitution.

### **3. KEY ISSUES**

#### **Financial Implications**

- 3.1 There are no direct financial implications arising directly from this report.

#### **Legal Implications**

- 3.2 The Council is required by law to maintain a constitution which sets out how the Council makes decisions.

#### **Service / Operational Implications**

- 3.3 In 2014 a small working group was set up to review the Constitution. This Working Group has continued to meet regularly since that date and more recently has increased its membership. It is now made up of the Leader and Deputy Leader and the Group Leaders and Deputy Group Leaders from the Labour and Independent Alliance political groups. The Chief Executive and Head of Legal, Equalities and Democratic Services support the work of the Group, with other officers being invited to attend to cover specific areas which are being considered.

## BROMSGROVE DISTRICT COUNCIL

### COUNCIL

25<sup>th</sup> September 2019

3.4 During the last municipal year the Working Group has concentrated on a number of areas, including carrying out a full review of the scheme of delegations, which was presented to Council at its meeting on 19<sup>th</sup> September 2019. Other areas which have been considered include:

- Gifts and Hospitality – Guidance for Councillors
- Planning Code of Practice (this was considered by Council at its September meeting)
- Licensing Code of Practice
- Council Procedure Rules - Questions and Notices of Motion at Council meetings during the Purda period.

3.5 There are a number of areas which the Working Group have planned to consider further in the future, including supplementary questions and the role descriptors for a number of Councillor positions. The Group will also look at the work of the Independent Remuneration Panel.

3.6 It has also been agreed that the Scheme of Delegations be a standing item on the agenda for the Working Group and that it would meet regularly throughout the municipal year, with dates being scheduled in to the Calendar of Meetings.

#### Gifts and Hospitality – guide for Councillors (Part 21)

3.7 When last reviewed, Council agreed that the policy on gifts and Hospitality would not include any threshold on value. This means that currently Councillors have been advised to declare gifts/hospitality which are minor in nature and value and can be considered reasonable in the context of the activity the Councillor was undertaking at the time. As part of the review benchmarking work was undertaken and it was established that in the majority of cases local authorities require their Councillors to declare gifts and hospitality valued at £25 and over.

3.8 The Group asked Officers to simplify the Code and the value of gifts/hospitality has also been reviewed, a shorter version has been produced which has in turn been referred to the Audit, Standards and Governance Committee for its consideration and comment prior to it being brought before full Council.

3.9 A copy of the updated Guidance for Councillors is attached at Appendix 1. Changes are highlighted in *italics*.

#### Licensing Code of Practice (Part 26)

3.10 During the course of its work the Constitution Review Working Group has also considered a number of legislative updates in respect of the Licensing Code of Practice, which are included within Appendix 2. Officers also took the opportunity to make a number of small but significant changes (paragraphs 4.2, 4.3 and 4.4) in order to give a clear view in respect of predetermination in order

## **BROMSGROVE DISTRICT COUNCIL**

### **COUNCIL**

**25<sup>th</sup> September 2019**

to bring it in line with what it said within the Planning Code of Practice. It was confirmed that these changes now made this clearer.

- 3.11 For ease of viewing, as there were extensive track changes, Appendix 2 contains a track change copy and a clean copy of the revised Licensing Code of Practice.

#### **Council Procedure Rules (Part 8)**

- 3.12 The proposed changes to this and the other Council procedure rules are highlighted in Appendix 3 to this report. The Working Group has reviewed the Council Procedure Rules, focussing on those which were changed or introduced during 2015.
- 3.13 The Group discussed whether Council meetings should be held during pre-election periods, when national rules relating to public apply. It was suggested that there was a potential risk of aspects of the Council meeting being perceived as promoting the view of election candidates. However, the Group noted that the Government guidance on pre-election advocates “business as usual”. It was therefore appropriate to continue to hold Council meetings during this period.
- 3.14 However, arising from its discussions the Working Group considered that Public Participation, questions from Councillors and Notices of Motion should be excluded from the Council agenda for meetings held during pre-election periods, to minimise the risk of business at the meetings being caught by the publicity requirements. The changes required are set out at paragraphs 3.2, 8.1, 9.2 and 10.1 in the appendix attached.

#### **Officer Code of Conduct**

At its most recent meeting, held on 21<sup>st</sup> August the Working Group considered whether it continued to be appropriate for the Officer Code of Conduct to be included within the Council's Constitution. Members noted that this was a Human Resources (HR) matter, which formed part of the terms and conditions and sat within a suite of policies that were part of that HR role and which were monitored and updated on a regular basis, in consultation with the trade unions. Following discussion Members were of the view that this policy did not need to be included in the Constitution.

#### **Customer / Equalities and Diversity Implications**

- 3.15 There are no specific customer or equalities implications arising from this report.

### **4. RISK MANAGEMENT**

- 4.1 The main risks associated with the details included in this report are failure to comply with legislative and governance requirements which may expose the Council to the risk of challenge by way of judicial review or appeal which may

## **BROMSGROVE DISTRICT COUNCIL**

**COUNCIL**

**25<sup>th</sup> September 2019**

result in awards of damages and costs against the Council and loss of reputation.

**5. APPENDICES**

Appendix 1 - Gifts and Hospitality – guide for Councillors

Appendix 2 - Licensing Code of Practice

Appendix 3 – Council Procedure Rules

**6. BACKGROUND PAPERS**

None

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