

BROMSGROVE DISTRICT COUNCIL

Council
2022

20th April

Recommendations from the Constitution Review Working Group

Relevant Portfolio Holder	Councillor Geoff Denaro, Portfolio Holder for Finance and Enabling
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Democratic and Property Services
Report Author Claire Felton	Job Title: Head of Legal, Democratic and Property Services Contact email: c.felton@bromsgroveandredditch.gov.uk
Wards Affected	N/A
Ward Councillor(s) consulted	N/A
Relevant Strategic Purpose(s)	An Effective and Sustainable Council
Non-Key Decision	
If you have any questions about this report, please contact the report author in advance of the meeting.	

1. RECOMMENDATIONS

Council is asked to RESOLVE that:-

- 1) The Council should introduce Parental Leave Guidance for Councillors;**
- 2) The Chief Executive should be granted delegated authority to act in the event of an emergency, including a cyber security attack on the Council; and**
- 1) as a general rule there should be no full Council meetings in the pre-election period before a District Council election, unless the Proper Officer determines that a meeting is required.**

2. BACKGROUND

Parental Leave Guidance for Councillors

- 2.1 A Motion on Notice on the subject of parental leave arrangements for Councillors was submitted by Councillor S. Robinson for consideration at a Council meeting held on 26th January 2022. Prior to the meeting, group leaders agreed that the subject of the Motion should be referred to the Constitution Review Working Group (CRWG) for further consideration and therefore the Motion was not debated at Council.

- 2.2 The CRWG subsequently discussed the subject of parental leave arrangements for Members at a meeting held on 28th February 2022.
- 2.3 At this meeting of the CRWG, Members considered the content of the Motion alongside Parental Leave policies / guidance for Councillors already in place at other local authorities, including North Hertfordshire Council and Redditch Borough Council. In addition, the group reviewed the content of the Local Government Association's (LGA's) Parental Leave Policy for Councillors.
- 2.4 Based on their discussions, the CRWG concluded that Parental Leave Guidance should be introduced for Councillors at Bromsgrove District Council to help provide Members with clarity about arrangements in cases where Councillors intend to take maternity, paternity or adoption leave.
- 2.5 A copy of the proposed Parental Leave Guidance for Councillors can be found at Appendix 1.

Officer Scheme of Delegations – Emergencies

- 2.6 During the meeting of the CRWG held on 28th February 2022, Members also discussed the arrangements that would be in place should there be an emergency.
- 2.7 In considering this matter, Members review the existing delegations in place for officers in the event of an emergency, alongside delegations in place for other councils, including Calderdale Council and Cumbria County Council.
- 2.8 Currently, the Chief Executive and senior officers have delegated authority to take action in accordance with the Council's Emergency Plan, to undertake appropriate communications during an emergency and to incur expenditure to meet immediate needs during an emergency. An extract from the current Officer Scheme of Delegations providing further detail on existing delegations in the event of an emergency has been attached at Appendix 2.
- 2.9 There is the risk that various civil emergencies could occur at any point which might impact on the Council and / or on the community or groups living within the community in Bromsgrove District. Should an emergency occur, the CRWG concluded that the Council would need to be able to respond quickly and therefore it would be helpful to delegate additional authority to the Chief Executive to enable him to act swiftly in those circumstances.

- 2.10 In December 2021, it was reported that Gloucester City Council had been subjected to a cyber security attack. This was the second cyber security attack against the Council in a decade and demonstrated that District Councils could be subject to such attacks.
- 2.11 A cyber security attack on Bromsgrove District Council's systems could have serious consequences which would need to be resolved quickly. In this context, the CRWG is proposing that the delegations to the Chief Executive to act in the event of an emergency should be extended to cover situations in which the Council is managing the outcomes of a cyber security incident.
- 2.12 The CRWG was keen to ensure that, should the Chief Executive need to use delegated authority in the event of an emergency, Members should be informed of the situation and the circumstances underpinning the use of the delegated authority as soon as possible. For this reason, it is proposed that where action and decisions are taken in the event of an emergency under delegated authority, this should be reported for Members' consideration at the following meeting of Council.
- 2.13 A copy of the proposed amended delegations that would apply in the event of an emergency has been attached at Appendix 3 for Members' consideration.

Full Council Meetings – Pre-Election Period

- 2.14 Currently Council meetings take place approximately 9 times per municipal year, with a final meeting usually taking place in March or April.
- 2.15 However, in the pre-election period there are limits placed on the Council, in terms of the communications that can be issued and the policy developments that can occur. The Council and Officers need to remain neutral, even as services continue to be delivered.
- 2.16 Many other Councils do not hold Council meetings during the pre-election period, which means that their authorities are not placed in a position where decisions need to be taken that would impact on the policy direction of the authority.
- 2.17 The Constitution Review Working Group concluded that it would be sensible to avoid holding a Council meeting in the pre-election period in Bromsgrove. Instead, the final Council meeting in an election year could take place in early or mid-March.

- 2.18 There is an opportunity if the business requires, for the Proper Officer to determine that there should be a meeting of Council in the pre-election period.

3. FINANCIAL IMPLICATIONS

- 3.1 No specific financial implications have been identified.

4. LEGAL IMPLICATIONS

- 4.1 Review and revision of the Constitution is governed by Article 15 of the Constitution.
- 4.2 Councillors on maternity, paternity or adoption leave should be mindful of their legal duty under the Local Government Act 1972 to attend a meeting of the Council, including Committee meetings, within a six month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six month period.
- 4.3 Section 101 of the Local Government Act 1972 (as amended) gives a general power to local authorities to discharge functions through Officers. Local Authorities are required by the same Act to maintain a list of these, which is referred to as the Scheme of Delegation. This sets out those powers of the Council which can be carried out by Officers of the Council.

5. STRATEGIC PURPOSES - IMPLICATIONS

Relevant Strategic Purpose

- 5.1 The actions proposed in this report will help to ensure that the Council is effective and sustainable, including in the event of an emergency.

Climate Change Implications

- 5.2 There are no specific climate change implications.

6. OTHER IMPLICATIONS

Equalities and Diversity Implications

- 6.1 The introduction of Parental Leave Guidance for Councillors helps to ensure that the Council is inclusive and welcoming to Members from all backgrounds and at all stages in their personal lives.

Operational Implications

- 6.2 The Council's Constitution currently requires that the Officer Scheme of Delegations be approved by Members at the Annual Meeting of the Council. However, additional updates can be made throughout the year to the constitution to ensure that the content remains relevant.
- 6.3 Bromsgrove District Council holds District Council elections every four years. Should Members agree that Council meetings should not take place during the pre-election period, this would have implications for the timing of the Council meeting at the end of the fourth year of Members' term of office. Other years would remain unaffected.
- 6.4 There is currently a Council meeting booked to take place on 29th March 2023, which is a year when local elections are due to take place. Should Members agree that Council meetings should not take place in future in the pre-election period, this meeting, and the Cabinet meeting reporting to that Council meeting, will need to be rescheduled.

7. RISK MANAGEMENT

- 7.1 The main risks associated with the details included in this report are failure to comply with governance requirements which may expose the Council to the risk of challenge by way of judicial review or appeal which may result in awards of damages and costs against the Council and loss of reputation.

8. APPENDICES and BACKGROUND PAPERS

Appendices:

Appendix 1 – Proposed Parental Leave Guidance for Councillors.

Appendix 2 – Extract from the Scheme of Delegations – Current Delegations to the Chief Executive in the Event of an Emergency

Appendix 3 - Proposed Amendments to the Scheme of Delegations in the Event of an Emergency

Background Papers:

Calderdale Council's Scheme of Delegations: [Officer delegation scheme \(calderdale.gov.uk\)](https://www.calderdale.gov.uk)

Cumbria County Council's Scheme of Delegations: [Constitution - Part 3A - Scheme of Delegation to Officers | Cumbria County Council](#)

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The Local Government Association's (LGA's) Parental Leave Policy for Councils: [Parental Leave Policy for Councils | Local Government Association](#)

North Hertfordshire Council's Councillor Parental Leave Policy: [Councillor Parental Leave Policy 23.9.21.pdf \(north-herts.gov.uk\)](#)

Redditch Borough Council's Parental Leave Guidance for Councillors: [Parental Leave Guidance for Councillors.pdf \(redditchbc.gov.uk\)](#)

9. REPORT SIGN OFF

Department	Name and Job Title	Date
Portfolio Holder	Councillor Geoff Denaro	
Lead Director / Head of Service	Claire Felton, Head of Legal, Democratic and Property Services	18 th March 2022
Financial Services	James Howse, Executive Director of Resources	
Legal Services	Claire Felton, Head of Legal, Democratic and Property Services	18 th March 2022