

**Committee Name and Date of Committee Meeting**

Council – 09 April 2025

**Report Title**

Proposed Constitution Amendments

**Is this a Key Decision and has it been included on the Forward Plan?**

No

**Strategic Director Approving Submission of the Report**

Judith Badger, Strategic Director of Finance and Customer Services

**Report Author(s)**

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**Ward(s) Affected**

Borough-Wide

**Report Summary**

The Council reviews the Constitution annually to ensure that it remains up to date. This is done through the work of the Constitution Working Group which is a cross political group of Councillors. This report is submitted to recommend the approval of amendments to various parts of the Council's Constitution following the work of the Group this year.

**Recommendations**

That Council approve: -

1. The amendments to Appendix 1 – Council Procedure Rules.
2. The inclusion of a new appendix – Appendix 2 - Council Bodies.
3. The revised delegations including in respect of Company and Share Holding Responsibilities.
4. The amendments to Appendix 3 – Overview and Scrutiny Management Board and Select Commissions Terms of Reference.

5. The amendments to Appendix 4 – Overview and Scrutiny Procedure Rules.
6. The amendments to Appendix 5 – Rotherham Borough Council Responsibility for Functions Overview and Scrutiny Management Board.

### **List of Appendices Included**

Appendix 1 – Council Procedure Rules

Appendix 2 – Schedule of Council Bodies

Appendix 3 – Proposed Terms of Reference for OSMB and Select Commissions

Appendix 4 – Revised Overview and Scrutiny Procedure Rules

Appendix 5 – Proposed Responsibility for Function for OSMB

Appendix 6 – Proposed Changes to Motion-Amendment Flowchart

### **Background Papers**

- The Council's Constitution
- The reports of the Assistant Director, Legal Services/Monitoring Officer presented to the Constitution Working Group
- The report of the Head of Democratic Services presented to the Constitution Working Group

### **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

### **Council Approval Required**

Yes

### **Exempt from the Press and Public**

No

## **Proposed Constitution Amendments**

### **1. Background**

- 1.1 The Council continues to seek to strengthen its governance arrangements as part of its continued improvement journey and continues to review all aspects of its Constitution under the oversight of the Constitution Working Group.
- 1.2 Good governance is a core tenet of both the Council's improvement journey and the way the Council now operates. The Constitution has been subject to external review and significant changes have been made to the way in which proposals are developed by Members and officers and how decisions are made across the authority. As the Constitution is the document that empowers the Authority to discharge its function, it is important that the provisions are reviewed, and changes made to strengthen the Council's governance and accountability arrangements.
- 1.3 This report presents the proposed amendments identified through discussions with Members of the Constitution Working Group as means of improving the Council's governance regime as set out in the papers and recommended to Council as a part of that process.

### **2. Key Issues**

#### **Council Procedure Rules**

##### Budget Council Meeting

- 2.1 A meeting of the Council will take place before 10 March each year in order to calculate the budget requirement and set the Council Tax.
- 2.2 The proposal is that this Council meeting will be deemed to be a Budget Council Meeting. The agenda would be limited to the Council's Budget and Council Tax Setting and agreement of the Municipal Meeting Calendar.
- 2.3 There would be the ability for urgent items to be considered by exception.
- 2.4 The proposed change would continue to ensure that Council Procedure Rule, Part 1(2) is maintained with Annual Council, and no fewer than six ordinary meetings held in the Municipal Year including Budget Council.

##### Procedure Rule 11 – General questions by Members at Council meetings

- 2.5 The proposal is to amend Procedure Rule 11 to introduce:
  - A one-hour time limit for all questions and answers
  - A maximum of fifteen questions for both Spokesperson and Cabinet Member whereby a maximum of five questions may be asked in the meeting with ten receiving a written response which would be formally minuted and recorded as part of the minutes of the meeting.

The first five questions received would be verbally put at the meeting.

- A time limit of 1 minute for Supplementary Questions to be asked.
- The ability for a Member to request a written response with the response being formally minuted and recorded as part of the minutes of the meeting.

Procedure Rule 12 – General questions by members of the public at Council meetings (Council and all sub-committees of Council)

- 2.6 The proposal is to amend Procedure Rule 12 to introduce:
- An overall twenty-minute time limit
  - A one-minute time limit on Supplementary Questions
  - Where the twenty minute time limit is reached and members of the public have not had an opportunity to ask their question in the meeting a written response will be provided

Procedure Rule 18 – Notices of motions, order of motions, consideration of motions and unconnected business

- 2.7 The proposal is to amend Procedure Rule 18 to introduce:
- An overall time limit of one hour thirty minutes (90 minutes)
  - Any Motion still to be considered when the time limit had been reached would be proposed, seconded and voted on in turn but without speeches or debate
  - Reducing proposer speech to five minutes
  - Reducing seconder speech to three minutes
  - Reducing 'right of reply' to five minutes
  - Removing 'right of reply' for proposer of an amendment
  - Removing the ability for Members and Groups to submit an amendment to their own Motion
  - Reducing time allowed for speeches as part of the debate to three minutes from five minutes
  - Deadline for receipt of amendments to be brought forward to 2pm on Tuesday preceding Wednesday Council Meeting
  - Introducing a deadline for confirmation of acceptance of amendment by proposer and seconder of the original Motion of 5pm on the Tuesday preceding Wednesday Council Meeting. If not received proceed as amendment not accepted circulating to all Members ahead of the Mayor's Letter circulation on day of Council meeting.

- 2.8 The proposal is to amend Procedure Rule 18(6). The purpose of the amendment is to ensure that any motion is properly moved and seconded before the debate or substantive introduction of the item. The addition of the underlined wording below is suggested:

- 2.9 (6) Motions and amendments must be formally moved and seconded before the mover introduces the Motion, (the right of the seconder to speak to the motion will not be prejudice by the seconding of the motion) as set out on the agenda. If a motion or amendment is not moved and seconded, it is treated as withdrawn and cannot be moved without fresh notice.

## Council Procedure Rules Part 1 Council Meetings (9) – Leader’s Statement

- 2.10 The proposal is to amend the Constitution to offer the Majority Opposition Leader the opportunity to respond to the Leader’s Statement as the first Member called for a period of not more than 10 minutes and for the Leader of the Council to respond to the Majority Opposition Leader’s comments before moving to all Member questions on the statement for a period of not more than 10 minutes.

### **New Appendices – Council Bodies**

- 2.11 This would add a new appendix to the Constitution that provides for the Terms of Reference of each of the Bodies listed in Appendix 2 of this Report. As can be seen the Terms of Reference vary in their origin but it is suggested that providing for these in the Constitution would aid transparency.

### **Delegation Changes**

- 2.12 The intention of the Scheme of delegation is to enable SLT Members to reallocate responsibilities within their areas and to enable the Chief Executive to reallocate roles and proper officer functions in line with any changes to structures and responsibilities between the various Directorates.
- 2.13 There have been some alterations to the Council structures and responsibilities to facilitate better working and accommodate changes in workloads. This has created situations where the officer who has formal delegated responsibility for the matter no longer has managerial responsibility.
- 2.14 The proposal is to amend the Scheme to enable delegations to be altered where there are changes to roles and responsibilities of Council Officers. Therefore, it is proposed to put in place a delegation to the Chief Executive Officer and Members of the Strategic Leadership Team:

“In respect of delegated functions, the allocation or reallocation or authorisation of Officers (including the allocation or reallocation of Proper Officer functions) with the exception of functions of the Head of Paid Service, Section 151 Officer and Monitoring Officer. Where such functions are provided for in the Constitution then the Monitoring Officer must be made aware of any such allocation, reallocation or authorisation.”

- 2.15 The other element proposed is to enable the Monitoring Officer to discharge the Authority’s functions in respect of any Shareholding. The use of this delegation would be subject to consultation with the Portfolio Holder and the Cabinet Member within whose portfolio the matter falls. This ensures that there is a clear and transparent codification of the approach to these matters. The proposed wording of the delegation is:

“In consultation with the relevant Cabinet Member and Councillor allocated to the relevant body, to carry out all functions exercisable by the Council as a result of the Joint Committee Agreement relating to BDR Waste, Yorkshire Purchasing Organisations and companies and bodies related to those bodies.”

## **Part II The Executive Etc. - Overview and Scrutiny Committees Terms of Reference (Appendix 4 – Overview and Scrutiny Procedure Rules and Appendix 5 - Rotherham Borough Council Responsibility for Functions Overview and Scrutiny Management Board**

- 2.16 The proposal is to make changes to the current Terms of Reference relating to Overview and Scrutiny Management Board and Select Commissions which are considered necessary to ensure that the Term of Reference are up to date, remove duplication and align with statutory guidance and the current Council structure.
- 2.17 The proposed changes are intended to clearly align with changes in statutory guidance including the ability to question statutory partners and representatives of other partner agencies and public bodies about their views on issues, activities and proposals affecting the Borough, specifically reference the Council’s scheme for handling petitions, and should the threshold for debate at Council be reached the ability for the petitions referral to overview and scrutiny, remove duplication and align with current Council structures.

### **3. Options considered and recommended proposal**

- 3.1 The Council has committed to continue to review the Constitution on an annual basis. The proposals set out above in this report have been put forward through discussion and observation by Members and officers on the basis of strengthening governance arrangements.

### **4. Consultation on proposal**

- 4.1 The Constitution Working Group has been consulted in the development of the proposals submitted to Council for approval.

### **5. Timetable and Accountability for Implementing this Decision**

- 5.1 If Council approves the recommendations set out above, then the changes to the Constitution could be implemented with immediate effect.
- 5.2 The Assistant Director of Legal Services/Monitoring Officer is responsible for ensuring implementation of the changes once agreed.

## **6. Financial and Procurement Advice and Implications**

6.1 There are no financial or procurement implications arising from the proposed changes to the Constitution.

## **7. Legal Advice and Implications**

7.1 As required by statute, the Council should require the Constitution to be current and coherent as the key enabling document that enables the Authority to exercise its decision-making powers and procedures.

7.2 The changes proposed within this report are compliant with the provisions of the Local Government Act 2000, which introduced the requirement for Local Authority Constitutions, and subsequent legislation which has further strengthened Local Authority governance.

## **8. Human Resources Advice and Implications**

8.1 There are no human resources implications associated with this report.

## **9. Implications for Children and Young People and Vulnerable Adults**

9.1 There are no implications for children and young people, or vulnerable adults associated with this report.

## **10. Equalities and Human Rights Advice and Implications**

10.1 In reviewing all recommendations, the Constitution Working Group had regard to equalities requirements and did not identify issues within the proposals recommended as part of this report. Consequently, there are no equalities or human rights implications arising from the proposals within the report.

## **11. Implications for CO<sub>2</sub> Emissions and Climate Change**

11.1 There are no implications for CO<sub>2</sub> Emissions and Climate Change arising from this report.

## **12. Implications for Partners**

12.1 There are no implications for partners arising from the proposed amendments to the Constitution.

### 13. Risks and Mitigation

- 13.1 Any update to constitutional procedure creates the potential for confusion and misunderstanding. Mitigations will be put in place to address any such risks.

Risk	Mitigation
Members may be unaware of the new procedure rules	Clear communication of the changes  All web pages and online guidance will be updated  Member bulletins will be used to further communicate information.
New rules and procedures may be unclear or have ambiguities	Monitor the application of the new rules  The Monitoring Officer to provide advice and guidance where required
The public may be unaware of the new procedure rules	All web pages and online guidance will be updated

#### Accountable Officer(s)

Phil Horsfield, Assistant Director of Legal Services  
Emma Hill, Head of Democratic Services

Approvals obtained on behalf of:

	Name	Date
Chief Executive	Sharon Kemp	01/04/25
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	31/03/25
Assistant Director of Legal Services (Monitoring Officer)	Phillip Horsfield	31/03/25
Assistant Director of Human Resources (if appropriate)	Lynsey Linton	01/04/25
The Strategic Director with responsibility for this report	Judith Badger, Strategic Director of Finance and Customer Services	31/03/25
Consultation undertaken with the relevant Cabinet Member	Leader of the Council - Councillor Read	01/04/25

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