

Constitutional Review

Purpose

- 1.1 Derby City Council will permanently adopt whole-council elections from May 2023, following the adoption of new ward boundaries established by a Local Government Boundary Review. The changes present a unique opportunity to review the Council Constitution, to ensure constitutional processes and procedures remain efficient, transparent and accountable to local people.
- 1.2 It is good practice to periodically undertake a review of the Council Constitution. Although elements of the Constitution are regularly amended and updated via resolutions of Council, a wholesale review has not taken place for at least ten years. The Monitoring Officer is therefore proposing that a constitutional review is undertaken prior to May 2023.
- 1.3 This report seeks authority to proceed with a constitutional review and identify appropriate external support for the process, as well as establishing a cross-party working group to oversee the review.

Recommendations

- 2.1 To agree to undertake a Constitutional Review, with the intention of adopting a refreshed Council Constitution at the Annual General Meeting in May 2023.
- 2.2 To delegate authority to the Director of Legal, Procurement and Democratic Services and Monitoring Officer to commission external support to scope and undertake a constitutional review.
- 2.3 To delegate authority to the Director of Legal, Procurement and Democratic Services and Monitoring Officer to establish a cross-party councillor working group, constituted in accordance with political proportionality rules, to oversee the review.

Reasons

- 3.1 The move to whole-council elections and the adoption of new ward boundaries in May 2023 presents a unique opportunity to review how the authority operates and ensure that its governance arrangements remain fit for purpose.
- 3.2 It is good practice to periodically review the Council's constitutional arrangements.

Supporting information

- 4.1 It is proposed that a Constitutional Review would be based on the council's current Strong Leader and Cabinet governance model. A review of the Council's governance arrangements conducted between May 2018 and January 2020 concluded that the Council would retain the Strong Leader and Cabinet model. Moreover, ongoing discussions with central government indicate a presumption in favour of executive arrangements in relation to future devolved powers and funding.

It is not recommended that the Council's overall governance model is reconsidered as part of this review.

- 4.2 Any review would likely include a particular focus on the following areas of the Council Constitution:

- **Articles of the Constitution** – detailing the purpose of the Constitution; the membership of the Council; the relationship with citizens, decision making principles and the roles of key committees.
- **Scheme of Delegations** – detailing the allocation of executive and non-executive functions to committees, councillors and officers.
- **Committee Procedure Rules** – the standing orders by which council committees are administered, as well as the rules of debate.
- **Access to Information Procedure Rules** – the standing orders which detail rights of access to information by councillors and the public.
- **Budget and Policy Framework Procedure Rules** – the standing orders which dictate the process for approval of the Budget and major policies contained within the Policy Framework.
- **Council Cabinet Procedure Rules** – the standing orders which detail the operation and composition of the Council Cabinet.
- **Overview and Scrutiny Procedure Rules** – the standing orders which detail the operation and composition of Overview and Scrutiny.

- 4.3 The review will also provide an opportunity to incorporate recent Council resolutions within the framework of the Council Constitution. These include:

- Incorporation of the Council's stated climate commitments within its constitutional arrangements, as detailed in the Climate Change Action Plan agreed by Council Cabinet on 15 June 2022 and the Council's previous declaration of a Climate Emergency in 2019.
- Formal adoption of the 'Socio-Economic Duty' and wider considerations relating to the socio-economic impact of decision making, as per the Council resolution of 25 May 2022.

- 4.4 Any review of the likely impact the operation of the Council's Financial and Contract Procedure Rules, which are contained within parts five and six of the Council Constitution. Whilst not directly in the scope of this review, any alterations to the Council's Scheme of Delegations will need to be reflected in both the Financial and Contract Procedure Rules, to ensure accountable and transparent decision making at all levels of the organisation.

A separate review of the Contract Procedure Rules is taking place as part of the Council's Contract Management Programme. Revised Contract Procedure Rules will be considered by the Audit and Governance Committee and referred to Council in due course.

- 4.5 Several external organisations offer support to councils wishing to review their constitutions; these include law firms, social purpose consultancies and professional networks specialising in local authority governance. The level of support can vary in its scope and extent and can include:
- A focused review of the existing Council Constitution to ensure it fully reflects legislative requirements and recognised best practice, in particular offering a comprehensive scheme of delegations to councillors and officers.
 - A wider review of the Council's constitutional arrangements and culture, with the intention of embedding and applying principles of good governance as part of a modern and streamlined Council Constitution.
- 4.6 Democratic Services do not have capacity to undertake a review of this nature without external support. Initial discussions have been held with organisations of the type detailed at paragraph 4.5 about the format of any review: it would likely include a diagnostic exercise, where a review team would meet with councillors, officers, residents and other stakeholders to consider the strengths and weaknesses of the Council's current constitutional arrangements and political culture. The results of the diagnostic would then form the brief to which a refreshed Constitution would be drafted.

Public/stakeholder engagement

- 5.1 The Council Constitution details how the Council is accountable to the city and its residents. It's therefore critical that any review incorporates the views of a broad range of stakeholders. The review process will involve meetings with members of the public, councillors and officers to ensure the Constitution meets the requirements of the city and is consistent with the Council's stated aims and objectives.
- 5.2 It is recommended that a cross-party councillor steering group is established to oversee the Constitutional Review. A refreshed Constitution will require approval by Council prior to adoption; it is therefore important that councillors' views are reflected throughout the review process.
- 5.3 Section 9 of the Local Government Act 2000 reserves executive functions to the senior executive member, who may delegate functions to the executive, individual executive members, committees or officers. The Leader of the Council will therefore determine the scheme of delegation for the discharge of executive functions.

Other options

- 6.1 To undertake a review that is less ambitious in its scope and extent, predominantly focused on ensuring compliance with statutory requirements.
- 6.2 To not undertake a Constitutional Review. This course of action is not advised as it risks the long-term integrity of the Council's decision-making processes.

Financial and value for money issues

- 7.1 It is estimated that commissioning external support for a Constitutional Review would cost up to £30,000, split across the two phases of the review detailed at paragraph 4.6.

The anticipated costs will be funded from within Democratic Services existing budgets, owing to a forecast underspend in the Members' Allowances cost centre for the 2022/23 financial year.

Legal implications

- 8.1 Section 37 of the Local Government Act 2000 requires the Council to prepare, publish and keep up to date a document which includes a copy of the authority's standing orders; a copy of the authority's code of conduct; and, such information as the authority considers appropriate.

Climate implications

- 9.1 As detailed at paragraph 4.3.

Other significant implications

- 10.1 The adoption of whole council elections and new ward boundaries in May 2023 represents a unique opportunity to review the Council's constitutional arrangements and organisational culture.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal		
Finance		
Service Director(s)	Emily Feenan, Director of Legal, Procurement and Democratic Services	12 July 2022
Report sponsor	Simon Riley, Strategic Director of Corporate Resources	12 July 2022
Other(s)		

Background papers:	None
List of appendices:	None