
Constitution Review

Relevant Portfolio Holder	Councillor TBC
Portfolio Holder Consulted	
Relevant Head of Service	Claire Felton, Head of Legal, Democratic and Property Services
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Wards Affected	All
Ward Councillor(s) consulted	A/L
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 current version of the Officer Scheme of Delegations is agreed as set out at Appendix A;**
- 2) The introduction to the constitution be reduced in length;**
- 3) The Articles, the Information Security Policy and the Members' ICT Policy be removed from the Council's constitution;**
- 4) The Shareholder Committee Terms of Reference be amended as set out at Appendix B;**
- 5) Authority be delegated to officers to determine applications for licences to use vehicles as hackney carriages or private hire vehicles where the vehicle does not meet the Council's required criteria in respect of the age of the vehicle;**
- 6) The Council Procedure Rules be amended to clarify that Questions on Notice cannot be asked on the subject of specific Licensing or Planning applications at Council meetings;**

- 7) The Audit, Governance and Standards Committee Procedure Rules be amended to require the Monitoring Officer's report to be provided for the Committee's consideration on a quarterly basis;**
- 8) The Joint Arrangements in the constitution be updated to remove referrals to the Joint WRS Board, West Midlands Combined Authority and Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP);**
- 9) The Best Practice for Handling Member Enquiries Guidance be added as an appendix to the Protocol for Relations Between Councillors and Officers section of the constitution; and**
- 10) The proposed terms of reference for the Employment Appeals Committee be approved.**

2. BACKGROUND

- 2.1 The report details proposed changes to the Council's constitution. Many of these changes were proposed at a meeting of the Constitutional Review Working Party (CRWP) held on 7th March 2024.
- 2.2 The constitution is currently the subject of a comprehensive review. This review is occurring in line with suggestions about governance at the Council received from local government peers during a Corporate Peer Challenge (CPC) held in 2023. The changes are designed to enhance the transparency and utility of the Council's constitution.
- 2.3 Council is invited to consider the recommendations detailed in the report and to determine whether these should be approved.

3. OPERATIONAL ISSUES

Scheme of Delegations

- 3.1 The Council is required to review its scheme of delegations on an annual basis. This report presents the scheme for noting. The Council's Constitution currently requires that the Scheme of Delegations be approved by Members at the Annual Meeting of the Council.
- 3.2 The Scheme of Delegations is the part of the Constitution that gives authority for certain decisions to be delegated from Council, the Executive Committee or other Committees to certain specified officers. It sets out the decisions which are delegated by Council to officers and

the decisions which are delegated by the Executive Committee / Leader to officers. In relation to certain regulatory decisions, the delegation is from Council to the relevant Committee, namely Planning Committee or Licensing Committee.

- 3.3 The Scheme of Delegations is regularly altered and updated to reflect changes in the operation of the Council and changes to legislation.
- 3.4 Some new delegations were agreed by Members in the 2023/24 municipal year. These have been highlighted in Appendix A to the report.
- 3.5 Further changes have been made by the Monitoring Officer in accordance with the delegation that currently exists to amend the scheme to reflect changes in legislation, job titles and reallocation of functions. They do not extend the delegations.
- 3.6 No new delegations are requested in this report, which is instead designed to provide Members with an opportunity to note existing officer delegations.

Introduction to the Constitution

- 3.7 Currently, the Council's constitution contains an Introduction at the start of the document.
- 3.8 The Introduction provides an overview of the purpose of the constitution, key features in the constitution and the governance arrangements at the Council.
- 3.9 A lot of the information included in the current Introduction is repeated in later sections of the constitution. This extends the length of the document. In addition, it also creates the risk that when other parts of the constitution are updated, the updates may be missed in the Introduction, leading to conflicting advice in the document, which can cause confusion.
- 3.10 In this context, it is proposed that the length of the introduction to the constitution should be reduced to focus on key salient points that do not repeat information provided later in the constitution. The proposed updated introduction can be viewed at Appendix 2.

The Articles of Constitution

- 3.11 Currently, the Articles of Constitution for the Council are included at Part 2 of the Council's constitution.

- 3.12 The Articles of Constitution set out the basic legal rules governing the Council's business. It is therefore important for the Council to have Articles.
- 3.13 However, there is no specific requirement to include the Articles within the Council's constitution.
- 3.14 The Articles of Constitution are relatively lengthy and written in language appropriate for a legal document. They are not therefore necessarily user friendly.
- 3.15 It is proposed in this context that the Articles should be removed as a section of the Council's constitution.
- 3.16 Should this proposal be approved, the Articles of Constitution will continue to be made available for Members, Officers and the public to access on the Council's website.

Shareholder Committee Terms of Reference

- 3.17 Following discussion with Group Leaders it is recognised that the Shareholder Committee should be a sub-committee of the Executive and should not be politically balanced. It is proposed that the Terms of Reference are amended to reflect this.

Licensing Committee Process – Age Criteria for Licensed Vehicles

- 3.18 On 21st March 2022 the Licensing Committee approved a new Hackney Carriage and Private Hire Vehicle Licensing Policy which took effect on 1st September 2022. The policy sets out the criteria that must be met by vehicles that are licensed as hackney carriage and private hire vehicles including requirements in respect of the age of the vehicle.
- 3.18 Section 3.12 of the policy sets out how the Council will deal with applications to licence vehicles that do not meet the required criteria.

The policy currently states:

“This section applies where an application is received for the grant or renewal of a licence to use a vehicle as a hackney carriage or a private hire vehicle and the vehicle concerned does not meet the required criteria detailed in this policy.

The application cannot be determined by officers under delegated powers, but the applicant can request that the application is determined at a hearing of the Council's Licensing Sub-Committee."

- 3.19 A considerable number of applications are made each year that require determination by a Licensing Sub-Committee because of the vehicle not complying with the Council's criteria in respect of its age. In such circumstances, the applicant for the licence must first have their vehicle mechanically tested by the Council's Taxi Engineer at Crossgates Depot.
- 3.20 Providing the vehicle is found to be mechanically safe and fit for use, the applicant is then required to present the vehicle for further visual inspection by Members at a later date at a Licensing Sub-Committee hearing. It is currently at the Licensing Sub-Committee hearing that Members then decide whether they consider that vehicle is of such exceptional standard so as to justify a decision to depart from the Council's Hackney Carriage and Private Hire Licensing Policy.
- 3.21 It is recognised that arranging and attending Licensing Sub-Committee hearings to determine applications for vehicles that do not meet the required criteria on account of their age, is time consuming and expensive for both Members and officers. It also requires the applicant for the licence to give up time to attend the hearing and present their vehicle for inspection by Members.
- 3.22 During the coronavirus pandemic, when restrictions were in place that prevented meetings from taking place in person, emergency delegations were put in place to authorise officers to determine applications for vehicles which did not meet the age criteria. The processes in place during this time appear to have worked well and allowed good quality decisions to be made professionally and efficiently. Once the coronavirus restrictions were lifted and face-to-face Council meetings resumed, these emergency delegations were removed and decision making on such applications returned to Licensing Sub-Committees with the first such Sub-Committee taking place in November 2021.
- 3.23 On 17th October 2022, the Licensing Committee considered a report inviting them to consider whether to direct officers to carry out consultation on delegating authority to determine this type of application to officers. After some debate as to the advantages and disadvantages of such an approach, Members resolved that consultation should be carried out on delegating authority to Officers to determine applications for licences to use vehicles as hackney

carriages or private hire vehicles where the vehicle had not met the Council's required criteria in respect of the age of the vehicle.

- 3.24 This consultation was conducted between 21st October 2022 and 16th December 2022 and the results of the consultation were considered by the Licensing Committee on Monday 20th March 2023. The minutes of the Licensing Committee meeting on Monday 20th March 2023 can be seen at Appendix D.
- 3.25 After lengthy consideration and debate, the Licensing Committee resolved that officers should proceed with the actions required to delegate authority to determine applications for licences to use vehicles as hackney carriages or private hire vehicles where the vehicle does not meet the Council's required criteria in respect of the age of the vehicle. The first such action was to ask the CRWP to consider this matter and recommend to Council that the Council's constitution be amended to delegate authority to officers to determine applications for licences to use vehicles as hackney carriages or private hire vehicles where the vehicle does not meet the Council's required criteria in respect of the age of the vehicle.
- 3.26 The CRWP initially considered this proposal at a meeting held on 31st July 2023. During this meeting, Members discussed the rationale for the proposed delegation to Officers. Some concerns were raised about whether it would be appropriate to reduce the level of Member involvement in determining such applications. However, other concerns were raised about the extent to which it was appropriate for Members to make a decision, given elected Members did not necessarily have the engineering expertise of the mechanics who would have already assessed the suitability of those vehicles to continue operating. It was also noted that Members sometimes struggled to attend Licensing Sub-Committee hearings during the day but these could not be rescheduled as evening meetings due to the detrimental impact it could have on drivers' livelihoods.
- 3.27 At the end of that meeting, Members suggested that it would be helpful to agree a compromise. Options suggested in these circumstances included the possibility of Members only considering applications in respect of age criteria in cases where these applications had been rejected and / or only receiving updates on applications where renewal of licenses had been approved, to provide assurance. Officers were asked to check the viability of these different options and to report back for Members' consideration.

- 3.28 At a subsequent meeting of the CRWG, held on 7th March 2024, Officers reported that the compromise solutions that had been suggested by Members at the previous meeting would not be viable, due to legal restrictions on actions that could be taken. Instead, a decision needed to be taken as to whether or not to delegate authority to officers to determine applications for licences to use vehicles as hackney carriages or private hire vehicles where the vehicle does not meet the Council's required criteria in respect of the age of the vehicle.
- 3.29 The CRWG discussed the feedback provided and the previous concerns raised by Members. In doing so, it was noted that delegations could be rescinded at a later date, should Members determine that this was no longer necessary.
- 3.30 In this context, the CRWP agreed to propose that the Council should, for a trial 12-month period, delegate authority to officers to determine applications for licences to use vehicles as hackney carriages or private hire vehicles where the vehicle does not meet the Council's required criteria in respect of the age of the vehicle.

Council Procedure Rules

- 3.31 The Council Procedure Rules in the constitution detail the rules that need to be followed at meetings of full Council.
- 3.32 Members of the public and Councillors are permitted to ask Questions on Notice at ordinary meetings of full Council and the rules for submission of Questions on Notice are detailed in the Council Procedure Rules.
- 3.33 There are circumstances under which a Question on Notice submitted to the Council might be rejected, for example if the question is considered to be defamatory, frivolous or offensive.
- 3.34 There is currently no explicit rule in the Council Procedure Rules clarifying that the Council would not accept a Question on Notice on the subject of a specific Licensing or Planning application.
- 3.35 However, it would not be appropriate for Members to consider specific Questions on Notice, or supplementary Questions on Notice, concerning licensing or planning applications as these are subject to separate quasi-judicial decision-making processes.
- 3.36 Consideration of Questions on Notice on these subjects could also place Members of the Licensing and Planning Committees in a difficult

position whereby they might be considered to be predetermined in terms of their views of a particular application.

- 3.37 Therefore, the CRWG is proposing that the Council Procedure Rules should be amended to specify that the Chief Executive may reject a Question on Notice if the subject of that question relates to specific licensing and planning applications.

Audit, Governance and Standards Committee Procedure Rules

- 3.38 The Audit, Governance and Standards Committee Procedure Rules detail the procedural rules in place for that Committee.
- 3.39 At meetings of the Committee, Members consider a report from the Monitoring Officer which provides an update on key standards matters, including numbers of complaints about Members, Member training and updates to the constitution.
- 3.40 Traditionally, four meetings of the Audit, Governance and Standards Committee have taken place each year. However, since the Council was issued with a Section 24 Notice in 2022, the Committee has been meeting six times a year and will continue to do so until all of the recommendations raised in the Section 24 Notice have been addressed.
- 3.41 The CRWP was advised that Monitoring Officer reports have been prepared for consideration at all of the Audit, Governance and Standards Committee meetings held during the 2023/24 municipal year. However, there have not been significant changes from a standards perspective in the time that has elapsed between meetings during the year.
- 3.42 In this context, it is proposed that it would be more appropriate in future for the Monitoring Officer's reports to be presented for the consideration of the Audit, Governance and Standards Committee on a quarterly basis. There would remain the potential for additional copies of this report to be drafted during the year should circumstances require.

Joint Arrangements

- 3.43 The Joint Arrangements section in the Council's constitution details joint arrangements in place with which Redditch Borough Council has some involvement, such as shared service arrangements.

- 3.44 The content of the Joint Arrangements section in the constitution has been reviewed by Officers and changes have been proposed by the CRWP to update the information that is provided, as detailed at Appendix G to the report.
- 3.45 This includes the proposal to remove reference to the former Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP) from the Joint Arrangements document, as this LEP no longer exists.
- 3.46 A further change is proposed to remove reference to the Joint Worcestershire Regulatory Services (WRS) Board from the Joint Arrangements section. This proposal is being made in a context in which Officers are proposing to update the Committee Terms of Reference, at Part 5 of the constitution. It is suggested that in future the updated Committee Terms of Reference should be divided into two parts; Part A will focus on the terms of reference for “internal Committees”, such as the Planning Committee, and Part B will focus on the terms of reference for joint bodies with which the Council has some involvement.
- 3.47 The review of the content of the Committee Terms of Reference is currently still taking place and will be reported for Members’ consideration in due course.

Member Officer Relations Protocol – Addition of Member Enquiries Guidance

- 3.48 At the meeting of the CRWP held on 7th March 2024 Members discussed the process followed at the Council for consideration and resolution of enquiries raised by Members with staff.
- 3.49 The Council’s Business Improvement Team (BIT) reviewed the arrangements that were in place, in terms of staff responding to queries received from Members, prior to discussions at the CRWP meeting. This review identified that there were a range of approaches adopted by teams across the Council. Whilst many staff had positive working relationships with Councillors, approaches to responding to Members varied and there was a lack of consistency. In addition, timescales for responding to Members varied.
- 3.50 In this context, Officers have drafted guidance for staff in respect of responding to Member enquiries. The intention of this guidance is to enable greater consistency to emerge in respect of the processes that staff are expected to follow when responding to Members’ queries. This guidance should also provide clarity about timescales and

expectations, to the benefit of elected Members and the residents that they serve.

- 3.51 Already included within the Council's constitution is the Member Officer Relations Protocol. This protocol outlines the appropriate working relationships between Members and Officers at Redditch Borough Council. It is suggested that the guidance would be appropriate to attach as an appendix to this protocol in the Council's constitution.
- 3.52 In considering this matter, Members are asked to note that the Corporate Management Team (CMT) will be monitoring data arising from the Member enquiries that are reported through this process so that any trends or areas of concern can be addressed as they emerge.

Employment Appeals Committee

- 3.53 Currently, the Council has a single Appointments Committee which is responsible for the appointment of statutory officers and may also be involved in the appointment of and / or appeals in respect of disciplinary action against Chief Officers employed by the Council.
- 3.54 To ensure that there is a clear demarcation on roles and responsibilities of Committees and Members appointed to those Committees, it is proposed that a separate Employment Appeals Committee should be established at the Council. Proposed terms of reference for the proposed Committee are attached at Appendix J for Members' consideration.

4. FINANCIAL IMPLICATIONS

- 4.1 The proposed 12-month trial delegation of authority to officers in respect of the age criteria for licensed vehicles, if approved, will result in time saving (and therefore a cost saving) in respect of those officers employed in the Council's Legal and Democratic Services Teams who are involved in the facilitation of decision making at Licensing Sub-Committee hearings.

5. LEGAL IMPLICATIONS

- 5.1 Review and revision of the Constitution is governed by Article 15 of the Constitution.
- 5.2 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.

- 5.3 The Licensing Committee's consultation on the proposal to amend the Council's policies has minimised the risk of a successful legal challenge if the proposals are subsequently implemented.

6. OTHER - IMPLICATIONS

Relevant Strategic Purpose

- 6.1 The action proposed in this report supports the strategic purpose "an effective and sustainable Council".
- 6.2 A report in respect of the current Scheme of Delegations is considered at the Annual Council meeting, in line with requirements set out in Article 15 of the Council's constitution. This provides an opportunity for Members to review those delegations to ensure that they continue to meet the needs of the Council and communities it serves.
- 6.3 Taking the proposed action to delegate authority to officers in respect of the vehicle age criteria would help those applying for licences to run and grow a successful business by streamlining and speeding up the relevant decision-making process, enabling them to get on with carrying out their business. This is because, delegating decision making to officers would mean that the applicant would only need to present their vehicle for inspection on one occasion, rather than having to present it at both Crossgates Depot and at a Licensing Sub-Committee hearing.

Climate Change Implications

- 6.4 Delegating authority to officers in respect of the age criteria for licensed vehicles would mean that licence applicants would only be required to present their vehicle for inspection once in order for a decision to be made. This would halve the number of vehicle journeys involved compared to the existing arrangements that are in place, resulting in fewer carbon emissions associated with this process.

Equalities and Diversity Implications

- 6.5 There are no equality and diversity implications.

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

8. APPENDICES and BACKGROUND PAPERS

Appendices

Appendix A – The Officer Scheme of Delegations.

Appendix B – Committee Terms of Reference Extract – Shareholders Committee

Appendix C – Updated introduction to the constitution

Appendix D - Relevant Excerpt from the Council's Hackney Carriage and Private Hire Licensing Policy

Appendix E – Minutes from Licensing Committee 20th March 2023

Appendix F – Updated Council Procedure Rules in Track Changes

Appendix G – Updated Audit, Governance and Standards Committee Procedure Rules in Track changes

Appendix H – Updated Joint Arrangements in Track Changes

Appendix I – Member Officer Relations Protocol, Including Member Enquiries Guidance at Appendix 1 – Updated in Track Changes

Appendix J – Proposed Employment Appeals Committee Terms of Reference

Background papers

The Council's constitution

9. REPORT SIGN OFF

Department	Name and Job Title	Date
Portfolio Holder	To be confirmed	
Lead Director / Head of Service	Claire Felton, Head of Legal, Democratic and Property Services	April 2024
Financial Services	Pete Carpenter, Interim Section 151 Officer	April 2024
Legal Services	Claire Felton, Head of Legal, Democratic and Property Services	April 2024