

## DRAFT CONSTITUTIONAL UPDATES AND REPORTING

### FULL COUNCIL



<b>DATE</b>	<b>17<sup>th</sup> April 2024</b>
<b>PORTFOLIO</b>	<b>Leader</b>
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### PURPOSE

1. To note a recent waiver of call-in.
2. To note a recent Council delegated decision taken by the Chief Executive.
3. To note a number of minor changes to the Constitution made by the Monitoring Officer.
4. To agree to the recruitment of a third Independent Person.
5. To approve an addition to the Constitution in relation to digital campaigning imprints.
6. To set a term of appointment for the position of Opposition Member representative on Burnley Town Board.

### RECOMMENDATION

7. That Council note the call-in waiver relating to an urgent Executive delegated decision taken by the Chief Executive on 7<sup>th</sup> March 2024 relating to the Local Authority Housing Fund (LAHF) for Temporary Accommodation (Appendix 1).
8. That Council note the Council delegated decision taken by the Chief Executive on 7<sup>th</sup> March 2024 relating to temporary changes to polling stations (Appendix 2).
9. That Council note the following minor changes to the Constitution to be made by the Monitoring Officer:
  - a) Part 4g Contract Procedures Rules - Contract value thresholds in the contents list to be updated to align with the values contained within the procedure rules themselves (Appendix 3).
  - b) Part 5a Arrangements for Dealing with Complaints against Elected Members under the Code of Conduct for Members – Reference to Lukman Patel as Monitoring Officer to be updated to Catherine Waudby as Monitoring Officer and reference to an online form has been added (Appendix 4).
  - c) Part 5j Protocol for Members of the Audit and Standards Committee and any sub-committees – Reference to Lukman Patel as Monitoring Officer to be updated to Catherine Waudby as Monitoring Officer (Appendix 5).

10. That Council endorse the recommendations from the Audit and Standards Committee to recruit a third Independent Person (Appendix 6).
11. That Council approve a change in the Constitution to preclude the use of council addresses for the purposes of imprints on printed and digital political campaign materials (Appendix 7).
12. That Council approve that the appointment of the 'Opposition Member on Burnley Town Board' be for a maximum of three years. The three-year term will come to an end if the holder is no longer in office or they are removed by the principal authority.

## **REASONS FOR RECOMMENDATION**

13. To ensure that the reporting requirements of the Constitution are upheld, and transparency is maintained.
14. To ensure that the Code of Conduct for Members is kept up to date and fit for purpose.
15. To ensure that the Constitution is kept up to date and fit for purpose.
16. To ensure sufficient resilience and robust support for the Council's arrangements for dealing with complaints against elected members given the increase in volume of complaints received in the last 12 months.
17. To protect the political neutrality of Council premises and property, and to respect the political neutrality of Council officers who are employees of the Council as a whole and whose overriding responsibility is to the Council and not to any political party, political party group, other group of members or any individual member.
18. To ensure that there is stable opposition representation on the Town Board and to comply with the wishes of both the Town Board and the latest guidance issued by government.

## **SUMMARY OF KEY POINTS**

19. Part 4.5 of the Council's Constitution requires that any waiver of call-in be reported to Full Council. Since the last meeting of Full Council the Chair of the Scrutiny Committee agreed to call-in being waived in relation to an urgent Executive delegated decision taken by the Chief Executive on 7<sup>th</sup> March 2024 relating to the Local Authority Housing Fund (LAHF) for Temporary Accommodation.
20. On 7<sup>th</sup> March 2024 the Chief Executive took an urgent delegated Council decision to approve temporary changes to two polling stations ahead of the elections on 2<sup>nd</sup> May. The changes are required due to outstanding works at one polling station and because a room at another polling station is no longer available for our use.
21. Members will recall that at Full Council on 22<sup>nd</sup> February 2023 members approved an increase in the Executive tender approval and Standing Orders for Contracts exemption threshold from £100,000 to £125,000 to recognise general price increase in the marketplace and inflation. Due to an administrative oversight this change was

duly made in the Standing Orders themselves at Section 4.7 of the Constitution but not in the Standing Orders contents list. The contents list has now been updated accordingly.

22. Section 5.1 of the Constitution The Arrangements for Dealing with Complaints about Elected Members refers to the former Monitoring Officer Lukman Patel. This has now been updated to the current Monitoring Officer Catherine Waudby. The document has now also been updated to reflect the provision of an online complaint form and include a link thereto.
23. Section 5.10 of the Constitution The Protocol – Members of the Audit and Standards Committee and any Sub-Committee refers to the former Monitoring Officer Lukman Patel in several places. This has now been updated to refer to the current Monitoring Officer Catherine Waudby.
24. At its meeting on 20<sup>th</sup> March 2024 the Audit and Standards Committee resolved to recommend that full Council agree to the recruitment of a third Independent Person under section 28(7) of the Localism Act 2011 to assist the Monitoring Officer and Audit and Standards Committee and any sub-committees in dealing with complaints about borough, parish and town council members.

The Council currently has two Independent Persons who assist with such matters but as the volume of complaints has increased significantly over the last 12 months, it is now considered timely to build resilience and support to the process by recruiting a third Independent Person. The Independent Person must be a person who has applied for the post following advertisement of a vacancy for the post, and appointed by a positive vote from a majority of all the Members of Council at a meeting of the Full Council. Following endorsement of the recommendation at 9 above, the Monitoring Officer will initiate the advertisement and recruitment process and will seek Full Council's approval of the appointment in due course.

25. All printed and digital campaign material that is intended to affect public support for or publicise the work of Political Groups, organisations or parties, elected office-holders, candidates, future candidates or non-party campaigners must contain specific details, known as an 'imprint' to show who is responsible for publishing it.

The Electoral Commission's [statutory guidance](#) on the digital campaigning imprint regime sets out that the postal address used must be somewhere that the campaigner can be contacted, including an office, business, home, PO box, or other mailbox service. The guidance does not express a view on whether council or other public authority addresses can be used for this purpose.

Officers consider that it is not appropriate for such addresses to be used for a number of reasons.

- Council buildings and premises are predominantly public buildings and the use of their address for campaigning purposes could be considered to call into question their political neutrality.
- Council officers are employees of the Council as a whole and their overriding responsibility is to the Council and not to any party political group or other grouping of Members (i.e. "Group"). Their political neutrality should be respected.
- Political Groups, organisations or parties, elected office-holders, candidates, future candidates or non-party campaigners would wish to avoid any possible

association with others' political campaigns or messages that may arise due to the use of a Council address.

26. The initial 'Board & Governance' paper shared at MS&SWG in January 2024 indicated that thoughts around the period of appointment were that it should be for 3 years to run the length of the initial 3-year investment plan. Membership could then be reviewed in the build-up to the second 3-year investment plan being developed.

27. Further guidance from government was awaited so it was not possible to definitively set the term without either the guidance or confirmation from the Board. Due to the timescales required for the Board to be operational, the 'shadow' appointments were made with the term to be clarified. This was done at the first meeting, where the following resolution was made:

'The Term of Office for all members of the Town Board will be for a maximum of three years. In the case of elected members (which includes Councillors, County Councillors, MP and PCC representative) the three year term will come to an end if they are no longer in office, or they are removed by the principal authority'.

This aims to give a stable term of appointment whilst ensuring that should the postholder no longer qualify for Board Membership (for example are no longer an opposition member) or the authority wish to remove them, there is provision.

Further guidance was received only on Thursday of last week which supports the view (<https://www.gov.uk/government/publications/long-term-plan-for-towns-technical-qa/long-term-plan-for-towns-technical-qa>) that a 3-year term is appropriate.

28. In order for the Council to have opposition representation from the inception, an appointment was made at Council in February 2024. However the term of the appointment was not specified.

29. It is therefore proposed that Council specify the term for the existing and any future appointments to the position of Opposition Member representative on the Town Board as a maximum of three years. The term will come to an end if they are no longer in office, or they are removed by the principal authority. It is proposed that the Executive should make the same provision for the executive appointments to the Town Board.

## **FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

30. None.

## **POLICY IMPLICATIONS**

31. None.

**DETAILS OF CONSULTATION**

32. None.

**BACKGROUND PAPERS**

33. None,

**FURTHER INFORMATION**

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**ALSO:**