



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

COUNCIL

27 March 2024

Report of the Director of Legal & Democratic Services and Monitoring Officer

Revisions to Council Constitution: Budget and Policy Framework policies

1. Purpose

- 1.1 To approve amendments to the list of Budget and Policy Framework policies and strategies in the Constitution.

2. Information and Analysis

- 2.1 The Local Government Act 2000 introduced new models of governance for local authorities. There were four governance models available to councils under the 2000 Act, namely: -

- (i) Mayor and Cabinet Executive
- (ii) Leader and Cabinet Executive
- (iii) Mayor and Council Manager
- (iv) Alternative arrangements – the modified committee system for authorities with a population of less than 85,000 as at the time of the Act

As Members of Council are aware, Derbyshire County Council operates executive arrangements, with a Leader and Cabinet model.

- 2.2 The legislation provides for functions to be allocated between the executive (Cabinet) and non-executive (Council and Committees). For this purpose functions are classified as functions which:
- a) must not be the responsibility of the executive;
 - b) must be the responsibility of the executive;
 - c) the local authority can decide whether they are to be the responsibility of the executive; and
 - d) are shared between the council and the executive.
- 2.3 The Act together with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, identify which functions are to be treated as executive functions and non-executive functions. Regulation 4 and Schedule 3 to the Regulations set out which functions which are not to be the sole responsibility of the executive and are treated as the joint responsibility of Cabinet and Council. These are referenced in the Council's Constitution as the 'Policy Framework' which is developed in accordance with the Budget and Policy Framework Procedure Rules (Appendix 7 to the Constitution).
- 2.4 The current Policy Framework is included in the Council's Constitution (Section D of Appendix 1 – Responsibility for Functions) and set out below.

Policy Framework. The policy framework means the following plans and strategies:-

- Annual Library Plan;
- Children's and Young People's Plan;
- Community Care Plan;
- Sustainable Community Strategy;
- County Community Safety Agreement;
- Local Transport Plan;
- Plans and strategies which together comprise the Development Plan;
- Youth Justice Plan;
- Council's Corporate Plan;
- Food Law Enforcement Service Plan;
- Adult Services Plan;
- and any other Strategy, Plan or Agreement that requires the approval of full Council.

- 2.5 This list has been reviewed because of changes in legislation. In addition, it is proposed that any plans and strategies which are not required to be approved by Cabinet and Council are removed from the list to ensure timely decisions are made in an efficient and effective way.

Such plans and strategies would still be subject to approval by members of the executive.

- 2.6 Section 4 of the Local Government Act 2000 has been repealed so there is no longer a requirement to produce a Sustainable Community Strategy. The 2000 Regulations do not require a Community Care Plan, Adult Service Plan or Food Law Enforcement Service Plan to be treated as a policy framework plan and therefore it is proposed that they are removed for the reasons set out above.
- 2.7 The 2000 Regulations still includes reference to Annual Library Plan - Section 1(2) of the Public Libraries and Museums Act 1964. However, section 1(2) does not specifically mention the requirement to produce an annual library plan and instead states "Every library authority shall furnish such information, and provide such facilities for the inspection of library premises, stocks and records, as the Secretary of State may require for carrying out his duty under this section". Communications have taken place with the Department of Digital, Culture, Media and Sport (DCMS) that confirms annual library plans were first introduced in 1998 and Public Library Standards were implemented in 2001. They were intended to provide a focus for library managers to gather information and manage library services. At that time local authorities were required to submit an annual library plan to DCMS by the end of September each year. In February 2003, DCMS published "Framework for the Future" setting out the comprehensive performance assessment process instead of requiring an annual library plan from each library authority. This has since been replaced by the Comprehensive Area Assessment and the Public Library Standards have been withdrawn. There is no longer a requirement from DCMS that an annual library plan be submitted to the department for approval or otherwise and the expectation is that planning the delivery of their library service is best decided at a local level. In light of this but noting that the annual library plan remains listed in the 2000 Regulations, it is proposed that it remains in the Policy Framework list, but reference to the legislation is added to ensure clarity. This will ensure that the correct approval process is followed if DCMS requires an annual library plan in future.
- 2.8 It is proposed that an amended Policy Framework in Section D of Appendix 1 – Responsibility for Functions is approved. The new version is set out below:

Policy Framework. The policy framework means the following plans and strategies:-

- Annual Library Plan (where required under section 1(2) Public Libraries and Museums Act 1964);

- Children’s and Young People’s Plan;
- Crime and Disorder Reduction Strategy (Community Safety Agreement);
- Local Transport Plan;
- Plans and strategies which together comprise the Development Plan;
- Youth Justice Plan;
- Council’s Corporate Plan (The Council Plan).

2.9 These amendments were considered and agreed by the Governance, Ethics and Standards Committee on 7 March 2024.

3. Alternative Options Considered

3.1 Do nothing – this option is not appropriate as it will not ensure that the Constitution kept up to date and fit for purpose. Retaining those plans in the list which do not require Cabinet and Council approval has been considered. However this is not recommended because this would not be the most effective and efficient decision making process.

4. Implications

4.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

5. Consultation

5.1 Not applicable.

6. Background Papers

6.1 None identified.

7. Appendices

7.1 Appendix 1 – Implications.

8. Recommendations

That Council approves the amended Policy Framework list as set out in the body of the report for inclusion in Section D of Appendix 1 – Responsibility for Functions of the Constitution.

9. Reasons for Recommendations

- 9.1 To comply with legislative requirements and ensure the Council's Constitution is kept up to date and fit for purpose.
- 9.2 To enable swift, effective and efficient decision making.

Report Author: Helen Barrington

Contact details: helen.barrington@derbyshire.gov.uk

Implications

Financial

1.1 None.

Legal

2.1 As set out in the body of the report, the Local Government Act 2000 introduced new models of governance for local authorities, including the introduction of executive arrangements.

2.2 The Act together with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, identify which functions are to be treated as executive functions and non-executive functions. Regulation 4 and Schedule 3 to the Regulations set out that approval and adoption of the following plans and strategies, which relate to County Council functions, are the joint responsibility of Cabinet and Council:

- Annual Library Plan - Section 1(2) of the Public Libraries and Museums Act 1964
- Children and Young People's Plan - Children and Young People's Plan (England) Regulations 2005
- Crime and Disorder Reduction Strategy - Sections 5 and 6 of the Crime and Disorder Act 1998
- Development plan documents - Section 15 of the Planning and Compulsory Purchase Act 2004
- Local Transport Plan - Section 108(3) of the Transport Act 2000
- Youth Justice Plan - Section 40 of the Crime and Disorder Act 1998

2.3 Chapter 2 of the Local Government Act 2000: Guidance to English Local Authorities includes guidance on the approach to functions between that are the joint responsibility of the executive and non-executive and relevant extracts are set out below:

“2.19 Schedule 3 to the Regulations requires the following plans and strategies to be approved or adopted by the full council:

- Annual Library Plan;
- Best Value Performance Plan;
- Childrens Services Plan;
- Community Care Plan;

- Community Strategy;
- Crime and Disorder Reduction Strategy;
- Plans and alterations which together comprise the Development Plan;
- Early Years Development Plan;
- Education Development Plan;
- Local Transport Plan; and
- Youth Justice

2.20 Regulation 5 of, and paragraph 1 of Schedule 4 to, the Regulations also provide that the local authority can choose that certain other plans or strategies (statutory or non-statutory), in addition to those listed above, must be adopted or approved by the full council. The Local Government Act 2000 (Proposals for Executive Arrangements) (England) Direction 2000 requires local authorities to specify in their proposals for executive arrangements which plans and strategies are to be adopted or approved by the full council.

2.21 The Secretary of State recommends that local authorities should consider including the following other plans and strategies for approval or adoption by the full council:

- Food Law Enforcement Service Plan;
- the strategy and plan which comprise the Housing Investment Programme;
- Local Agenda 21 Strategy;
- Adult Learning Plan;
- Quality Protects Management Action Plan; and
- the local authority's Corporate Plan or its equivalent (if the local authority has one).

2.22 Where a local authority does not choose for any such plan or strategy to be subject to full council approval the Secretary of State recommends that the plan or strategy in question should be subject to approval by members of the executive.”

It is worth noting that since 2000, there have been various amendments to legislation and a number of provisions have been repealed; however the guidance has not been updated accordingly.

2.4 Article 22 of the Constitution makes it clear that changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Governance Ethics and Standards Committee. The proposals were considered and agreed by Governance, Ethics and Standards Committee on 7 March 2024 and therefore this constitutional requirement is discharged.

- 2.5 The Council is required to prepare and keep up to date its Constitution as set out in Section 9P of the Local Government Act 2000 as amended. Approval by full Council of the recommendations in this report will enable the compliance with this duty.

Human Resources

- 3.1 None.

Information Technology

- 4.1 None.

Equalities Impact

- 5.1 None.

Corporate objectives and priorities for change

- 6.1 This report links to the Council Priority of 'High Performing Value for Money and Resident Focused Services'. The changes proposed will enable efficient, effective and lawful decision making.
- 6.2 The amendments will also support the Council's Enterprising Council strategic approach ensuring timely decisions made in an accountable, transparent, efficient and effective way.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

- 7.1 None.