



TITLE: EXECUTIVE ARRANGEMENTS - REVISED CONSTITUTION

TO/ON: FULL COUNCIL 24TH AUGUST 2005

BY: MARK WESTON, HEAD OF LEGAL AND DEMOCRATIC SERVICES

LEAD MEMBER: DUNCAN RUDDICK

STATUS: FOR PUBLICATION

1. PURPOSE OF THE REPORT

1.1 To seek Members approval of a new council constitution to reflect the Council's new governance arrangements which are due to come into force on 1/10/05.

2. RECOMMENDATIONS

2.1 That the Council approve the new council constitution, as set out at appendix A, with effect from 1/10/05.

3. REPORT AND REASONS FOR RECOMMENDATIONS AND TIMETABLE FOR IMPLEMENTATION

3.1 The Council on the 13th July 2005 resolved that:-

1. That subject to the results of the telephone survey being similar or broadly similar to the results of the current survey the Council approve the proposal for its new governance arrangements as attached at Appendix 1 to the report of the Head of Legal and Democratic Services subject to the amendment that it be a responsibility of the Standards Committee to approve the statement of accounts rather than the Performance Management Overview and Scrutiny Committee.
2. That the Head of Legal and Democratic Services following consultation with the Leader and the Leader of the Opposition be authorised to make any further necessary minor amendments to the proposal and the consultation statement.
3. That the Head of Legal and Democratic Services draw up a Constitution for the Council that reflects the adopted proposal for consideration by the Council at its meeting on 24th August.

4. That Council approve the revised action plan attached at Appendix 2 to the report of the Head of Legal and Democratic Services subject to the amendment that the proposals be submitted to the Office of the Deputy Prime Minister following the telephone survey and in accordance with recommendation 1 above.
5. That the Overview and Scrutiny Committee review the implementation of the consultation process.

3.2 The telephone survey was carried out and the results are set out below. A total of 300 interviews, as required, were completed between Monday 11th July and Saturday 16th July 2005. A full list of the response rate is shown below. Such a sample is regarded as statistically sound for an exercise of this type. The sampling error attached to any of the results is the range +/- 2.9% in most cases.

	Quantity	%
Total Sample	600	100.0
Completed Interviews	300	50.0
Refusals	38	6.3
Unobtainable / No reply / Answer phone	30	5.0
Not used	232	38.7

3.2.1 The results of the survey may be summarised as follows: -

A majority (60%) of those interviewed were in favour of the system which involved a Cabinet with an elected Leader. Very few respondents favoured any of the other three options, and 30.7% were undecided or did not mind which option was chosen.

	%
An Cabinet with a Leader elected by Council	60.4
A directly elected Mayor with Cabinet	4.1
A directly elected Mayor and Council Manager	4.1
A streamlined Committee System with a Leader	0.7
DK / Not sure / No preference	30.7

3.2.2 Amongst those who expressed a preference, 87% were in favour of the Council's chosen option, a hugely significant result.

3.3 The Council's proposals for its preferred option of the Leader/Cabinet model were forwarded to the Office of Deputy Prime Minister on 5th August and details of these proposals were posted on the Council's website.

3.4 The revised constitution as shown at Appendix 1 reflects these proposals.

3.5 The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

3.5.1 The Constitution is divided into various articles which set out the basic rules governing the Council's business.

3.6 The main changes to the constitution are explained below.

3.6.1 **THE CABINET**

3.6.2 **Leader and Cabinet**

3.6.2.1 **Form and Composition**

3.6.2.2 The Cabinet will consist of the leader together with five Councillors appointed to the Cabinet by the Council.

3.7 **Role of the Cabinet**

3.7.1 The Cabinet will carry out all the local authorities functions which are not the responsibility of the Council whether by law or under these executive arrangements. The Cabinet, in exercising these functions will do so within the policy framework and budget set by the Full Council in accordance with these arrangements. The Cabinet also has a key role in proposing the budget and policy framework to the Council. The Cabinet and its members will lead the community planning process and the drive for Best Value, lead the preparation of the Council's policies and budget, take decisions on resources and priorities, and be the focus for forming partnerships with other local public, private and voluntary and community sector organisations to address local needs. The Cabinet will also respond to any recommendations and reports from the Overview and Scrutiny Committees, and the Standards Committee.

3.7.2 Decisions of the Cabinet are subject to 'call-in'. No Cabinet decisions will take effect until after five working days have elapsed since the date of the decision or where the decision has been called in, until the matter has been resolved in accordance with the detailed call-in procedure, to be included in the Constitution, except in cases of urgency where the Chairman of the relevant Scrutiny Committee has indicated that he or she is content that the decision takes effect.

3.8 **The Forward Plan**

3.8.1 A Forward Plan setting out details of key decisions which it is known are due to be taken by the Cabinet and officers over a four month period will be prepared and made available for inspection and widely publicised. The Plan will be updated on a monthly basis and a notice will be published in a newspaper annually, giving notice of when forward plans will be published for the forthcoming year, explaining what a forward plan is and how it can be obtained. The Plan will be published on the Council's Web Site.

3.8.2 A key decision will be one that either:-

- a) is, in value worth more than £100,000, or

- b) has a **significant impact** because (for example) it either:
- (i) affects individuals or organisations outside the Borough;
- or
- (ii) will have a long term (more than 5 years) or permanent effect on the council or the borough.

3.8.3 The Cabinet will not know about every key decision far enough in advance for it to be included in the Forward Plan. In such circumstances, the relevant Chairman of the Scrutiny Committee (or in his/her absence, the Vice-Chairman) will be informed and a copy of the relevant details will be supplied to the Members of the Overview and Scrutiny Committee at least three working days before the decision can be taken.

3.8.4 In cases of special urgency where a key decision is required at short notice, a decision can be made and acted upon, but only with agreement of the Chairman of the relevant Scrutiny Committee (or in his/her absence the Vice Chairman) or the Chairman of the Council, who must agree that the matter is urgent and cannot reasonably be deferred.

3.9 The Council will now have 2 Overview and Scrutiny Committees, an Audit and Performance Management Overview and Scrutiny Committee and a Policy Development and Review Overview and Scrutiny Committee. The Council will no longer have an Audit Committee, its functions will be transferred to the Standards Committee and the Audit and Performance Management Overview and Scrutiny Committee.

3.10 Only Full Council can approve the following plans and strategies:-

- Best Value Performance Plan
- Corporate Strategy
- Community Strategy
- Crime and Disorder Reduction Strategy
- Plans and Strategies which together comprise the Development Plan
- Housing Strategy and Housing Investment Programme
- Local Agenda 21 and Strategy
- Licensing Policy
- Financial Management Strategy
- The Budget Framework. This consists of allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and Housing Rents and decisions relating to the control of the Council's borrowing requirements. The control of its capital expenditure and setting of virement limits is also reserved to the Council as part of the Policy and Budget Framework.

- 3.11 Determining the Policy and Budget Framework will depend upon close and joint working between the Cabinet and the Council. The Cabinet will publicise in the Forward Plan its timetable and consultation arrangements for settling the Policy and Budget framework. This process must also include notification to Chairs of Overview and Scrutiny Committee.
- 3.12 The Cabinet will then draw up firm proposals having regard to responses from interested parties and in particular, responses from Overview and Scrutiny Committees. The firm proposals formulated by the Cabinet are referred to the Council by the Chief Executive for decision. The Council may adopt the Cabinet Proposals, amend them or refer them back to the Cabinet for further consideration or substitute its own proposals.
- 3.13 If the recommendation of Cabinet is accepted, the decision of the Council has immediate effect. Any variation from Cabinet proposals will result normally in an in principle decision. This will become effective automatically 10 working days from the date of the Council's decision unless the Leader informs the Chief Executive in writing within 5 working days of the Council that he or she objects to the decision becoming effective and provides reasons why. Council will then be invited at a further meeting to reconsider its decision and they either approve the Cabinet's recommendation or approve a different decision.
- 3.14 Once the Policy and Budget Framework has been approved, the Cabinet and any Officers, discharging Cabinet functions may only take decisions which are in line with the Budget and Policy Framework. Any proposal to take action or to make a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by the full Council has to be referred back to the Council for decision.
- 3.15 There are two exceptions to this. Firstly, if a matter is urgent and it is not practical to convene a quorate meeting of the Full Council and the Chair of a relevant Overview and Scrutiny Committee agrees that the decision is a matter of urgency then the Leader or Cabinet, or Chief Executive may take a decision.
- 3.16 Key decisions are those decisions which involve expenditure above £100,000 or which are deemed to have a significant impact because it affects individual or organisations outside the Borough or will have a long term or permanent effect on the Borough. A key decision may not be taken by the Cabinet, or any Officer until a notice called a Forward Plan has been published in connection with the matter in question and at least 5 clear days have elapsed since the publication of the Forward Plan.
- 3.17 Full council will approve the appointment of the Head of Paid Service and Chief Officers. The appointment of Deputy Chief Officers and officers below this will be the responsibility of the Head of Paid Service or his nominee.
- 3.18 A full copy of appendix A can be inspected on the Council's web site, or at the town hall, attached to this report are the pages of the constitution showing the 'marked' changes to the council's previous constitution.

4. CORPORATE IMPROVEMENT PRIORITIES

4.1 FINANCE AND RISK MANAGEMENT

4.1.1 The Council has instructed Eversheds Solicitors to draft its revised constitution and the costs for this has been provided for in the budget.

4.2 MEMBER DEVELOPMENT AND POLITICAL ARRANGEMENTS

4.2.1 Member training will be given in respect of the new constitution.

4.3 HUMAN RESOURCES

4.3.1 Officer training will be given in respect of the new constitution

4.4 ANY OTHER RELEVANT CORPORATE PRIORITIES

4.4.1 None.

5. RISK

5.1 There is a risk that if adequate training on the new provisions is not provided then the new arrangements will not be as effective as they should be.

6. LEGAL IMPLICATIONS ARISING FROM THE REPORT

6.1 As set out in the report

7. EQUALITIES ISSUES ARISING FROM THE REPORT

7.1 It is important that the Council's new constitution is accessible to all sectors of the Community.

8. WARDS AFFECTED

8.1 All.

9. CONSULTATIONS

9.1 As set out in the report.

Background documents: Beacon Research Local Democracy Survey Final Report

For further information on the details of this report, please contact: Mark Weston, Head of Legal and Democratic Services on 01706 244502 markweston@rossendalebc.gov.uk