

DRAFT FOR CONSULTATION

Subject: Review of the Council Constitution **Status:** For Publication

Report to: Standards Committee **Date:** 1st October 2009
Full Council 7th October 2009

Report of: Executive Director - Business (Monitoring Officer)

Portfolio

Holder: Finance & Resources

Key Decision: No

Forward Plan General Exception Special Urgency

1. PURPOSE OF REPORT

1.1 To review the council's constitution, to bring together the various changes made recently and to recommend certain further changes and updates for approval.

2. CORPORATE PRIORITIES

2.1 The matters discussed in this report impact directly on the following corporate priorities:-

- Delivering quality Services to our customers
- Delivering regeneration across the Borough
- Encouraging healthy and respectful communities
- Keeping our Borough clean, green and safe
- Promoting the Borough
- Providing value for money services

3. RISK ASSESSMENT IMPLICATIONS

3.1 There are no specific risk issues for members to consider arising from this report.

4. BACKGROUND AND OPTIONS

4.1 The Local Government Act 2000 requires all principal councils operating "executive arrangements" to adopt and keep up to date a constitution governing the way it operates

- 4.2 The Council must comply with directions and guidance issued by the Secretary of State in preparing and reviewing this document.
- 4.3 Rossendale's constitution was adopted on 19th December 2001 and has been amended in September 2008 and in February, March, May and August of this year, mainly to take account of new duties brought in by the Local Government and Public Involvement in Health Act 2007.
- 4.4 The issues which members are invited to consider in this report include, changes to the Overview & Scrutiny function, clarifying the roles of Cabinet and Council, delegation to Portfolio holders, the numbers of members serving on regulatory committees and Standards Committee, the addition of the Pennine Lancashire Leaders Joint Committee ("PLACE") and other minor and consequential amendments. The appendix shows the tracked changes and members' attention is particularly drawn to the following issues:
1. Part 1 -Para 1.1. The constitution has been kept under review but in a piecemeal way. This **full review** incorporates amendments made in September 2008, February, March, May and August 2009;
 2. Part 1 -Para 1.7. The **Overview & Scrutiny system** has been reviewed previously to create an Overview & Scrutiny Management Committee to oversee the scrutiny function of the Council; a sub-committee will deal with referrals under the Councillor Call for Action procedure introduced by the Local Government and Public Involvement in Health Act 2007.
 3. Part 2 Article 4, Para 4.01 (iii). This seeks to emphasise the primacy of **Council** particularly with reference to its role in setting the Council's policy framework. A more detailed definition is included with particular reference to planning policy.
 4. Part 2 Article 6, Para 6. A more detailed exposition of the role of **Cabinet** and the role of individual portfolio holders is included. These have been drafted in general terms and are not to be seen as delegating powers to individual members.
 5. Part 2 Article 7. This section specifies the general role of the various **Overview & Scrutiny Committees** and their composition.
 6. Part 2 Article 8. This deals with the membership of the **Development Control Committee** and the **Licensing Committee**. It is suggested that membership of the former is fixed at seven members, Licensing Committee membership should also be fixed. The Licensing Act 2003 requires a minimum of 10 members on the Committee. Eleven members with each representing a ward is the suggested model. Political proportionality would also be dis-applied in this case, if all members agree.
 7. Part 2 Article 9. This deals mainly with the **Standards Committee**. The section dealing with the procedure for the Standards Sub-Committees (i.e. Assessment, consideration, hearings, reviews etc) is removed from Part 2

and re-located in Part 4 of the Constitution (Rules of Procedure). Article 9 also includes the newly created Audit & Accounts Committee.

8. Part 2 Article 10. This relates to **Joint Arrangements** and it is suggested that this is the appropriate place to make reference to the new regime for Neighbourhood Forums. The section also includes other joint enterprises including Lancashire Local and the new Pennine Lancashire Leaders Joint Committee.
9. Part 2 Article 11. This explains the main **officer structure** for the Council. It includes the newly created roles of Director of Customers and Communities and the Director of Business (Monitoring Officer).
10. Part 2 Article 12. A new expanded definition of “**Key Decisions**” is included here. These are then linked to the Forward Plan process set out later on.
11. Part 3. The 2000 Act provided that certain local authority functions were to be Council functions, certain other functions were reserved to the Executive/ Cabinet and other functions were described as “**local choice**” functions. Paragraphs 1 to 5 of Part 3 therefore attempts to set these issues out in greater detail so as to make the decision making process clearer and to aid accountability.
12. Part 3 Paragraph 6 sets out the new functions of the three **O&S Committees** and also gives the O&S Management Sub-Committee responsibility for the new Councillor “Call for Action” process.
13. Part 3 Para 7 repeats the terms of reference for the **Development Control Committee and Licensing Committee**, which are unchanged. The Member Call-In procedure for Planning has been taken out and placed in Part 4 (Rules of Procedure). There are no substantive changes to these rules.
14. Part 3 Para 8. The terms of reference for the **Standards Committee** are expanded slightly to ensure that the responsibility for the local determination of complaints is set out clearly (see Para 8(h)).
15. Part 3 Para 9. This expands and amplifies the terms of reference for the **Appointments and Appeals Committee** to deal with staffing matters and to act as a general “natural justice” forum for any appeals not dealt with elsewhere.
16. Part 3 Para 11 sets out the terms of reference for the various **Working Groups** currently operating. Terms of reference for the Civic Matters WG have been added.
17. Part 3 Para 12. The newly agreed terms of reference for **Neighbourhood Forums** is added on here.
18. Part 3-**Officer Delegation Scheme**. This has been updated to reflect the new management structure of the Council. I.e. the deletion of the post of

Deputy Chief executive from the establishment and the creation of two new directorates.

19. Part 4 – **Cabinet Procedure Rules**. These are largely unchanged except for the deletion of the right of non-executive members to ask questions. This is replaced with a right of councillors and members of the public to make a statement to Cabinet on any agenda item, at the discretion of the Leader.

20. Part 4-**Contract Procedure Rules**. These are amended to strengthen the duty of all contractors to comply with Equalities Standards.

21. Part 4 –**Overview & Scrutiny Procedure Rules**. The process for the Councillor Call for Action has been added on, as is the duty of one of the O&S Management Committees to meet at least once a year to scrutinise the Crime & Disorder Reduction Partnership Committee.

22. Part 5- **Codes and Protocols**. These are unchanged.

23. Part 6-Scheme of **Members’ Allowances**. The updated version of this scheme is now included.

24. **Glossary** of Terms. This has been added at the end of the document with a view to improving its clarity and accessibility.

COMMENTS FROM STATUTORY OFFICERS:

5. SECTION 151 OFFICER

5.1 Included within the report

6. MONITORING OFFICER

6.1 The Council is required by the Local Government Act 2000 to keep its constitution under review.

7. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)

7.1 Included within the report.

8. CONCLUSION

8.1 This report deals with some relatively minor changes and clarifications and also seeks to bring together the ad hoc changes made over the past few months into a single comprehensive and up to date document. Most of the issues referred to are ones of local choice and therefore open for discussion.

9. RECOMMENDATION(S)

9.1 That the changes highlighted in the attached constitution - version 11, be adopted with effect from 1st November 2009.

- 9.2 That a copy of the new constitution is issued to all members, senior staff and relevant partner organisations.
- 9.3 That an annual review is undertaken by the Monitoring Officer to be reported to Annual Council.
- 9.4 That all Councillors and all senior officers be required to attend a training session on the updated constitution before the end of the civic year 09/10.

10. CONSULTATION CARRIED OUT

- 10.1 Legal & Democratic Services staff, senior managers and Committee Chairs

11. COMMUNITY IMPACT ASSESSMENT

- Is a Community Impact Assessment required No
- Is a Community Impact Assessment attached No

12. BIODIVERSITY IMPACT ASSESSMENT

- Is a Biodiversity Impact Assessment required No
- Is a Biodiversity Impact Assessment attached No

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| Background Papers | |
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| Document | Place of Inspection |
| Draft documents and internal correspondence | Futures Park, Bacup. |