

Subject:	Constitution Review		Status:	For Publication	
Report to:	Governance Working Group Council		Date:	1 st September 2011 28 th September 2011	
Report of:	Director of Business		Portfolio Holder:	Finance and Resources	
Key Decision:	No – reserved for Full Council	Forward Plan <input type="checkbox"/>	General Exception <input type="checkbox"/>	Special Urgency <input type="checkbox"/>	
Community Impact Assessment:	Required:	No	Attached:	No	
Biodiversity Impact Assessment	Required:	No	Attached:	No	
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1.	RECOMMENDATION(S)
1.1	To agree the proposed changes to the Council's Constitution regarding the Contract Procedure Rules, Council Procedure Rules and Officers Code of Conduct as detailed in Appendix 1.

2. PURPOSE OF REPORT

- 2.1 To review sections of the Constitution and agree the proposed changes as recommended by the Governance Working Group.

3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following corporate priorities:
- **Responsive and value for money local services** – responding to and meeting the different needs of customers and improving the cost effectiveness of services.

4. RISK ASSESSMENT IMPLICATIONS

- 4.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:
- Failure to maintain and follow an up-to-date Constitution risks legal proceedings being taken against the Council, and risks members of the community being dissatisfied with the action of the Council.

5. BACKGROUND AND OPTIONS

5.1 Contract Procedure Rules

At the Governance Working Group on 6th July it was recommended that the group revisit the Contract Procedure Rules in relation to the section on the Engagement of Consultants in section 30.

Small pieces of work e.g. repairs to walls etc., go ahead as part of the day to day work of the Council without unnecessary delay, whilst larger projects still seek Cabinet support. If all items had to be decided by Cabinet where the Council engaged consultants there would be a backlog of items to be discussed at each Cabinet meeting and the day to day work would be considerably delayed and could impact on partnership work. The Contract Procedure Rules for procuring services and tendering still apply when engaging consultants as well as the

procedures detailed in section 30.

As a result of this review the Governance Working Group made the following recommendation to Council:

That the Governance Working Group recommend to Council the addition of the following wording to the Contract Procedure Rules:

- 30.1 Consultants shall only be used if in the opinion of the Head of Service, in consultation with the Head of Finance **and Portfolio Holder**, the work cannot be handled by Council Officers.

5.2 Council Procedure Rules – Public and Members Questions.

At the Council meeting 20th July it was a very busy public meeting. Public questions ran over the allocated half an hour with many members of the public not having the opportunity to raise their questions (except to leave them in writing), and there was no time for members questions. Members asked for the Council Procedure Rules to return to Governance Working Group for review and to make suggestions for smartening up the process.

5.3 Following the Council meeting other issues were raised such as:

- arrangements for busy meetings and public needing to use the microphones,
- arrangements for members leaving the meeting during items. This has an impact on counting the votes and also risks challenge of any decisions made if a member returns to the meeting and votes on an item where they have not been present to listen to the full discussion.
- Dealing with disputed statements.

5.4 In response officers met to discuss solutions to some of the issues raised. A meeting was also arranged with the Mayor as the Chair of Council to look at suggestions for change. The following suggestions were made as a result of these meetings:

Constitution changes:

- To limit questions to one written question per member, or only the first question per member will be taken and come back to the additional questions if there is time. Another possibility would be to have time allocated to written questions and time allocated to questions from the floor.
- To consider adding that members must notify the Chair/officers on the top bench, if they are leaving the meeting. This will ensure minutes are accurate as well as ensuring the vote can be counted/recorded accurately.

Changes outside the Constitution:

- To add a note to the public speaking section on the agenda, informing that members of the public can register to speak and that these questions will be taken first. If many people are wanting to speak on one item, members of the public are encouraged to agree a spokesperson to speak on behalf of the group.
- Keep question sheets in the Breakout Area so that public who do not get the opportunity to speak, can leave a question. This can also be announced by the chair at the start of the meeting that question sheets are available to ensure everyone has the opportunity to ask a question, even if we run out of time, and they will receive a response in writing if they leave their full details.
- No longer having presentations at Council meetings unless it relates to an agenda item. This will enable more time to be dedicated to agenda items and discussion. Overview and Scrutiny Management Committee receive updates from partner organisations. These meetings are quarterly and open to all

members. There is also provision for partner briefings/updates at any unallocated member training sessions and suggestions can be sent to Committee and Member Services or councillors serving on the Member Development Working Group.

- Displaying written questions on Powerpoint slides on the screens to save time as each member will no longer need to read out their submitted question.
- Using the screens to display the wording of amendments to motions. This will ensure that all members are clear on what the amendment is that they are voting on.
- Using the lectern and microphone for members of the public who want to speak or having a member of staff at the back with a roving microphone for public use.
- Dealing with statements that are disputed to ensure meetings will continue in an efficient manner. If there is a dispute over any statement made, it must be settled outside the meeting by producing the evidence or by retraction of the statement and apology at the next meeting.

5.5 In reviewing the proposed changes to the Constitution and arrangements at meetings, members of the Governance Working Group agreed the following:

That the Governance Working Group recommend Council to accept the following changes to the Council Procedure Rules:

10.1 Subject to Council Procedure rule 10.2, a Member of the Council may submit *one written question. (*More questions can be submitted but only one will be taken per Member before questions are open to all Members. If there is time, any additional written questions will be returned to, otherwise a written response will be given). The written question can be put to: The Leader.....

10.2.1 c) Where the reply cannot conveniently be given orally, a written answer will be given to the Question or Supplementary Question and circulated to all Members within a week of the Council meeting.

18.2 Members must notify the Chair if they leave the meeting.

In addition to the above changes to the Constitution members also recommended the following be implemented:

- To add a note to the public speaking section on agendas encouraging members of the public to register to speak and nominate a spokesperson (for busy meetings).
- To have question sheets available for busy meetings in case people do not get the opportunity to speak.
- No longer having presentations at Council meetings unless it relates to an agenda item (or under special circumstances, with the agreement of the Leader of the Council, Mayor and Chief Executive).
- Displaying written questions on Powerpoint slides on the screens.
- Using the screens to display the wording of amendments to motions.
- Where practical, using the lectern and microphone for members of the public who want to speak or having a member of staff at the back with a roving microphone for public use.
- Disputed statements should be settled outside the meeting by producing the evidence or by retraction of the statement and apology at the next meeting.

5.6 Officer Code of Conduct

The Governance Audit recently recommended that the Officers Code of Conduct should include more specific information regarding the requirements for declaring potential conflicts of interest e.g. referring to the register. Accordingly, the proposed changes are outlined in Appendix 1 (Part 5 – Page 311) attached, together with the current form of wording. This proposed change has been agreed by Management Team and the Director of Business.

COMMENTS FROM STATUTORY OFFICERS:

6. SECTION 151 OFFICER

6.1 There are no material financial implications arising from the report.

7. MONITORING OFFICER

7.1 All legal implications are commented upon in the body of the report.

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

8.1 The Officer Code of Conduct is included in the Contract of Employment.

9. CONSULTATION CARRIED OUT

9.1 Statutory Officers, Legal Officers, Committee and Member Services and Governance Working Group.

10. CONCLUSION

10.1 The Council is required by law to implement a Constitution and it is in the interests of the Council to regularly review and update the document.

Background Papers	
Document	Place of Inspection
The Constitution of the Council	www.rossendale.gov.uk/constitution

Part 4 – Page 220**30. ENGAGEMENT OF CONSULTANTS**

- 30.1 Consultants shall only be used if in the opinion of the Head of Service, in consultation with the Head of Finance and Portfolio Holder, the work cannot be handled by Council Officers. The appropriate professional institution or trade association shall be contacted to verify a Consultant's qualifications.

Part 4 – Page 128 - 129**10 QUESTIONS BY MEMBERS**

- 10.1 Subject to Council Procedure Rule 10.2, a Member of the Council may ~~put~~ submit one written question. ~~to:~~ (*More questions can be submitted but only one will be taken per Member before questions are open to all Members. If there is time, any additional written questions will be returned to, otherwise a written response will be given). The written question can be put to:

The Leader

A Member of the Cabinet

The Chairman of any Committee or Sub-Committee

The Member of the Council appointed to a Joint Authority and nominated as Spokesperson for the Joint Authority.

The Member of the Council appointed as the Council's representative on an Outside Body.

The Question must be on any matter for which the Council has a responsibility or which affects the Borough.

A Member must give at least three clear days notice of the question to Committee and Member Services before the date of the meeting to enable the question to be included in the Council Agenda. Written questions will take priority over verbal questions and will be taken if there is time.

The Mayor shall determine the relevance and the number of Questions to be put.

10.2 Answers

- 10.2.1 An answer to a Question (Council Procedure Rule 10.1) or to a Supplementary Question (Council Procedure Rule 10.3) may take the form of:

a) A direct oral answer, or

- b) Where the information is in a publication of the Council or other published work, a reference to that publication or other work, or
- c) Where the reply cannot conveniently be given orally, a written answer will be given to the Question or Supplementary Question and circulated to all Members within a week of no later than three working days after the Council meeting to the Question or Supplementary Question.

Part 4 – Page 137

18 RECORD OF ATTENDANCE

18.1 The Head of Paid Service will record the names of all Members present during the whole or part of a meeting.

18.2 Members must notify the Chair if they leave the meeting.

Part 5 – Page 311

9. PERSONAL INTERESTS

Employees must declare to the Head of Service or the Chief Executive and update the Register of Officers Interests, maintained by the Director of Business if they have:

- non-financial interests, membership of organisations or public bodies which may bring them into conflict with the Council's interests. Trade Union membership is exempt from this requirement.

~~Employees must declare to the Head of Service or the Chief Executive~~
~~- any financial, contractual or business interests [whether remunerated or not] including those of family, which have or could have any connection and which may conflict with work of or provision of services by the council or by any of its direct suppliers, contractors or partners. This will include being a school governor. with the Council interests.~~

~~Employees must declare to the Head of Service or the Chief Executive~~
~~- membership of any organisation not open to the public without formal membership or commitment of allegiance and which has secrecy about its rules or membership or conduct (for example, the Freemasons).~~

~~-an interest in land or other property affected by any business, operational procedure, contract, planning application or any other matter being or expected to be considered by the council.~~

~~-any family or personal interest in or connection with any business of the council which, if disclosed, could give reasonable cause to question whether the officer's judgment or interests of the council could be prejudiced.~~

Employees with any non-financial or financial interest must not involve themselves in the allocation of Council services or resources from which they, their family or friends might benefit. Any concern should be reported immediately to the Head of Service or the Chief Executive.

Forms for recording personal interests are available on the intranet and from the Director of Business.