

Subject:	Review of the Constitution		Status:	For Publication	
Report to:	Governance and Training Working Group Council		Date:	3 rd October 2013 11 th December 2013	
Report of:	Director of Business		Portfolio Holder:	Customers, Legal and Licensing	
Key Decision:	No - reserved for Council	Forward Plan <input type="checkbox"/>	General Exception <input type="checkbox"/>	Special Urgency <input type="checkbox"/>	
Equality Impact Assessment:		Required:	No	Attached:	No
Biodiversity Impact Assessment		Required:	No	Attached:	No
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1.	RECOMMENDATIONS
	Members are asked to agree the following amendments to the Constitution:
1.1	Terms of Reference of the Licensing Committee: Sub-committees will be made up of Licensing Committee members, or if substitutes are required, any other member may substitute by agreement with the Chief Executive that the member has undertaken the necessary training to take part in the committees work. Where the chair or vice-chair of the Licensing Committee is present at a sub-committee, they will automatically chair the sub-committee without the need to be formally appointed as the chair person.
1.2	Planning Call-in Procedure: Members are asked to agree the amendments detailed in Appendix 2.
1.3	Article 3 – Citizens and the Council: Members are asked to agree the amendments detailed in Appendix 3.

2. PURPOSE OF REPORT

- 2.1 To consider changes to the Constitution as detailed in the appendices and at section 5.

3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following of the Council's corporate priorities:
- Responsive Value for Money Services: This priority is about the Council working collaboratively, being a provider, procurer and a commissioner of services that are efficient and that meet the needs of local people.

4. RISK ASSESSMENT IMPLICATIONS

- 4.1 All the issues raised and the recommendation 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 Members are asked to consider each change and reasons for change as identified below and

in the individual appendices.

5.2 **Terms of Reference of the Licensing Committee**

Members are asked to consider amendments to this section to enable the chair of the Licensing Committee to chair any Licensing Sub Committees that they are present at, without the need to include the appointment of chair as an agenda item at each meeting. The amendment also clarifies that substitutes will be permitted as long as there is evidence to show that the required training has been undertaken by the substitute.

Members of the Governance and Training Working Group recommended a further change to this section at the meeting on 3rd October to include the vice-chair as well as the chair who can automatically chair a sub-committee meeting, if present.

5.3 **Planning Call-in Procedure**

Members are asked to consider amendments to the Planning Call-in Procedure. The procedure has been reviewed to provide clarity and make the process more straight forward for members submitting a request to call-in a planning application. Please note the recommendations of the Governance and Training Working Group at 8.3.

5.4 **Article 3 – Citizens and the Council**

Members are asked to consider introducing a new section in the Constitution in relation to social media, photography and filming/recording council meetings. These changes are required following the introduction of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. These new rules allow social media reporting, photography and filming of public council meetings, so long as it is not distracting or disruptive to the order and conduct of the meeting.

According to the guidance:

Council meetings are public meetings. Elected representatives and council officers acting in the public sphere should expect to be held to account for their comments and votes in such meetings. The rules require councils to provide reasonable facilities for any member of the public to report on meetings. Councils should thus allow the filming of councillors and officers at meetings that are open to the public.

The Data Protection Act does not prohibit such overt filming of public meetings. Councils may reasonably ask for the filming to be undertaken in such a way that it is not disruptive or distracting to the good order and conduct of the meeting. As a courtesy, attendees should be informed at the start of the meeting that it is being filmed; we recommend that those wanting to film liaise with council staff before the start of the meeting.

The council should consider adopting a policy on the filming of members of the public speaking at a meeting, such as allowing those who actively object to being filmed not to be filmed, without undermining the broader transparency of the meeting.

Similarly under the new rules there can be social media reporting of meetings. Thus bloggers, tweeters, facebook and YouTube users, and individuals with their own website, should be able to report meetings.

To provide clarity for members of the public and the press, it is recommended that Article 3 of the Council's Constitution, which informs citizens' or their rights and responsibilities, be amended to include guidance on using social media, photography or filming council meetings

(see appendix 3).

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. POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT

8.1 There are no human resource implications arising from the report.

8.2 Consultation with Statutory Officers, Legal Officers, Council, Governance and Training Working Group and Committee and Member Services.

8.3 Recommendations of the Governance and Training Working Group were as follows:

Licensing Sub Committee Hearings

To add the following paragraph to the Terms of Reference of the Licensing Committee:
Sub-committees will be made up of Licensing Committee members, or if substitutes are required, any other member may substitute by agreement with the Chief Executive that the member has undertaken the necessary training to take part in the committees work. Where the chair or vice-chair of the Licensing Committee are present at a sub-committee, they will automatically chair the sub-committee without the need to be formally appointed as the chair person.

Planning Call-in Procedures

To agree the amendments proposed at Appendix 2 with the deletion of point 4 and re-wording of point 3 as follows:

A member may only call-in an application if it is within their ward area and if the call-in is agreed by the Chair and Vice-chair of the Development Control Committee in consultation with the Director of Business and Planning Manager.

(It was noted that this recommendation was not unanimous, but no alternative was tabled, and the Chair was required to use their second vote).

Filming at Council Meetings

To agree the amendments proposed at Appendix 3 with the addition at e(i) as follows:

Taking photographs of formal public meetings is permitted as long as there is no disruption or disturbance to the proceedings or good conduct of the meeting. Flash photography is not permitted during public meetings.

9. CONCLUSION

9.1 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

7.2 TERMS OF REFERENCE OF THE LICENSING COMMITTEE

To deal with the following items, except those matters which are delegated to the Council and/or Officers.

- Waste Management Licences
- Stage Play Licences
- Pet Shops Licences
- Animal Boarding Establishment Licences
- Guard Dog Licences
- Game Dealers Licences
- Scrap Metal Dealers Licences
- Rag Flock and Other Materials Act
- Riding Establishment Licences
- Breeding of Dogs Act Licences
- Acupuncture
- Tattooing, Ear Piercing and Electrolysis
- Licences to Plant trees in highways
- Licences re Caravan Sites and Control of Development Act, 1964 /sections 44 and 45
- Dangerous Wild Animals
- House to House and Street Collections
- Licensing of Hackney Carriage Vehicles and Drivers
- Second Hand Dealers
- Hypnotism
- Sex Establishments
- Street Trading
- Licensing Matters (Licensing Act 2003)
- Licensing Matters Gambling Act 2005

To deal with the following items via a politically balanced sub-committee (panel of 3 members), except those matters which are delegated to the Council and/or Officers:

- Taxi Licence Applications
- Premises Licences

Sub-committees will be made up of Licensing Committee members, or if substitutes are required, any other member may substitute by agreement with the Chief Executive that the member has undertaken the necessary training to take part in the committees work. Where the chair or vice-chair of the Licensing Committee is present at a sub-committee, they will automatically chair the sub-committee without the need to be formally appointed as the chair person.

11. PLANNING CALL IN PROCEDURE

PLANNING CALL-IN PROCEDURE FOR DELEGATED APPLICATIONS

- ~~4.~~ This procedure must be followed if a member is ~~to require an application, which is delegated to be determined by the Director of Business, to be request~~ a referred to the Development Control Committee ~~using the Planning Call-in Procedure.~~
1. All members will receive a weekly list of all planning applications ~~received.~~
 2. Any member considering calling in an application must ~~first discuss the reason for call-in with the Director of Business or the Planning Manager, to~~ ensure the reason for call-in ~~fits in with planning framework~~ is based on material planning considerations.
 3. A member may only call-in an application if it is within their ward area ~~and if the call-in is agreed by the Chair and Vice-chair of the Development Control Committee in consultation with the Director of Business and Planning Manager and one of the nominated Councillors within the Groups on the Development Control Committee agrees that the matter should be called in.~~
 4. The call-in period is 14 working days from the receipt of the weekly list of planning applications.
 - ~~5.~~ ~~There will be two nominated Call-in Councillors on the Development Control Committee who will organise and submit the call-in and who must agree with the Ward member to the use of the planning call-in and that nominated Councillors will complete the call-in form. The names of the two nominated Councillor must be provided to the Director of Business after Annual Council.~~
 5. Where an application is amended and subject to re-notification of neighbours, the ward member shall be re-notified in writing and a 10 day call-in period shall recommence ~~(unless the call-in is withdrawn by the member as a result of the change).~~
 6. The attached Call-In Form or the call-in email wording must be used for call-in. The wording below can be typed into an email to and sent to the Director of Business and Planning Manager. Call-ins will not be valid unless submitted on the Call-In Form or using the call-in email information below ~~(all sections must be fully completed, however no signature is required for call-ins sent via email):~~
 - Councillor calling in the decision: Councillor
 - Planning Application number:
 - Date weekly list received (call-in to be received by the Planning Manager within 14 working days of receipt of the weekly list):
 - Material planning reasons for call-in:
 - ~~Consultation with Nominated Councillors for call-in (yes or no)?~~
 7. ~~The Planning Team will record the date of receipt of any request for call-in. Call-Ins will be date stamped on receipt. They must be emailed to the Planning Manager.~~
 8. Material Planning reasons for call-in are required, e.g. not simply because Development Control Committee considered the matter previously.
 9. When a call-in is received outside the call-in period, the member will be notified that the call-in is invalid. If there has been no call-in within the call-in period the application will be decided ~~under normal officer delegations by the Director of Business.~~
 10. Members may withdraw a call-in once made.

NB

Call-Ins should be kept to a minimum, as they increase costs and processing times. They have also affected National Indicator performance targets, ~~as it can delay the determination date owing to the necessity of consideration at Development Control Committee and the need to provide extensive reports for members to consider. as due to call-ins we have been unable to place all required applications on the agenda.~~

Call in form for planning applications

Planning Application number /.....

Material Planning reasons for call-in:

Date the weekly list was received:

(NB call-in to be received by the Planning Manager within 14 working days of receipt of the weekly list)

Councillor calling in the decision:

Signed

~~Consultation with Nominated Councillors for call in~~ y/n

(if the call-in is sent by email no signature will be required)

Dated:

Signature of Planning Manager:

Date received **in Planning:**

ARTICLE 3 – CITIZENS AND THE COUNCIL

c) Participation.

The Council welcomes participation by its citizens in its work. For further information on your rights as a Citizen please contact the Committee and Member Services Manager – on 01706 252422 or democracy@rossendalebc.gov.uk

Citizens have the right to:-

- i) submit written questions to Council meetings (they must provide their name, postal address details, and any group/organisation they are representing). Written questions will only be read out at the meeting if the questioner (or his/her representative) is in attendance.
- ii) to ask questions at its Cabinet and Committee meetings,
- iii) to be consulted on the level and quality of local services in accordance with the Council's Consultation Strategy.
- iv) contribute to investigations by the Overview and Scrutiny Committees.
- v) to speak at meetings.
- ~~vi)~~ vi) the procedure for Public Speaking at meetings is as follows: (also available in this section of the Constitution)
- ~~vii)~~ vii) film public meetings, take photographs and use social media in line with council policy (see below)

d) Filming council meetings

- i) Filming of formal public meetings is permitted as long as there is no disruption or disturbance to the proceedings or good conduct of the meeting.
- ii) Anyone wanting to film is required to inform Committee and Member Services on 01706 252422 or by email to democracy@rossendalebc.gov.uk by 5.00pm at least one day prior to the meeting, if they intend to film. This will enable to chair to inform anyone in attendance at the meeting that it is being filmed and to allow any other necessary arrangements to be made.
- iii) Anyone filming the meeting is requested to only film elected councillors and officers involved in the meeting and not to film members of the public without their specific consent. It is the responsibility of the person filming to obtain consent from members of the public prior to the meeting, if they intend to film them.
- iv) Filming is not permitted for any meeting or during any section of a meeting where a resolution is passed to exclude the public and press and hold the business in private.
- v) The chair of the meeting has the discretion to stop or refuse any activity if it is thought to be causing disruption to the meeting (e.g. to the good conduct of the meeting, or through intrusive camera equipment) and the chair's decision is final.

e) Taking photographs at meetings

- i) Taking photographs of formal public meetings is permitted as long as there is no disruption or disturbance to the proceedings or good conduct of the meeting. Flash photography is not permitted during public meetings.
- ii) Anyone wanting to take photographs is required to inform Committee and Member Services on 01706 252422 or by email to democracy@rossendalebc.gov.uk by 5.00pm at least one day prior to the meeting, if they intend to take photographs. This will enable to chair to inform anyone in attendance at the meeting that photographs may be taken and to allow any other necessary arrangements to be made.

- iii) Anyone taking photographs at the meeting is requested to only take photographs of elected councillors and officers involved in the meeting and not to take photographs of members of the public without their specific consent. It is the responsibility of the photographer to obtain consent from members of the public prior to the meeting, if they intend to take photographs of them.
- iv) Taking photographs is not permitted for any meeting or during any section of a meeting where a resolution is passed to exclude the public and press and hold the business in private.
- v) The chair of the meeting has the discretion to stop or refuse any activity if it is thought to be causing disruption to the meeting (e.g. to the good conduct of the meeting, or through intrusive camera equipment) and the chair's decision is final.

f) Use of social media

- i) Members of the public and press are permitted to use social media during formal public meetings (such as Facebook, Blogs or Twitter), as long as there is no disruption or disturbance to the proceedings or the good conduct of the meeting. The chair of the meeting has the discretion to stop or refuse any activity if it is thought to be causing disruption to the meeting and the chair's decision is final.
- ii) Elected members of the meeting are not permitted to use social media as their full attention is required at all times (unless they are attending only and not part of that particular committee meeting).
- iii) The use of social media is not permitted for any meeting or sections of a meeting where a resolution is passed to exclude the public and press and hold the business in private, in these instances elected members are also not permitted to disclose the content under discussion.