

SOUTH RIBBLE BOROUGH COUNCIL

DRAFT

**REVIEW OF THE COUNCIL'S CONSTITUTION
(‘Light-touch’)**

Report of the Governance Committee

March 2010

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References

1. Relevant statutes
2. Relevant Government Guidance/Regulations
3. Annual Audit and Inspection Letters

1. Purpose

The purpose of this report is to ensure that the Council's Constitution is up to date and enables the Council to exercise its functions and responsibilities effectively, within the statutory framework.

2. Introduction

The Council's Constitution was adopted in December 2001. It is based on the model issued by Central Government under the provisions of the Local Government Act 2000.

In accordance with Article 15 of the Constitution, the Monitoring Officer working with the Governance Committee has undertaken a light-touch review of the Constitution. A full review was last undertaken in April 2007 and light-touch reviews were carried out in May 2008 and April 2009.

3. Methodology

The approach adopted for the review is in accordance with Article 15 of the Constitution. The following have informed the review.

Consultation – The Constitution was considered by the Governance Committee who set up a Task Group to consider the Constitution in depth. The Task Group met on three occasions and their recommendations are contained in this report.

Learning from Day to Day Experience - A log is maintained of all issues relating to the Constitution where clarification or interpretation has been required. The log also records suggestions for improvements from all sources, including members. This log was fed into the Task Group's deliberations and is included in their recommendations.

Legislation etc. - There has been new legislation in the last year which has been assessed. In particular, implementation of the Local Government and Public Involvement in Health Act 2007 requires local authorities to review their 'Executive' arrangements.

4. Possible Changes to the Constitution

Following consideration of the above, some changes to the Constitution are proposed below.

4.1 Changes to the Constitution

Part 1 Summary of the Constitution

- References to Accounts and Grants Committees – which no longer exist, should be deleted.

Part 2 Articles of the Constitution

Article for Governance Committee – Draft to be attached as Appendix.

Standards Committee Functions –

- To include exemptions to Politically restricted posts.

Article 4 (a) - Add Treasury Management Strategy to the Policy Framework of items to be determined by Council.

Article 9 – expand wording to clarify that the chairman of Standards Committee can be requested to attend on other occasions if resolved by Council or requested by 5 members.

Article 15 – revise to include remit of Governance Committee in review of the constitution.

Part 3 Responsibility for Functions

Part 3D Committee Functions

- Planning Enforcement – delete from Area Committee functions and move to Planning Committee functions as a function more appropriately dealt with by Planning Committee.

Part 3E Scheme of Delegation to Officers

- Public Order Act 1986 – To delegate to Chief Executive in consultation with the Leader of the Council to authorise action to be taken on public order matters as recommended by the Chief of the Constabulary.

Part 4 – Procedure Rules

Changes to Council Standing Orders/Procedure Rules etc. (Part 4A).

S.O. 5 – Expand the titles of Annual Meeting (Mayoral Installation) / First Business Meeting of the Municipal Year (Appointment of Cabinet/ Committees etc.) to better explain their purpose.

S.O. 6 – duplication - delete (e).

S.O. 7 – Amend the wording regarding the process for motions on removing the Leader to clarify that they should be in accordance with SO 9 (advance notification).

S.O. 9 – Redraft the wording on Notices of Motion into plainer English.

S.O.15 – Para 1, amend to read ‘...with the Mayor’.

S.O.16 – Make it explicit that members of the public cannot speak at Standards Committee Hearings. Improve public participation guidance for Mayor/chairmen.

SO 26, 27, 29 – delete – Now covered in Codes of Conduct under Part 5 Codes and Protocols.

SO 31 – update to reflect that an electronic version is made available to members and that a printed copy will only be provided if specifically requested.

SO 32 – amend to make it clear that members can raise points of order but that the mayor’s ruling, once given, must be respected.

SO 33 – Will need to be revisited when new executive arrangements are introduced in May 2011.

SO 34 – delete 2 hour time limit on length of meetings as no significant cases have occurred in recent years.

SO 38 –add ‘excluding the Appeals Committee and the area committees’ to (2) to ensure consistency with (1).

SO 38 include new paragraph “In the event of an area committee being unable to decide upon a Chairman and/or Vice Chairman the Council shall appoint a Chairman and/or Vice Chairman for such period as it deems appropriate but no longer than the first meeting of the next Municipal Year”.

SO 42 – expand to include provision for any chairman to call a special meeting of his/her committee.

– amend so that the requisition limit is based on the number of members required for a quorum;

– add reference to electronic notification of meetings (and wherever else is appropriate).

SO 43 – clarify wording relating to nomination of chair/vice-chair to make it clear that the body that appoints the sub-committee also appoints the chair and vice-chair.

SO 44 – strengthen quorum requirements so it can not be less than three and change the wording to clarify that the business of the meeting shall be adjourned to the next ordinary meeting or to a fixed date and time whichever is the sooner.”

SO 48 – Delete as no longer relevant – included in questions to Council.

SO 49 – Delete as no longer relevant because of Cabinet budget process.

SO 51 – Amend to make clear that this relates to employment not committee appointments and is included in Code of Conduct.

SO 55 - amend here and in other SOs to read ‘the most senior legally qualified officer’.

Part 5 Codes and Protocols

New Protocols are suggested on:-

- Member involvement in partnership arrangements.
- Petitions – adopt draft model scheme when available.

Review / update the Protocols on:-

- Member involvement in Planning Procedures.
- Dealing with the Media - to take into account Blogging and social networking.

Other Changes to be further considered by the Task Group

- Some minor redrafting/updates are needed to the Constitution which it is proposed are addressed in a manner approved by the Monitoring Officer.
- Article 5 - Role of Mayor on other committees (other than as automatic member of ACs) – should mayor be able to sit on / chair committees.
- Statutory vs discretionary functions - Consider how best to distinguish these – possible use of bold text in Part 3 for statutory functions.
- Consider attaching all related papers to boxed items in Cabinet reports so members know exactly what they are voting on.
- Area Committees – who can speak, who can put items on agendas – revise.
- S.O.6 (r) – consider relevance of Questions to Political Group Leaders not on Cabinet.
- S.O. 8 – consider if Planning / Licensing committees should report to Council.
- S.O.16 – consider how public participation can be better managed.
- S.O.22 – consider publishing all voting results (with names) in the minutes.
- SO 28 – consider what/whether other elements of officer code of conduct need to be included somewhere. It is now unlikely that a model code of conduct for officers will be issued by central government so this SO needs to remain unchanged.
- SO 45 – consider recording all votes taken at area committee meetings.
- 4B Area Committee Procedure Rules 6 Appointment of Chairman and Vice Chairman Procedure for change during the local government year.

4.2 Future Executive Arrangements

The Local Government and Public Involvement in Health Act 2007 Act requires local authorities to review their 'Executive' arrangements. In our case proposals for the new arrangement must be in place by 31 December 2010 to come into effect at the Council's annual meeting after the Borough elections in May 2011. The key features of the two new executive models are as follows:-

- Leader and cabinet executive - a councillor elected as leader for a 4 year term and two or more councillors of the authority appointed to the executive by the executive leader;
- Mayor and cabinet executive - a directly elected mayor who appoints two or more councillors to the executive.

Having carefully considered the options it is felt that the Leader and cabinet executive model should be adopted.

5. Recommendations

1. That the proposed changes to the Constitution identified in Section 4.1 of the report be agreed.
2. That the existing Protocols for 'Member involvement in Planning Procedures' and 'Dealing with the Media' be reviewed.
3. That Protocols for 'Member involvement in Partnerships' and 'Petitions', as outlined in the report, be developed.
4. That the Leader and cabinet executive model (a councillor elected as leader for a 4 year term and two or more councillors of the authority appointed to the executive by the executive leader) as identified in Section 4.2 of the report be recommended for public consultation.
5. That the Monitoring Officer be authorised to update the Constitution to reflect the recommendations above.