

<b>REPORT TO</b>	<b>DATE OF MEETING</b>
<b>GOVERNANCE COMMITTEE</b>	<b>15 April 2015</b>

Report template revised June 2008



<b>SUBJECT</b>	<b>PORTFOLIO</b>	<b>AUTHOR</b>	<b>ITEM</b>
<b>REVIEW OF THE COUNCIL'S CONSTITUTION</b>	<b>LEADER</b>	<b>MARTIN O'LOUGHLIN</b>	<b>8</b>

## **1. SUMMARY AND LINK TO CORPORATE PRIORITIES**

The Constitution Task Group was established in 2010 to undertake a review of the Constitution by Governance Committee. Since 2010 the Constitution Task Group has conducted annual reviews of different sections of the Constitution and submitted reports to the Governance Committee prior to adoption of the proposed changes by Council at the start of each new municipal year. It is intended that this review will culminate in the adoption of the revised Constitution at the start of the 2015/16 municipal year.

This current review has focused on changes required due to the Boundary Review and on consideration of the need for a protocol for members involved in partnership working. In view of the reduction in Council size as a result of the Boundary Review it is now timely for consideration to be given to member allowances and for the incoming administration to be asked to consider the revival of the Independent Remuneration Panel. New legislation relating to the process for removing Chief Officers from post has come into force very recently which requires a change to the Constitution. Coincidentally work has also been undertaken on reviewing and revising the Employee Code of Conduct and whilst this has been taken separately for approval to Cabinet and Council the revised code will form part of the revised Constitution.

Ensuring that the Constitution is up to date and applied effectively is a key element of the corporate governance of the Council and links to the corporate priority of being an efficient, effective and exceptional Council.

## **2. RECOMMENDATIONS**

(1) That the following proposed changes to the Constitution be agreed by the Governance Committee for recommendation to Council for inclusion in the revised Constitution:-

### *1.1 Boundary Review*

- (a) that the quorum for Council be amended to be 'at least one-third of the whole membership';
- (b) that all references to '55' councillors or members be amended to '50';
- (c) that any references to ward names be amended to reflect the new ward names approved as part of the Boundary Review;
- (d) that Cabinet be recommended to re-establish the Independent Remuneration Panel in accordance with the Local Authorities (Members Allowances) (England) Regulations 2003; and
- (e) subject to (d) above, Cabinet be recommended to ask the Independent Remuneration Panel to review member remuneration in the light of the change to Councillor numbers.

## *1.2 Partnerships / Outside Bodies*

- (a) that the Monitoring Officer prepare a report for the consideration of Scrutiny Committee, in consultation with the members who have been appointed to Outside Bodies, on the activities of the Outside Body. The report shall cover all Outside Bodies over a two year period and have regard to the criteria set out in (b) below for appointing to new outside bodies.
- (b) that any request for appointment to a new Outside Body be subject to a report from the Monitoring Officer indicating if:
- i. The appointment was a Statutory requirement.
  - ii. The appointment would make a direct and significant contribution to the Council's Corporate Plan.
  - iii. There was not significant cost and resource implications for the Council set against any benefit accrued.
  - iv. That the balances of risk having been considered there would be a detrimental effect on the Council were it not represented.
  - v. The appointment could raise the profile of the Council at a national or regional level.

(2) That Council adopt the proposed changes to the Constitution with effect from the first business Council meeting of the new municipal year in 2015.

(3) That the Monitoring Officer be authorised to update the Constitution to reflect the outcomes from Recommendation 1 above and to make provision for the changes to the constitution required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (Removal of Chief Officers from Post).

## **3. MAIN CHANGES AND REASONING**

### **(a) Boundary Review**

The Task Group considered the changes required due to the Boundary Review.

Changes required were limited and straightforward. Reference to 55 members needed to be amended to 50 members and ward names referred to under My Neighbourhoods needed to be amended to reflect the new ward names.

The task group considered whether a change to the quorum for Council should also be changed. Quorum of the Cabinet, Committees and Sub-committees is currently at least one-third of the whole membership whereas the quorum for Council is 16 members which is 29.09% of the total. Prior to 2003 the number of members was 48, a third of which is 16. It seems therefore that the quorum was not changed in 2003 to reflect the increase from 48 to 55.

The group therefore considered the following options: leave the quorum at 16 (32%), set the quorum at 17 (which would be at least one-third of the whole membership), or set the quorum as at least one-third of the whole membership (which would be 17). This would be the same as the quorum of the Cabinet, Committees and Sub-committees.

The Group concluded that the latter option would ensure a consistent approach across the committees and would perhaps be more conducive to the effective running of a Council meeting in times of any vacant seats on the Council and so recommend that the quorum for Council be amended to be at least one-third of the whole membership.

## **(b) Independent Remuneration Panel**

The Task group was mindful of the requirement under the Local Authorities (Members Allowances) (England) Regulations 2003 to have an Independent Remuneration Panel in place to review levels of member remuneration and of the fact that it was a number of years since member remuneration in this authority had been reviewed. The Task Group therefore considered it timely to re-establish the Independent Remuneration Panel and for the panel to consider the impact of the reduction in the number of members on workload. The Task Group therefore recommends that the new administration consider the best way forward.

## **(c) Protocol for Members Involved in Partnership Working**

The Task Group began considering whether there was a need for a protocol for members involved in partnership working by discussing extensively what this authority considered constituted a 'partnership'. The group acknowledged that the Scrutiny Committee already scrutinised closely and effectively the formal partnerships that the Council was involved in and to which the Council nominated representatives, such as the Lancashire Waste Partnership and South Ribble Leisure Trust and wondered whether its focus should be the broader list of Outside Bodies to which the Council currently nominated representatives.

The group reviewed a number of existing protocols in operation in other local authorities. These varied extensively in scope and size and there was no single protocol in existence which seemed appropriate to this authority.

To aid the group's understanding of the role that our current representatives play on Outside Bodies we asked them to complete a questionnaire about their role, the skills used/required, how they represented/reported to the Council, how they added value to the outside body and any guidance provided to them/which would be useful from the Council / Outside Body. We also sent a questionnaire to the Outside Bodies asking questions about their expectations and experience of our nominated representatives. Responses to both were limited.

The group concluded that a full blown protocol was unnecessary but that a mechanism to enable representatives on Outside Bodies to report to Council on the work of the Outside Body was needed, along with criteria for appointing to new outside bodies. The group discussed these at length and concluded that over a two year period the Monitoring Officer should take a report to the Scrutiny Committee, in consultation with the Council's nominated representatives, on the activities of each Outside Body. The report should also have regard to a set of criteria for appointing to new outside bodies which are set out in recommendation (c) above.

## **(d) Removal of Chief Officers from Post**

The Government issued new regulations on 25 March 2015 to come into force on 11 May. The Regulations introduce new arrangements for dealing with disciplinary cases involving a council's three statutory officers - the Head of Paid Service, Monitoring Officer and Chief Finance Officer. The new Regulations contain requirements for councils to amend their Standing Orders.

Because these three roles are statutory positions with specific roles and personal responsibility to ensure a council acts lawfully and has effective governance in place, they have had specific protection from dismissal under legislation. This is because the proper discharge of these personal responsibilities can bring the statutory officer into conflict with members of their authority, as their report may conflict with the political objectives of the authority, or indicate misconduct by a particular member.

The Regulations introduce new mandatory standing orders which all councils will have to put into their constitution to replace arrangements relating to the previous framework.

In brief, from now on, only the full council can dismiss any of the three statutory officers. Previously the decision could have been delegated to a committee or to the Head of Paid Service.

Before considering such action, the council must set up a panel whose role will be to give views, advise and make recommendations to the full council. The council must invite independent persons to sit on this panel. The panel must be appointed at least 20 working days before the relevant meeting of full council.

### **(e) Employee Code of Conduct**

A revised code was approved by Cabinet and Council on 18 March and 25 March respectively and this will be incorporated in the Revised Constitution to be approved and implemented at full Council on 27 May 2015. Reference to it is made in this report for completeness' sake only.

## **WIDER IMPLICATIONS**

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these. The risk assessment which has been carried out forms part of the background papers to the report.

<b>FINANCIAL</b>	There are no financial implications at his stage.		
<b>LEGAL</b>	All relevant legislation has been assessed.		
<b>RISK</b>	Ensuring that the Constitution is up to date and applied effectively is a key element of the corporate governance of the Council. Accordingly, any failure to keep the Constitution fit for purpose could present a risk.		
<b>THE IMPACT ON EQUALITY</b>	In considering the changes to the Constitution the Task Group has regard to its impact on equality and strives to make the Council's Governance arrangements as accessible and open and transparent as possible.		
<b>OTHER (see below)</b>			
<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>

## **BACKGROUND DOCUMENTS**

Constitution