

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO POLICY AND FINANCE COMMITTEE

Agenda Item No.

meeting date: TUESDAY, 24 JANUARY 2012
title: AMENDMENTS TO PARTS OF THE COUNCIL'S CONSTITUTION AND
ACCESS TO INFORMATION PROCEDURE RULES
submitted by: SOLICITOR
principal author: SOLICITOR

1 PURPOSE

- 1.1 To update Committee on the conclusions of the sub-committee to whom they delegated the task of reviewing the Solicitor's reports on "Amendments to parts of the Council's Constitution" and "Access to Information Procedure Rules" on 27 September 2011; and
- 1.2 To seek Committee's views on the proposed amendments to the Constitution and the Access to Information Procedure Rules agreed upon by the sub-committee.
- 1.3 Relevance to the Council's ambitions and priorities:
 - Council's Ambitions – N/A
 - Community Objectives - N/A
 - Corporate Priorities – To be a well-managed Council.
 - Other considerations – It is important that our constitution is kept up-to-date.

2 BACKGROUND

- 2.1 The Council's Solicitor brought a report on amendments to the Council's Constitution and a report on Access to Information Procedure Rules to this committee in September 2011.
- 2.2 Committee appointed a sub-committee ("the working group") to review the reports and their appendices in more detail and to discuss the issues with the Council's Solicitor.
- 2.3 The working group comprised of Councillors (J) Hill, Hirst, Sherras and Yearling. They met with the Council's Solicitor on 24 October 2011 and discussed a marked-up version of the reports. They have since liaised via email.

3 ACCESS TO INFORMATION PROCEDURE RULES

- 3.1 The working group were content with the "Access to Information Procedure Rules" (as these were presented to this Committee in September 2011) save that they suggested they should be called the "*Rules with regard to access to meetings and related documents of the Council, its committees and subcommittees.*"

4 AMENDMENTS TO THE CONSTITUTION

- 4.1 The working group generally agreed with amendments proposed in the September report. In particular, they were content with changes made to:
- reflect the fact that the Council is no longer part of PLACE;
 - update or delete as appropriate references, documents, and document names including rearranging the sections of the Constitution as proposed;
 - reflect the Petition Scheme; and
 - reflect internal audit's proposals.
- 4.2 The Council's Solicitor explained to the working group that the wrong version of the terms of reference for accounts and audit had been included in the September report. The working group considered the correct version (which had only one minor change marked against the version that was last approved by Full Council) and agreed with this proposed minor change.
- 4.3 The working group also agreed that in the "Standing Orders" the comment after standing order 15 should be deleted.
- 4.4 The group also proposed the following additional changes:
- In the first paragraph of the section headed "How the council operates" at page 3 of the Summary, the final sentence should be changed to "The overriding duty of councillors is to the whole community, but they have a special duty to all their constituents".
 - All references to the "Access to Information Procedure Rules" should be changed to "*Rules with regard to access to meetings and related documents of the Council, its committees and subcommittees.*"
 - In the "Terms of Reference of Committees", paragraph 1.2 of the "powers, duties and functions of committees" should be amended to read: "Except where (i) the Council directs otherwise; or (ii) section 101 provides otherwise (e.g. in relation to functions under the Licensing Act 2003), the committee to which a power, duty or function has been delegated may delegate such power, duty or function to a sub-committee or to an officer of the council."
 - In the "Standing Orders" the last sentence of SO6.1 ("Such letters of representation will be dealt with in the normal manner") should be deleted.
 - In the "Standing Orders" the penultimate paragraph of SO 9.2 (which relates to questions at Council meetings) should be amended to read (addition marked by underlining): "The question shall be put and answered without discussion, but the person to whom the question is addressed may decline to answer. Where the question has been submitted in writing in advance of the meeting, the questioner shall have the right to ask one supplementary question, or to make a relevant comment, when they have received the Chairman's reply."
 - In the "Standing Orders" paragraph 13.1 be amended to "All decisions made by committee should be sent to members as soon as possible after the committee has met and in any event within **three** working days of the committee having met." (Two working days is difficult to achieve in practice and a longer period increases the likelihood that the decision might have already been implemented).

- 4.5 The Council's solicitor had proposed to create a collective document to deal with committees. The working group agreed that this should be drafted as suggested and that it should be called "powers and duties of the council and its committees" rather than "delegation to committees" (since there will not always be a delegation down).
- 4.6 With regard to the emergency committee, the Council's solicitor presented the working group with a suggested "protocol" for calling such a committee and discussed issues surrounded the terms of reference for such a committee. The working group considered the draft protocol and the suggestions made in the September report. They felt that it was important that an emergency meeting should only be called where there was insufficient time to call a scheduled meeting.
- 4.7 They proposed that standing order 20.8 be changed to:
- 20.8 Where:
- (i) a decision cannot be made within the existing delegation scheme, and
 - (ii) the matter is so urgent that it cannot wait until a scheduled meeting of the Council or one of its committees,
- the Chief Executive or a deputy appointed by him/her for these purposes will convene a meeting of the Emergency Committee for the purpose of reaching a decision on that matter.
- 20.9 The Emergency Committee shall have power to exercise any of the functions of the Council for the purposes of deciding the matter referred to it.
- 20.10 Membership of the Emergency Committee will be determined each year at the Annual Meeting in accordance with the provisions relating to political balance and will consist of at least four members including the Leader of the Council and the Shadow Leader or their nominated representative(s) and, where possible, the Chair of the most appropriate committee.
- 20.11 Members of the Corporate Management Team and appropriate officers, wherever possible, should also attend meetings of the Emergency Committee.
- 20.12 The committee clerk of the most appropriate committee will arrange the meeting of the Emergency Committee, produce an agenda for it and minute the meeting. The agenda, together with any reports, and the minutes, will be circulated to members of the Emergency Committee as soon as possible.
- 20.13 Any reports prepared which are open to the public, and the minutes of the meeting, will be posted on the Council's website as soon as possible.
- 20.14 Any decision made by the Emergency Committee will be reported to the next meeting of the most appropriate committee or to full Council, as appropriate.
- 4.8 They discussed the terms of reference for the Emergency Committee in Part 3(1) of the Constitution and a protocol for this committee and their agreed suggestions are reflected in a new draft of Part 3(1) of the Constitution but are also included, for members' ease of reference, as Annex A to this Report.
- 4.9 The working group suggested that the proposed additions at paragraphs 11 and 12 of the terms of reference for Overview and Scrutiny Committee (with regard to the Petition Scheme) should be tightened up to reflect that fact that the Council's Petition Scheme does not cover all types of petition. This change is reflected in the new proposed version of Part 3(1).
- 4.10 The working group suggested that, although the amendment proposed to Standing Order 20.7 was a small improvement, the Standing Orders would benefit from a wholesale review and redrafting, in particular to make it clearer which provisions referred to full council and which to committees. It was agreed that this was outside

the scope of delegation to the working group, but that this might be something which a working group should be tasked with looking at in future.

- 4.11 The Council's Solicitor has placed a copy of the updated draft documents, as agreed by the working group on the Council's website at:

http://www.ribblevalley.gov.uk/info/200213/conduct_and_the_constitution/1062/constitution_and_code_of_conduct_etc/8.

This page can also be accessed by following these steps:

- From the home page, in the left hand menu, click on the "interested in the council" option;
- Click on the top option ("conduct and the constitution");
- In the middle of this page, click on "conduct and the constitution";
- At the bottom of this page, click on option 8.

5 RISK ASSESSMENT

- 5.1 The approval of this report may have the following implications:

- Resources – The Council's Solicitor will make any necessary changes and put new documents onto the website.
- Technical, Environment and Legal – The amendments will ensure the Council can deal with legal and technical matters more effectively.
- Political – None.
- Reputation – None.

6 RECOMMENDED THAT COMMITTEE

- 6.1 Approve the changes outlined in the original reports to this Committee (Tuesday, 27 September 2011) as modified by the above report, and as shown in the draft documents on the Council's website.
- 6.2 Refer the suggested changes to the Full Council with a recommendation for their approval.
- 6.3 Consider the working group's suggestion that a working group be established to review and suggest further changes to the standing orders.

SOLICITOR

BACKGROUND PAPERS

1. Emails and notes from working group discussions on Debbie Nuttall's file.

For further information please ask for Debbie Nuttall on extension 4403.

Annex A to D Nuttall's Report to Policy and Finance Committee, 24 January 2012

TERMS OF REFERENCE OF AND PROTOCOL FOR AN

EMERGENCY COMMITTEE

PROTOCOL

Convening a meeting

1. An Emergency Committee should only be called where its terms of reference apply and the matter is so urgent that the decision cannot wait for a scheduled meeting of the Council.
2. The Chief Executive or a deputy appointed by him/her for these purposes will convene the Emergency Committee when s/he feels that it is appropriate.
3. The committee clerk of the appropriate committee will arrange the meeting and produce an agenda. This and any reports prepared for the meeting will be circulated to all members.
4. The agenda will be posted on the Council's website together with any Part I reports.

Composition of Emergency Committee

5. The emergency committee will comprise of the Leader, the Deputy Leader, the Shadow Leader and one other councillor as agreed by the Annual Meeting of the Council. Where possible the fourth councillor should be the Chair of the appropriate committee.
6. The Emergency Meeting should also be attended by the Corporate Management Team and appropriate officers, wherever possible.

Decisions taken by the Emergency Committee

7. The meeting will be minuted by a committee clerk and the minutes will be circulated to all members and placed on the Council's website.
8. The decision made by the Emergency Committee will be reported to the next meeting of the appropriate committee or to full council, as applicable.

TERMS OF REFERENCE OF EMERGENCY COMMITTEE

To exercise any of the functions of the full Council which are necessary:

- in the case of a major incident to fulfil the Council's role as determined in its Emergency Plan;
- or in other cases of urgency between meetings of the Council,

except where the Head of Paid Service or Director of Resources has the power to act.