Amendments to the Constitution - Changes to Executive Arrangements

PURPOSE

1. To amend Part 2, Part 3 and Part 4 of the Constitution following recent changes to the Council’s Executive arrangements.

RECOMMENDATION

2. That Part 2, Part 3 and Part 4.1 and Part 4.4. of the Constitution be amended as outlined in Appendix 1, 2, 3 and 4 respectively in order to implement changes to the Council’s Leader and Executive arrangements from May 2011.

REASONS FOR RECOMMENDATION

3. To comply with legislative requirements relating to changes to Leader and Executive arrangements for Burnley Borough Council from May 2011.

SUMMARY OF KEY POINTS

4. Full Council on 16th December 2010 agreed to adopt the new Leader and Cabinet Executive model relating to Executive arrangements from May 2011, as set out in the Local Government and Public Involvement in Health Act 2007 (Minute 71 refers, 16th December 2010).

5. The key features of the new Leader and Cabinet Model were set out in Paragraph 8 of the Monitoring Officer’s report agreed by Full Council on 16th December 2010, and were as follows;

   - There is no option for the Council to elect the Executive Members; Council elects the Leader and the Leader is solely then responsible for – determining the size of the Executive (2 or more to a maximum of 9); appointing the members of the Executive;
allocating portfolios or areas of responsibility to Executive Members; allocating decision-making powers to the Executive and to individual Executive Members; and removing and replacing Executive Members.

- There is no option to elect the Leader on an annual basis. The Leader must be elected for a four-year term of office. However, there is an option to include a provision for Full Council to remove the Leader during that time and the Constitution must state whether or not this option applies.

- The Leader’s term of office is extended beyond the 4th day after the local elections to run up to the day of the first annual meeting after the Leader’s normal day of retirement as a Councillor.

- During his/her term of office, the Leader will automatically cease to be Leader upon death or disqualification, and may only be removed from office by a resolution of Council.

- The Leader must nominate a Deputy Leader – the Deputy Leader will now take on all the powers of the Leader.

- The Deputy Leader, or in his/her absence, the remaining Executive Members, may act if the Leader is unable to act or the post of Leader is vacant.

6. In order to give effect to the new Executive arrangements in the Constitution, Part 2 (Articles of the Constitution), Part 3 (Scheme of Delegation), and Part 4.1 (Council Procedure Rules) and Part 4.4 (Executive Procedure Rules) have been amended and are attached as Appendices to the report.

The amendments applied are based on benchmarking with other Local Authorities, some of whom brought in their new Executive arrangements from May 2010. Consultation has taken place with the Monitoring Officer to confirm which elements are statutorily required, and which can be introduced locally.

7. **Removal of Leader**

Full Council in December 2010 also resolved to include within its Constitution provision to remove the Leader upon a simple majority decision of the Full Council.

The appropriate mechanism for the removal of leader is a local issue and is set out in Part 2 Article 7.03 (d).

Following consultation with Member Structures Support and Working Group, regarding a Motion to Remove the Leader it has been proposed to:

- maintain the current 7 days notice relating to a Notice of Motion;
- to require one third of Members (15) to sign the Motion (which will also satisfy requirements regarding previous decisions and motions in Council Procedure Rule 15); and
- to exempt any Removal of Leader Motion from the suspension of Standing Orders at a Full Council meeting (council Procedure Rule 22).
8. **Senior officer – Notice and Register**

The new arrangements give sole responsibility to the Leader, following election by Full Council, for determining the Executive, its Members, their Portfolios and allocating decision making powers to the Executive and Individual Members.

Therefore Part 3 Scheme of Delegation regarding the Executive will now be within the responsibility of the Leader, and decisions relating to Executive delegations will be made by the Leader (rather than Full Council). The first page of Part 3 Executive Delegations, relating to the Leader, has been amended and is attached as Appendix 2.

A senior Officer is tasked with keeping a record and being notified of changes to delegations, and it is established within Burnley’s constitution that this is predominantly the Head of Chief Executive’s Office.

Following consultation with Member Structures Support and Working Group it is proposed for the Head of Chief Executive’s Office to be the Officer who receives the required notices and keeps the necessary Register(s), relating to the Leader’s new decision making.

9. **Accountability to Council and Executive**

The constitution includes provision throughout for the Leader’s decisions to be retrospectively reported to Full Council and the Executive at the earliest opportunity, i.e. the next meeting, within Part 2 Article 7 e.g. regarding Appointment of Deputy Leader, Executive portfolios and changes to them.

Reporting arrangements to Full Council also need to be considered in the Executive Procedure Rules (Part 4.4) on new Executive delegations from the Leader, as well as reporting on transfer of delegations or a withdrawal to the Leader.

Following consultation with Member Structures Support and Working Group, in order to maintain the current clear reporting arrangements to Full Council it is proposed that Part 4.4 Executive Procedure Rules will require reporting retrospectively to Full Council on new, transfer, and withdrawal of any Leader delegations.

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**FINANCIAL IMPLICATIONS AND BUDGET PROVISION**

10. None.

**POLICY IMPLICATIONS**

11. None.

**DETAILS OF CONSULTATION**

12. Monitoring Officer
    Management Team
    Member Structures Officer Group and Working Group
BACKGROUND PAPERS

   Lancashire County Constitution Part 2 Article 4

FURTHER INFORMATION
PLEASE CONTACT:
ALSO: