

Item 7

REPORT TO COUNCIL

27TH FEBRUARY 2007

REPORT OF CHIEF EXECUTIVE

ARRANGEMENTS FOR REVIEW OF THE CONSTITUTION

1. SUMMARY

- 1.1 The Council's Constitution was adopted on the 24th May 2002 as part of the Council's approach to implementing the Local Government Act 2000. A number of reviews have taken place.
- 1.2 The Constitution itself must necessarily be kept under regular review so as to ensure that it reflects existing law and its operation continues to provide an efficient and effective framework for delivering the Council's aims and objectives. This report is a further review for the purposes of Article 16 of the Constitution.
- 1.3 The recommendations in this report, based on advice from the Council's Monitoring Officer, and following meetings of the Constitutional Review Group, reflect those areas where it is considered appropriate to make some further changes, viz:
 - *changes to Senior Management Structure: designation of Director of Neighbourhood Services as Deputy Chief Executive.*
 - changes requested by the Chief Executive relating to decisions to approve changes/revisions to staff establishment structures.
 - changes to Cabinet Functions/Scheme of Delegations regarding authorisation of attendance of members at courses, seminars, etc.
 - revisions to the remit of Licensing Committee 2 and the Scheme of Delegations to Officers arising from the implementation of the Gaming Act 2005.
 - revisions to the composition of Housing Review Panels to facilitate decision-taking.
 - changes to the Political Management Structure to assign responsibility for Business Transformation and Data Quality.
 - changes to the Scheme of Delegations to Officers arising from the new corporate policies on the Regulation of Investigatory Powers Act 2000.
 - modifications to the Officer Delegations at Part 3C : Officer Delegations, made at the request of relevant officers.

2. RECOMMENDATIONS

- 2.1 That the Council approves the amendments set out in the Appendix and directs the Monitoring Officer:
- (a) to amend the Constitution accordingly and make all necessary and consequential amendments; and
 - (b) to publish an amended version on the Council's website.

3. BACKGROUND

- 3.1 Work is ongoing in reviewing the Constitution. A number of officers have formed a Constitutional Review Group, headed by the Monitoring Officer, and its purpose is to consider proposals for change with a view to reflecting the law and improving the efficiency of decision taking within the authority.
- 3.2 Previous reviews are identified in the list of background papers accompanying this Report.
- 3.3 The changes proposed to Article 13.02(a) will be the subject of a separate detailed Report to Cabinet (15th February 2007).
- 3.4 Some of the changes are subject to approval by Cabinet and Council of associated reports.

4. LEGAL IMPLICATIONS

- 4.1 It is intended that these changes shall have immediate effect.
- 4.2 The principal changes are referred to in paragraph 1.3 above.

5. CONSULTATIONS

- 5.1 Management Team was consulted on this report on 29th January 2007 and their views taken into consideration. Standards Committee considered this Report on 8th February 2007.
- 5.2 All Departments of the Council have been consulted with regard to the amendments suggested in this report.
- 5.3 The Chief Officer Appointments Panel will be consulted upon the proposals regarding change to the Senior Management Structure.

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Ward(s)

Key Decision Validation

Background Papers

Reports:

- Council - 16th May 2003
- Council - 26th June 2003
- Standards Committee - 4th November 2003
- Council - 26th November 2003
- Council - 21st May 2004
- Cabinet - 25th November 2004
- Council - 25th February 2005
- Standards Committee - 3rd November 2005
- Council - 25th November 2005
- Standards Committee - 9th February 2006
- Council - 24th February 2006
- Standards Committee - 6th April 2006
- Council - 21st April 2006
- Standards Committee – 5th May 2006
- Council – 19th May 2006
- Standards Committee – 6th July 2006
- Council – 28th July 2006
- Standards Committee – 2nd November 2006
- Council – 24th November 2006
- Standards Committee – 8th February 2007

Examination by Statutory Officers

	Yes	Not Applicable
1. The report has been examined by the Council's Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S.151 Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PROPOSED CHANGES FOR COUNCIL APPROVAL – 27TH FEBRUARY 2007

Page Reference and Proposed Amendment	Basis for Change
<p><i>Page 24 – Part 2 Articles of the Constitution Director of Neighbourhood Services To add:</i></p> <p><i>To act as Deputy Chief Executive in absence of Chief Executive (current postholder until further review).</i></p>	<p><i>Council Decision : 27th February 2007</i></p>
<p>Page 25 – Part 2 Articles of the Constitution Article 13.02(a) Function of Head of Paid Service</p> <p>To change “spinal column point 28” to “PO5”. (Cabinet Report - 15th February 2007 refers)</p>	<p>Request and recommendation of Chief Executive having consulted with Cabinet.</p>
<p>Page 44 et seq – Part 3 Responsibility for Functions A. Council Functions</p> <p>Changes to remit to implement Gaming Act 2005.</p> <p>[See attached R1]</p>	<p>Request of Director of Neighbourhood Services/ Licensing</p>
<p>Page 47 – Part 3 Responsibility for Functions A. Council Functions</p> <p>Appeals/Review Panel</p> <p>Panel composition : to change “five” to “three” and delete reference to seven members being invited.</p>	<p>Request of Solicitor to the Council/Head of Democratic Services</p>
<p>Page 54 – Part 3 Responsibility for Functions B. Cabinet Functions</p> <p>Political Management : Strategic Leadership Portfolio : Service Areas.</p> <p>To add adjacent to Resource Management under Service Area the terms:</p> <p>Business Transformation Data Quality</p> <p>And delete “E-Government”</p>	<p>Request of Head of Financial Services and Head of Organisational Development</p>

Page Reference and Proposed Amendment	Basis for Change
<p>Page 56 – Part 3 Responsibility for Functions B. Cabinet Functions</p> <p>Paragraph 9 relating to conferences, courses and seminars to be deleted.</p>	<p>Request of Chief Executive</p>
<p>Page 62 – Part 3 Responsibility for Functions. C. Officer Delegations.</p> <p>CE51 – Regulation of Investigatory Powers Act 2000</p> <p>To substitute current CE51 as follows: [See attached R2]</p>	<p>Request of Solicitor to the Council to take account of revisions to Corporate Policy [see report of Solicitor to the Council and Monitoring Officer to Council 27th February 2007]</p>
<p>Page 63 – Part 3 Responsibility for Functions. C. Officer Delegations.</p> <p>To add new CE60</p> <p>Determination of attendance and representation at conferences, courses and seminars by Members, in consultation with the Leader of the Council.</p>	<p>Request of Chief Executive</p>
<p>Page 91 – Part 3 Responsibility for Functions. C. Officer Delegations.</p> <p>To add additional Officer Delegations [See attached at R3]</p>	<p>Request of Director of Neighbourhood Services/ Licensing</p>

A. Council Functions

Changes to remit to implement Gaming Act 2005.

Licensing Committee 2

The Licensing Committee 2, which is made up of 15 members of the Council will deal with:

- (1) all functions of the Licensing Authority in accordance with the Licensing Act 2003, save for the determination of Policy to be contained in the Licensing Statement in accordance with Section 5 of the Licensing Act 2003.
- (2) all functions of the Licensing Authority in accordance with the Gambling Act 2005, save
 - (i) for the determination of Policy to be contained in the Statement of Principles in accordance with Section 349 of the Gambling Act 2005, and
 - (ii) power to pass a resolution under s166 of the Gambling Act 2005

Licensing Committee 2 may also deal with such other functions of the Authority which relate to a matter referred to Licensing Committee 2 as a licensing function under the Licensing Act 2003 either as are described in the Schedule below or as arranged by the Authority to be discharged by Licensing Committee 2.

The greater part of the licensing functions and its enforcement shall be delegated to its Sub-Committees or Officers but the Committee shall meet as and when necessary to consider any of the licensing functions or other irregular circumstances relating to a licensing matter and to review and make recommendations to Council upon policies in relation to licensing matters and the Licensing Statement.

Meetings of the Licensing Committee will be held in public unless exemptions referred to in Schedule 12A of the Local Government Act 1972 apply. In the interests of Human Rights and transparency of decision-making, the public are able to address the Committee.

The following matters will be dealt with at meetings of the Committee:-

1. To review and make recommendations to Council upon policies in relation to licensing matters *under the Licensing Act 2003* and the Licensing Statement.
2. To discharge the Council's functions as a licensing authority under the Licensing Act 2003, within agreed policy, including enforcement.
3. To review and make recommendations to Council upon policies in relation to licensing matters under the Gambling Act 2005 and the Statement of Principles
4. To discharge the Council's functions as a licensing authority under the Gambling Act 2005, within agreed policy, including enforcement
5. To establish one or more sub-committees and to arrange for them to discharge any of the functions exercisable by the committee.

6. To arrange for the discharge of any of the licensing functions exercisable by the committee by an officer of the licensing authority subject to the limitations set out in section 10(4) of the Licensing Act 2003 and section 154 of the Gambling Act 2005 .

In addition to the Functions of the Licensing Authority contained in the Licensing Act 2003, the Licensing Committee 2 (and its sub-committees) may be responsible for carrying out the following functions if they relate to a matter before the Committee (or sub-committee) when undertaking its functions under the Licensing Act 2003, which are identified in The Local Authorities (Functions and Responsibilities) (England) Regulations 2000. The table identifies in the right hand column where authority has been delegated to Officers.

R2

Page 62 – Part 3 Responsibility for Functions.

C. Officer Delegations.

CE51 – Regulation of Investigatory Powers Act 2000 – to amend as follows:

Regulation of Investigatory Powers Act 2000		
CE51 (formerly CE74)	<p>Authority to grant authorisations under Section 28 (Authorisation and Directed Surveillance); that the Solicitor to the Council only shall have authority to appoint designated persons for the purposes of Section 22 of the Act.</p> <p>That only the Chief Executive, in consultation with the Solicitor to the Council, shall have power to authorise covert surveillance exercises under Section 29 of the Act, involving a CHIS or any exercises involving staff investigations.</p>	<p>Solicitor to the Council</p> <ul style="list-style-type: none"> *Director of Neighbourhood Services. *Director of Resources. *Head of Financial Services. *Director of Housing. *Head of Housing Management *Head of Environmental Services. *Public Health Services Manager. <p><i>*specifically linked to those duties and functions for which they are responsible.</i></p>
CE52 (formerly CE75)	<p>Authority to keep a central register of authorisations granted and generally monitor the issue of authorisations and procedures generally; to oversee training arrangements; to suspend authorisation of officers where training is required; to report annually to Cabinet on the operation of the Act.</p>	<p>Solicitor to the Council</p>

R3

Page 91 – Part 3 Responsibility for Functions.
C. Officer Delegations.

To add following additional Officer Delegations:

	The Gambling Act 2005 Functions	
	Premises	
NS	Grant of Premises Licence under s159, save when representations made as described in s161	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Grant of a Variation to Premises Licence under s187, save when representations made as described in s161	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Grant of a Transfer of Premises Licence under s188, save when representations made as described in s161	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Reinstatement of a Premises Licence under s195, save when representations made as described in s161	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Grant of a Provisional Statement under s204, save when representations made as described in s161	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Rejection of an Application for review under s198	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer; in consultation with the Chair of Licensing Committee 2

NS	Grant and Renew a Family Entertainment Centre Gaming Machine Permit under s247 and Schedule 10, save when no objections have been made	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Grant and Renew a Club Gaming Permit and a Club Machine Permit under s274 and Schedule 12, save when no objections have been made	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Grant, Vary, Renew or Cancel a Licensed Premises Gaming Machine Permit under s283 and Schedule 13	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	Grant and Renew a Prize Gaming Permit under s289 and Schedule 14, save when no objections have been made	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	To institute prosecution proceedings in accordance with s 346 and s222of the Local Government Act 1972	Director of Neighbourhood Services; Head of Environmental Services; Inspection and Licensing Services Manager; Principal Licensing Officer
NS	To make representations on behalf of the Licensing Authority in accordance with the provisions of s161	Director of Neighbourhood Services
NS	To initiate a Review of a Premises Licence and serve Notice under s 200	Director of Neighbourhood Services
NS	To designate officers as authorised persons in accordance with s304	Director of Neighbourhood Services

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