

Executive
11 February 2021

Title: Minor Changes to the Constitution

Lead Officer: Graham Leach

Portfolio Holder: Jan Matecki, Judy Falp, Andrew Day

Public report

Wards of the District directly affected: None

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: Yes

Equality Impact Assessment Undertaken: No

Consultation & Community Engagement: No

Final Decision: No

Accessibility checked: Yes

Officer/Councillor Approval

Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	8/1/2021	Andrew Jones
Head of Service	8/1/2021	David Elkington, Marianne Rolfe, Lisa Barker, Mike Snow
CMT		
Section 151 Officer	27/1/2021	Mike Snow
Monitoring Officer	8/1/2021	Andrew Jones
Finance	27/1/2021	Mike Snow
Portfolio Holder(s)	25/7/2021	Cllrs Matecki, Falp and Andrew Day

1. Summary

- 1.1. The report brings forward some minor changes to the Constitution in respect of delegations to officers and Council procedure Rules.

2. Recommendation

- 2.1. The Executive recommends to Council the revisions to the Constitution as set out to Appendix 1 to the report
- 2.2. The Executive asks Council, subject to 2.1, to direct the Licensing & Regulatory Committee to update its delegations to Panels to include the additional wording set out in *italics* below:

“The Licensing & Regulatory Committee has also delegated authority to these Sub-Committee to determine the following matters The Issue Street Trading Consents – if objections received *or they are contrary to the adopted Street Trading Policy*”

- 2.3 That the Executive ask Council to amend the Constitution so that any reference to the Official Journal of the European Union (OJEU) is replaced with Public Contracts Directive.

3. Reasons for the Recommendation

- 3.1. The revision to the Council Procedure rules for the change in definition from special to additional/urgent meetings provides clarification for all parties on the procedures and terminology to be used.
- 3.2. The proposed new delegation to the Head of Housing is to enable use of the powers available to take action against lettings agents who do not register with a redress scheme. It is a legal requirement for letting agents to belong to a government approved independent redress scheme. The role of an independent redress scheme is to provide fair and reasonable resolutions to disputes with members of the public.
- 3.3. The revision to the delegation for Street Trading Consents is included to provide clarity on where the responsibility sits for the approval of licences.
- 3.4. The change to the delegation to the Head of ICT in respect of Street Naming and Numbering is included to provide clarification the adoptions should be in line with the adopted Policy. The revised Policy is included for approval elsewhere on this agenda.
- 3.5. The proposal to move a number of delegations to the Head of Customer Service from the Head of Finance is in anticipation of the decision from Employment Committee on 11 February to establish a Joint Post with Stratford District Council. These delegations are the ones that would fall within the remit of that Service Area and no changes are proposed to the wording of them.

- 3.6. The proposed revision to the Code of Procurement Practice is included to provide clarification on the authority to sign contracts for the Council depending upon their specific value. It also clarifies when a contract needs to carry the official seal of the Council.
- 3.7. Following the expiration of the transition period for the UK leaving the EU at 11pm 31 December 2020, the Public Contract Regulations 2015 are being updated to change any references to EU requirements and the Official Journal of the European Union (OJEU) to those related to UK law. It is recommended that the Code of Procurement Practice is updated to do the same.

4. Policy Framework

4.1. Fit for the Future (FFF)

- 4.1.1. The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.
- 4.1.2. The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found [on the Council's website](#). The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

4.2. FFF Strands

4.2.1 External impacts of proposal(s)

People - Health, Homes, Communities – This report does not directly impact on this theme.

Services - Green, Clean, Safe – This report includes a new delegation which will enable enforcement work to be taken and this to ensure compliance with legislation.

Money- Infrastructure, Enterprise, Employment – The report provides clarification on decision making in respect of Street Trading and ensuring that is robust and Transparent.

4.2.2. Internal impacts of the proposal(s)

People - Effective Staff – The report brings forward proposals to ensure that officers have the correct and appropriate authority to undertake their roles within the Council.

Services - Maintain or Improve Services - This section needs to provide details in respect of the following intended outcomes: Focusing on our customers' needs; Continuously improve our processes and Increase the digital provision of services.

Money - Firm Financial Footing over the Longer Term - This report does not directly impact on this theme.

4.3. Supporting Strategies

4.3.1. Each strand of the FFF Strategy has several supporting strategies and but this report does not directly impact on any of these.

4.4. Changes to Existing Policies

4.4.1. This report does not bring forward any changes to existing policies of the Council.

4.5. Impact Assessments

4.5.1. No impact assessment has been undertaken on the report and its recommendations because they are administrative purposes for use by officers of the Council.

5. Budgetary Framework

5.1. The report does not impact on the Councils Budget.

6. Risks

6.1. The recommendations are brought forward to help mitigate risk to the Council by providing clarity in delegations to officers and wording within the Constitution. These minor changes are not considered significant risks to service delivery but by resolving them it makes process more robust.

7. Alternative Option(s) considered

7.1. Consideration was given to leaving the wordings as at present, for those which are revised. However, they are considered to be ambiguous or did not fully align with adopted Policy of the Council. Therefore, this was not considered appropriate approach.

7.2. In respect of the new delegation in respect of lettings no alternative was considered as this is considered necessary for officers to undertake enforcement action.

**Part 2
Council Procedure Rules:**

That Council procedure Rule 27 is amended from:

"27. Special Meetings

(1) A special meeting of the Council will be called on the requisition of the Council by resolution, the Chairman, the Monitoring Officer or any five members.

(2) A special meeting of the Executive, Committees or sub-committee will be called on the requisition of either the Leader or the Chairman or of a fifth of the whole number of the Executive committee, or sub-committee submitted in writing or by e-mail to the Chief Executive. The notice of the special meeting will set out the business to be considered and no business other than that set out in the notice will be considered at that meeting. The reason for the need for special meeting will be recorded in the minutes of the meeting."

To read as follows:

27. Additional and Urgent Meetings

(1) Additional Meetings – are meetings called by the Chairman in addition to those published at the beginning of each municipal year in the Schedule of Meetings. The agenda for additional meetings must be published at least five clear working days ahead of the meeting.

(2) Urgent Meetings – are meetings called in accordance with the guidance below, to deal with urgent matters which could not be foreseen and which cannot wait until the next scheduled meeting or an additional meeting to be scheduled. The notice of the urgent meeting will set out the business to be considered and no business other than that set out in the notice will be considered at that meeting. These meetings shall not be considered suitable meetings for the signing of minutes of the previous meeting. The reason for the need for urgent meeting will need to be specified in the agenda for the meeting and recorded in the minutes of the meeting. The notification, in line with access to information procedure rules, does not need to be published with five clear working days notice, but as much notice as possible should be provided.

a) An urgent meeting of the Council will be called on the requisition of the Council by resolution, the Chairman, the Monitoring Officer or any five members.

b) An urgent meeting of the Executive, Committees or Sub-Committees will be called on the requisition of either the Leader or the Chairman or of a fifth of the whole number of the Executive, Committee, or Sub-Committee submitted in writing or by e-mail to the Chief Executive.

**Part 3: Section 4
Scheme of delegations**

Italic text sets out addition with removed text struck through

Head of Housing & Property Services shall have authority to:

HS(New) *authorise the Officer to have delegated authority to serve Notices of Intent and Final Notices under the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014*

HCP(13) Local Government (Miscellaneous Provisions) Act 1982,
(ii) to:-
Part III – Street Trading
Schedule 4, paragraphs 3 - 7, Street Trading licences and consents, grant, ~~renewal~~ and variation *in line with the street trading policy so long as no objections received; and issue renewals so long as no objections received*

The **Head of ICT** shall have authority to:

ICT (1) Act under the provisions of either the Public Health Act 1925 or Town Improvement Clauses Act 1847, *inline with adopted Street Naming & Numbering policy of the Council*, to
(i) deal with the numbering and re-numbering of properties;
(ii) approve the naming of streets following consultation with the appropriate Parish or Town Council.

The following delegations move from the Head of Finance to Head of Customer Service, who shall have authority to:

F (4) Appear in Court when legal action is taken against a person who has made a fraudulent claim for Housing or Council Tax Benefit, or Council tax Reduction or other fraudulent claims against the Council.

F (15) Take the following action under the NNDR and Council Tax Regulations:
(i) Applications for certificates and the sanction of appropriate relief (apportionment of rateable value of partly occupied hereditaments);
(ii) Granting and refusal of mandatory relief under the Council Tax and Rating Regulations;
(iii) Approve applications for discretionary rate relief.
(iv) Refunds of Council Tax, Business Rates and Council Tax;
(v) Institution of legal proceedings against ratepayers for recovery outstanding rates and Council Tax;
(vi) Authority under Section 223(1) of the Local Government Act 1972 to represent the Council in making formal complaint and taking the subsequent proceedings in the local Magistrates Court.
(vii) Authority to serve completion notices under the appropriate Council Tax and Rating regulations;

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- (viii) Authority to instruct Enforcement Agents to take control of goods, issue requests for information, apply Attachment of earnings Orders and deductions from Income Support, Charging Orders;
 - (ix) Selection and appointment of Enforcement Agents;
 - (x) Authority to quash penalties;
 - (xi) Authority to appeal against any Assessment of Council Tax banding or rating assessment;
 - (xii) Authority to represent the Council at Valuation Tribunals in connection with appeals against: liability to pay the Council Tax including discounts, exemptions and reductions , and the banding of a dwelling;
 - (xiii) Authority to represent the Council at Housing and Council Tax Benefit tribunals in connection with appeals against housing and council tax benefit.
 - (xiv) Authority to write off irrecoverable Council Tax, Non-Domestic Rates and Housing Benefit Overpayments;
 - (xv) Authority to consider and determine applications for Hardship relief under Section 49 of the Local Government Finance Act 1988;
 - (xvi) to determine discretionary council tax relief applications.
- F (16)
- (i) Decide upon all claims received for Housing, Council Tax Benefit or Council Tax Reduction including the exercising of all discretions under the general policy guidance from time to time given by the Council.
 - (ii) Assess overpayments under the Regulations and taking such steps as are appropriate to recover the amount overpaid.
 - (iii) Decide upon all claims for Discretionary Housing and Council Tax Payments.

Part 4 Code of procurement practice:

Warwick District Council Code of Procurement Practice (The Code)

17. Contract Signing and Order Authorisation

~~17.3 Contracts must be signed or sealed in accordance with the Council's Scheme of Delegation. Contracts over the sums specified in the Public Contracts Directive must be signed or sealed in accordance with the Council's Scheme of Delegation by the Chief Executive or their Deputies.~~

~~17.4 Contracts under Signature—The Officer signing the contract on behalf of the Council must ensure that he/she has the relevant authorisation to sign the contract. All other contracts may be signed by Chief Officer as defined under Article 12 of the Constitution or their duly authorised nominated officer- The Officer signing the contract on behalf of the Council must ensure that he/she has the relevant authorisation to sign the contract.~~