

 <b>Executive 27 July 2016</b>		<b>Agenda Item No.</b>  <b>3</b>
<b>Title</b>	Minor Amendments to the Constitution	
<b>For further information about this report please contact</b>	Graham Leach, Democratic Services Manager & Deputy Monitoring Officer 01926 456114 <a href="mailto:graham.leach@warwickdc.gov.uk">graham.leach@warwickdc.gov.uk</a>	
<b>Wards of the District directly affected</b>	None	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	N/A	
<b>Background Papers</b>		

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	No
<b>Equality Impact Assessment Undertaken</b>	No

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive	05/07/16	Chris Elliott
Head of Service	05/07/16	David Leech Tracy Darke, Marianne Rolfe, Andy Thompson
CMT	05/07/16	
Section 151 Officer	12/7/2016	Mike Snow
Monitoring Officer	05/07/16	Graham Leach (Deputy)
Finance		
Portfolio Holder(s)	06/07/2016	Andrew Mobbs, Michael Coker, Stephen Cross, Peter Phillips, Moira-Ann Grainger and Peter Whiting
<b>Consultation &amp; Community Engagement</b>		
Councillor Cooke – Chairman of Planning Committee 6 July 2016 John Gregory – Solicitor Acting for the Council (After CMT/Executive)		
<b>Final Decision?</b>	No	
<b>Suggested next steps (if not final decision please set out below)</b>		
The decisions will be a recommendation to Council to amend the Constitution.		

## 1. **Summary**

- 1.1 This report brings forward some minor amendments to the Council's Constitution to provide clarifications and appropriate delegations to ensure that work is undertaken at an appropriate level.

## 2. **Recommendation**

- 2.1 The Executive recommends to Council the amendments to the Constitution as set out at Appendix 1 to the report.
- 2.2 The Executive confirms, the Portfolio Holder responsibilities, as set out at Appendix 2 to the report and recommends to Council their inclusion as Part 7, Management & Portfolio Structure, of the Constitution.
- 2.3 The Executive notes that officers are working on further proposals for revisions to the Constitution including the handling of applications relating to HS2 and an improved call-in procedure and that a further report will be brought to a subsequent Executive as appropriate.

## 3. **Reasons for the Recommendations**

- 3.1 The amendments, set out at Appendix One, are brought forward as part of the ongoing maintenance of the Constitution, to ensure that it is up to date and fit for purpose to enable Council services to be delivered effectively and efficiently.
- 3.2 The proposal to require Warwick District Councillors to provide a valid planning reason for calling in a Planning Application to Planning Committee for determination is proposed at the request of the Head of Development Services and Chairman of Planning Committee. While most Councillors provide a reason for applications to be presented to Committee, in a few limited circumstances this has not been forthcoming. All other comments on applications need to have valid planning reasons, as these are the only grounds an application can be determined. In not providing a valid planning reason, it could lead to questions of motive for an application being determined, potentially via the use of non-material considerations. This amendment would remove this issue, would enable a more informed report for the Committee to consider and the reasoning would be open, transparent and in line with the values of the Council.
- 3.3 The associated revisions to representations for interested parties and Parish/Town Councils, are for the purpose of clarity and are intended to set out clearly the need for all representations made in relation to planning applications to be based on planning reasons.
- 3.4 The amendment to delegation DS(38) proposes a small change in the terminology used to reflect that used more widely in legislation and the associated regulations, therefore ensuring the scheme of delegation is up to date.
- 3.5 The proposed addition of delegated powers to issue Discontinuance Notices in order to remove advertisements, is included to bring the delegation agreement up to date. At present this action would need to be brought before Council, thus potentially delaying action being taken.

- 3.3 At present the deadline for Notices for Motions normally falls on a Sunday (as a result of Council meeting on a Wednesday). This minor revision provides Councillors a longer time to submit notices of motion for consideration at meetings. It also provides a defined cut off time.
- 3.4 The proposal to amend the Chief Executive's delegated powers, in respect of changes to the establishment, is brought forward to improve efficiency but also to recognise the responsibilities of the Council. The Chief Executive, as Head of Paid Service, is responsible for staffing matters and should be permitted to amend the establishment of the Council, so long as the budget is in place (approved by the Executive or Council). At this time it is felt appropriate that Employment Committee retain the responsibility to reduce the size of the establishment because of the potential redundancies and the implications of such changes for the Council.
- 3.5 The proposal regarding property rental write off (where the Council decides it is unlikely to recover the rent for a property) is brought forward following a discussion earlier in the year between officers. It is considered that this is covered within the current delegation for write offs, overall, but this proposal ensures that any ambiguity is removed.
- 3.6 The request for the Head of Finance to determine discretionary Council Tax relief applications is brought forward as a result of the application made by an individual to the Council in 2015. At the time, no delegation was in place and the application had to be considered by the Executive. The proposal is brought forward so that a decision can be taken at an appropriate level and would be consistent with delegations already in place for discretionary rate relief applications.
- 3.7 The Council is obliged under the Micro-chipping of Dogs Regulations 2015 to have appropriate delegations in place to enforce, where necessary. These delegations provide the appropriate level to ensure the Council can enforce the regulations quickly as required.
- 3.8 The proposed move of delegations from Development Services to Housing & Property Services is to reflect the restructure of these services, in particular property management, that now fall within the responsibility of the Head of Housing & Property Services.
- 3.9 These proposed changes amend the delegations to reflect the restructure of services some of which now fall directly within Development Services. The removal of Committee approval for events reflects the custom and practice of the Council for at least 15 years.
- 3.10 The amendment to the Licensing & Regulatory Committee function is to provide clarity. While it is recognised this was the intention of Council previously, the proposal would remove any ambiguity and potential challenge of an appointment.
- 3.11 The amended Portfolio Holder Structure is brought to the Executive for confirmation following the inclusion of the new Business Portfolio. This is because the Portfolio Structure Forms part of the Constitution which would need to be amended by Council. It should however be noted that the Portfolio Holder responsibilities is a matter for the Leader of the Executive to determine.

3.12 Proposals for the detailed determination of planning applications relating to the design of the HS2 project are currently being discussed between officers, the Chairman of Planning Committee and the Development Services Portfolio Holder in the light of emerging information from HS2 Limited about the way in which applications are likely to come forward. The final arrangements for these are, as yet, unclear and will remain so until final delegation from Government Office is confirmed. In that respect, it is anticipated that a further report will be brought forward shortly.

3.13 It is recognised that the current arrangements for call-in are conflicting and need to be reconsidered in detail. Work paused on this in recent months and investigations into best practice are now under way with a view to reporting back to the Executive in September 2016.

#### 4. **Policy Framework**

4.1 **Policy Framework** –The report does not bring forward any proposals that are contrary to the Policy Framework.

4.2 **Fit for the Future** – The reports proposals contribute to Fit for the Future in respect of ensuring the Council can continue to deliver services effectively and appropriate arrangements are in place to achieve this.

#### 5. **Budgetary Framework**

5.1 The report does not impact on the Budgetary Framework of the Council.

#### 6. **Risks**

6.1 The main risks from the proposals are associated with the proposals not being approved and therefore not enabling the Council to work in a more effective manner. As an example, the proposal to delegate the Discretionary Council Tax Application determinations could see a delay of two months while the matter is referred to Executive for determination.

#### 7. **Alternative Option(s) considered**

7.1 For each of the proposed changes it would be possible to leave the current situation in place. However, this is not considered appropriate because the intention of the recommendations is to provide a more efficient Constitution and delegations at an appropriate level.

7.2 Councillors could consider delegating these functions either to other officers, Committee or Portfolio Holders, however, these changes are brought forward in line with the current principles of delegation within the Constitution.

## Part 3 Section 2 Council Functions

(Additional/replacement wording included in *italics*)

### D. LICENSING & REGULATORY COMMITTEE

- c. All matters relating to elections and electoral registration *including the appointment of Councillors to a Parish or Town Council under Section 91 of the Local Government Act 1972.*

### G. EMPLOYMENT COMMITTEE

- (iii) To approve *any reductions in* the staff establishment of the Council in accordance with the Council's agreed budget

## Part 3 Section 4 Scheme of Delegation

(Additional/new wording included in *italics*, deleted text ~~struck through~~)

- CE(9) *Authorise changes to the Council's establishment that do not result in an increase to the cost to the Council of approved establishments or the introduction of new posts.*
- DS (38) Determine all applications for non material amendments ~~minor amendments~~ to planning permissions and other forms of consent.
- DS (48) Serve and withdraw notices in respect of the following: Town and Country Planning Act 1990 (TCPA) and Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCAA) as amended:  
  
*(xi) Section 220 1 (TCPA) and/or Section 224 1b (TCPA) – Discontinuance Notices in accordance with Regulation 8 of the Town and Country Control of Advertisement Regulations 2007.*
- DS (70) Determine all applications submitted to Warwick District Council as required by the Town and Country Planning Act 1990 (as amended), Town and Country Planning (Control of Advertisement) Regulations 1992, and Planning (Listed Buildings and Conservation Areas) Regulations 1990, with the exception of the following:-
  - (i) Applications where a *valid* written request is received from a member of Warwick District Council within the specified consultation period i.e. 21 days *setting out the planning grounds on which that the referral of the application to Planning Committee referral is required-requested.*
  - (ii) Applications where 5 or more written objections (or letters of support) or a petition (including one of support) with 5 or more signatures ~~on~~ ~~planning grounds~~ has been received, where the recommendation is contrary to the representations that have been made.
  - (iii) Applications where the recommendation of the Head of Development Services i.e. Grant/Refuse is contrary to ~~the~~ representations made by a

Parish/Town Council *on planning grounds*, i.e. Object/Support except in the following circumstances:-

the Head of Development Services is satisfied that the plans have been amended to address the concerns of the Parish/Town Council; where the representations made by the Parish/Town Council raise issues which are not material to the planning assessment of the particular application; or

where the concerns of the Parish/Town Council have been previously considered as part of the assessment of an extant permission on the site and there has been no change in circumstances

(iv to ix remain unchanged so are not included)

- ~~DS(26)~~  
HS(98) Grant wayleaves and easements across Council owned land to other public organisations.
- ~~DS(27)~~  
HS(99) Grant new leases on vacant properties, excluding HRA properties.
- ~~DS(28)~~  
HS(100) Following consultation with ward councillors and the relevant Head of Service of the service area owning the land, dispose of other interests in land including its sale where the consideration does not exceed £20,000 and also to accept the Surrender of leases where the value does not exceed £20,000.
- ~~DS(29)~~  
HS (101) Follow consultation with ward councillors and the relevant Head of Service of the service area owning the land to initiate, proceedings for forfeiture of Leases.
- ~~DS(30)~~  
HS(102) Agree rent reviews, for non HRA properties, where agreement on the new rent has been reached without recourse to arbitration.
- ~~DS(31)~~  
HS(103) Grant new leases, for non HRA properties, where statutory renewal rights exist.
- ~~DS(32)~~  
HS(104) Grant terminable licences, for non HRA properties, for access and other purposes.
- ~~DS(33)~~  
HS(105) Manage and control properties acquired by the Council in advance of requirements ~~(other than those held under Part V of the Housing Act 1957 where consultation with the Head of Housing and Property Services is required).~~
- CS(3)  
A(10) Grant applications for organised visits to and bookings of parks, open spaces and buildings and for conference facilities. ~~where Committee approval has been given in previous years.~~
- CS(4)  
DS(81)  
F (15) Engage performers and artists for events in accordance with the policy and within the approved budget.
- F (15) Take the following action under the NNDR and Council Tax Regulations: *(xvi) to determine discretionary council tax relief applications.*
- F (7) Write off sundry debts, Finance function debts and all other debts, *including property rentals.*
- HCP(79) *The Head of Health & Community Protection, be authorised under the Microchipping of Dogs Regulations 2015, to*
- (a) *serve on the keeper of a dog which is not microchipped a notice requiring the keeper to have the dog microchipped within 21 days;*
- (b) *where the keeper of a dog has failed to comply with a notice under paragraph (a), without the consent of the keeper—*
- (i) *arrange for the dog to be microchipped; and*
- (ii) *recover from the keeper the cost of doing so;*

(c) *take possession of a dog without the consent of the keeper for the purpose of checking whether it is microchipped or for the purpose of microchipping it in accordance with sub-paragraph (b)(i).*

~~CS(3)~~  
~~A(10)~~ Grant applications for organised visits to and bookings of parks, open spaces and buildings and for conference facilities ~~where Committee approval has been given in previous years.~~

~~CS(4)~~  
~~DS(82)~~ Engage performers and artists for events in accordance with the policy and within the approved budget.

## **Part 4**

### **Council Procedure Rules**

(Additional wording included in *italics*, deleted text ~~struck through~~)

#### **6. Notices of Motion**

- (2) Notice of every motion must be by e-mail or in writing, signed by the member, or by 10 members in the case of motions submitted under Procedure Rule 16, and delivered ~~at least nine clear days~~ *by 10.00am on the sixth clear working day* before the next meeting of the Council, the Executive or Committee they wish it to be considered at, to the office of the Chief Executive.

Deputy Chief Executive, Monitoring Officer & Legal Client Manager Andrew Jones			Chief Executive Chris Elliott	Deputy Chief Executive Bill Hunt			
Michael Coker Portfolio Holder and Deputy Leader	Peter Whiting Portfolio Holder	Moira Ann Granger Portfolio Holder	Andrew Mobbs - Leader	Peter Phillips Portfolio Holder	Steven Cross Portfolio Holder Development	Noel Butler Portfolio Holder Business	Dave Shilton Portfolio Holder
<b>Cultural Services</b> Rose Winship	<b>Finance (S151)</b> Mike Snow	<b>Health &amp; Community Protection</b> Marianne Rolfe	<b>Human Resources</b> Corporate HR People Management Learning & Development Corporate Payroll Media	<b>Housing &amp; Property Services</b> Andrew Thompson	<b>Development Services &amp; Business</b> Tracy Darke		<b>Neighbourhood Services</b> Robert Hoof
<b>Sports &amp; Leisure</b> Stuart Winslow	<b>Accountancy</b> All Council Accountancy Services Jenny Clayton	<b>Community Partnership Team</b> Community Leadership Community Forums & Voluntary Sector Contracts Health and Wellbeing Liz Young	<b>Legal Services</b>	<b>Housing Strategy and Development</b> Homelessness and Housing Advice Tenants Participation Private Sector Housing Disabled Adaptations New Affordable Housing Developments inc Council House Building Abigail Hay	<b>Development Management</b> Enforcement Land Charges Conservation Gary Fisher	<b>Policy &amp; Projects</b> Dave Barber	<b>Contract Services</b> Refuse & Recycling Collections Parks & Open Space Maintenance Street Cleansing Off Street Parking Gary Charlton
<b>Entertainment</b> Royal Spa Centre/Theatre Town Hall David Gulding	<b>Audit &amp; Risk</b> Corporate Insurance Richard Barr	<b>Regulatory</b> Food Safety Health & Safety Licensing Lorna Hudson	<b>ICT Services</b> Desktop Services incl Helpdesk/Infrastructure Services/Application Support/Geographical Information Systems (GIS) Digital Mapping Services/Local Land & Property Gazetteer (LLPG)/Street Naming & Numbering/Website Ty Walter (reporting direct to Andrew Jones, Deputy Chief Executive)	<b>Asset Management</b> Maintenance & Repair of Corporate Property Assets and Council Houses Matthew Jones	<b>Building Control Consortium</b> Phil Rooke	Corporate Sponsor for: Shakespeare's England DMO; Town Centre Partnerships; Leamington Town Centre Vision; Partner relationship with College and University; CWLEP Funding; Events programme; Business Support; Help for unemployed/low paid e.g. job clubs, etc; Cultural and Digital Quarter; Chandos Street; Stratford Road employment site; St Mary's Lands; Enterprise Facilities; Growth hub; Whitley South Gateway; Stoneleigh; Fen End.	<b>Bereavement Services</b> Burials & Cremations Pam Chivers
<b>Business Support Admin</b> Finance & Admin Support for Culture Stephen Falp	<b>Exchequer</b> Council Tax and Business Rates Rate Collection Sundry Debt Collection Corporate Invoice Payment Dave Leech	<b>Environmental Sustainability</b> Contaminated Land Commercial Noise Flood Alleviations Civil Contingencies Sam Collins/Mike Jenkins	<b>Democratic Services &amp; Corporate Support Team</b> Elections/Electoral Registration/Committee Registration/Councillors/FOI/Data Protection/Complaints/Civic Support/Corporate Support Team Graham Leach (reporting direct to Andrew Jones, Deputy Chief Executive)	<b>Sustaining Tenancies</b> Landlord Services to Council Tenants Collecting Rent Estate Management Ensuring Tenancy Conditions are Completed with Jacky Oughton	Corporate Sponsor for: Local Plan; Infrastructure Development Plan; South of Warwick/Leamington Development; Single Spatial Strategy; Leper Hospital; HQ Relocation	<b>Green Space Improvements</b> Green Space Strategy St Mary's Land Wildlife Habitats Dave Anderson	
<b>Arts &amp; Heritage</b> Royal Pump Rooms Art Gallery & Museum Arts Development Jeff Watkin	<b>Benefits &amp; Fraud (Impact of UC)</b> Housing Benefits & Council Tax Reduction Corporate Fraud Andrea Wyatt	<b>Safer Communities</b> Domestic Noise Anti-Social Behaviour Dog Warden Pest Control & Animal Licensing CCTV Pete Cutts	Corporate Sponsor for: Fit for the Future; HQ Relocation; CWLEP Board, CW Jt Committee; WMCA and Devolution; People Strategy; Digital Transformation and ICT Strategy; Digital Media/Comms Strategy.	<b>Asset Management</b> Maintenance & Repair of Corporate Property Assets and Council Houses Matthew Jones		<b>Performance &amp; Policy One Stop Shop (UNDER REVIEW)</b> Managed by WCC Graham Folkes-Skinner	
<b>Programme Manager</b> for future sport service options Padraig Herlthy	<b>Procurement</b> Compliance with Legislation Support & Advice on Procurement Contracts John Roberts	Corporate Sponsor for: cross cutting Champion for Children's Protection; cross cutting Champion for Vulnerable Adult Safeguarding; cross cutting Champion for Health and Well Being; Health and Well Being Board; Purple Flag; Voluntary Sector and Community projects; cross cutting Champion for Community Safety; South Works Community Safety Partnership; cross cutting Champion for Sustainability; Asylum seekers;		Corporate Sponsor for: Lillington Regeneration Scheme; Europa Way Project; Housing Futures; Council Development Company; new housing in villages; Gypsies and Travellers; Financial Inclusion		Corporate Sponsor for: new Covent Garden car park; Linen Street Car Park; Car Park Strategy; Tachbrook Country Park; Pump Rooms Gardens; Play Area Improvements; Contract Renewal; Abbey Fields;	
Corporate Sponsor for: National Bowls Championships; Womens Cycle Tour; Leisure Programme phase 1; Masterplanning of South of Coventry; Masterplanning at Kenilworth; Leisure Programme phase 2;	Corporate Sponsor for: Annual Governance Statement; Medium Term Finance Strategy; Asset Management Strategy; Financial Inclusion						