

 <b>Executive</b> 30 March 2011		<b>Agenda Item No.</b>
<b>Title</b>	Amendments to the Scheme of Delegation	
<b>For further information about this report please contact</b>	Graham Leach Senior Committee Services 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Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006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>	Council 14 July 2010	
<b>Background Papers</b>	None	

<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

Officer/Councillor Approval		
With regard to officer approval all reports <i>must</i> be approved by the report authors relevant Deputy Chief Executive, Head of Service, Finance, Monitoring Officer and the relevant Portfolio Holder(s).		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	2 March 2011 3 March 2011	Andy Jones Chris Elliott
CMT		
Section 151 Officer		
Monitoring officer		Andy Jones
Finance	3 March 2011	Marcus Miskinis
Portfolio Holder(s)		Michael Doody
Consultation Undertaken		
Richard Hall David Davies Roger Jewsbury John Gregory 3 March 2011		
Final Decision?		No
Suggested next steps (if not final decision please set out below)		
The decision would be a recommendation to Council in April.		

## 1. **SUMMARY**

- 1.1 The report brings forward some minor, but necessary, amendments to the scheme of delegation.

## 2. **RECOMMENDATION**

- 2.1 The Executive recommends to Council the amendments to the Council's Constitution, Part 3, Section 4 (Scheme of Delegation) as set out below:

- (a) Addition to Head of Community Protection  
Exercise all powers of local authorities under sections 19 to 28 of the Criminal Justice and Police Act 2001 including:

- Serving and cancelling closure notices;
- Making applications for closure orders;
- Issuing certificates of termination of closure orders;
- Defending applications for the discharge of closure orders;
- Recommending appealing against the refusal to make closure orders;
- Enforcing closure orders;
- Recommending prosecuting for obstruction of authorised officers or for offences in connection with closure orders;
- and authorising officers to exercise all or any of these powers.

- (b) Amendments to the introductory paragraphs of scheme of delegation so they read as follows:

The Chief Executive, their Deputies and Chief Officers (as detailed in Article 12 of the Constitution) shall have authority, subject to the requirements of the provisions of this Constitution and within approved budgets to:

- (i) Take any necessary steps for the day to day management and routine administration of the functions or services for which they are responsible; and
- (ii) Exercise the powers delegated to them and to authorise such officers as they think appropriate to exercise on their behalf the powers delegated to them.

All members of staff have authority to act on behalf of the Council in accordance with duties set out in their job description and will carry a document as evidence of their authority duly signed by the Chief Executive. Officers will be authorised by the Chief Executive to enter premises lawfully at all reasonable hours for the purposes of carrying out such duties in line with appropriate legislation as set out on their identification badges.

- (c) Amendment to the wording of delegation G(14) so that it reads as follows

Authority, following consultation with the ~~Leader~~ the relevant Portfolio Holder and Solicitor acting on behalf of the Council, to initiate proceedings in the Magistrates Courts subject to the results of prosecutions being reported to members *via email*.

- (d) Additional delegation to the Monitoring Officer  
The Monitoring Officer is authorised to issue grants agreed by the Community Forums so long as they do not breach any legislative requirements, agreed policy or exceed the budget for the specific community forum.
- (e) that delegation ES15 be removed to be replaced by revised wordings to ES(38) and ES(39) as set out below.

ES(38)

Appoint, authorise and terminate appointments of–

Medical Officers of the Primary Care Trust and the Health Protection Agency to act as 'proper officers' and/or 'Medical Officers of Health' for and on behalf of the authority, as identified and updated from time to time by those bodies in matters arising under:

S47 National Assistance Act 1948 (not Health Protection Agency) -

Certificate that in the interests of any person suffering from grave chronic disease or, being aged, infirm or physically incapacitated, are living in insanitary conditions, and

- are unable to devote to themselves, and are not receiving from other persons, proper care and attention.
- or for preventing injury to the health of, or serious nuisance to, other persons
- it is necessary to remove any such person as aforesaid from the premises in which he is residing.

S48(1) Public Health (Control of Disease) Act 1984 – Certificate to enable a JP to order removal of a dead body and burial

The Health Protection (Notification) Regulations 2010 Rs2/3/6–

- to receive notifications of diseases etc in patients and dead persons from Registered Medical Practitioner
- to notify the HPA etc..

S8 Health Protection (Local Authority Powers) Regulations 2010 - Requests for co-operation for health protection purposes

Reg 5 Public Health (Aircraft) Regulations 1979 including all subsequent reference to Medical Officers.

ES (39)

Appoint, authorise and terminate appointments of–

Divisional Environmental Health Officers to act as 'proper officers' for and on behalf of the authority in matters arising under:

Ss83/84/85 Public Health Act 1936 – filthy and verminous premises etc.

S47 National Assistance Act 1948 - Certificate that in the interests of any person suffering from grave chronic disease or, being aged, infirm or physically incapacitated, are living in insanitary conditions, and

- are unable to devote to themselves, and are not receiving from other persons, proper care and attention.
- or for preventing injury to the health of, or serious nuisance to, other persons
- it is necessary to remove any such person as aforesaid from the premises in which he is residing.

Ss59/61/S62 Public Health (Control of Disease) Act 1984

- Authentication of documents
- Powers of Entry - to ascertain contraventions and take persons and equipment with him

S37 Public Health Act 1961 - Disinfestation or destruction of verminous articles

The Health Protection (Local Authority Powers) Regulations 2010 - Service of Notices to

- Keep a child away from school
- Provide details of children attending school etc

The Health Protection (Part 2A Orders) Regulations 2010 - Make applications for Part 2A Orders.

### **3. REASONS FOR THE RECOMMENDATION**

- 3.1 Recommendation 2.1(a) - was agreed by Council in January 2010, however when the Constitution was updated in the Spring of 2010 this item was not included in the revised scheme. The Criminal Justice and Police Act 2001 provides powers to the Police and local authorities to close premises where unauthorised sales of alcohol take place, due to either there being no Premises Licence in place, or where conditions attached to a Premises Licence are not being complied with.
- 3.2 Recommendation 2.1(b) - the amended version provides greater clarity for the authorisation of officers to undertake their duties.
- 3.3 Recommendation 2.1(c) - the amended version provides clarity on the procedure because at present through the scheme of delegation there are many different approaches to the process for initiating legal proceedings in Court. This is the first step to providing greater clarity for initiating legal proceedings and it is the intention of officers that the other references to "initiate legal proceedings" will be removed in due course when the review of the Constitution, as set out in paragraph 7.1 is brought forward.
- 3.4 Recommendation 2.1 (d) - the additional delegation confirms the process that has been used by the Council since the introduction of the Community Forums.
- 3.5 Recommendation 2.1(e) - is made to correct wording in the current Constitution which is incomplete and the combination of the removal of one delegation and clarification for two others provides sufficient clarity for the delivery of services.

### **4. ALTERNATIVE OPTION CONSIDERED**

- 4.1 The amendments are all considered necessary to enable the Council to work more effectively and are based on advice from the Council's Legal Service, therefore no alternatives were considered.

### **5. BUDGETARY FRAMEWORK**

- 5.1 There are no budgetary implications for this report.

## 6. **POLICY FRAMEWORK**

- 6.1 The proposed amendments provide greater clarity and transparency in the officers scheme of delegation and therefore not only will provide a leaner approach to delegations but also a more open and transparent approach.

## 7. **BACKGROUND**

- 7.1 A review of the Constitution is under way now that the management structure of the Council has been amended. This will include further revisions to the scheme of delegation and will also incorporate the new Executive arrangements. Any necessary amendments will be brought to the Council in due course however the amendments are contained in this report considered to be a priority.