



Democratic Renewal Working Party 24 November 2011

Amendments to the Constitution

1. Background

- 1.1 The Democratic Renewal Working Party has as part of its Terms of Reference, to 'recommend amendments to the Council's Constitution to full Council'.

2. Delegated Authority to the Head of Legal and Democratic Services

- 2.1 The delegated authority to the Head of Legal and Democratic Services is contained within Section E of the Scheme of Delegation to Officers in Part 3, Responsibility for Functions, of the Council's Constitution.

- 2.2 It is proposed to insert a new paragraph E3(a)(1)27 as follows:-

'To administer the procedures and exercise the Council's powers and responsibilities under the Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Information Regulations 2004.'

- 2.2.1 This change is needed to ensure that explicit delegation of these powers can be demonstrated.

- 2.3 It is proposed to amend paragraph E3(a)(1)2 as follows:-

*'To institute, prosecute, defend and appear in all actions, cases, matters and proceedings of whatsoever nature in any Court of Law and to act, as such, in all proceedings, in the Lands and other Tribunals, all manner of arbitrations and Ministerial Inquiries **and to compromise any legal proceedings which have been started.**'*

- 2.3.1 This provision is considered prudent because situations may arise when the most sensible course is to settle proceedings, but at present the explicit delegated authority to do so does not exist.

- 2.4 It is proposed to delete '**solicitors in the Resources Directorate**', so that the amended paragraph E3(a)(1)3 reads:-

*'To seek injunctive relief with respect to Pay Parties and to sub-delegate this power to **qualified lawyers in the Legal Services Section** in cases of urgency.'*

- 2.4.1 This change is required to reflect the fact that the Resources Directorate no longer exists.

3. Delegated Authority to the Head of Environmental Health and Housing

- 3.1 The delegated authority to the Head of Environmental Health and Housing is contained within Section F of the Scheme of Delegation to Officers in Part 3, Responsibility for Functions, of the Council's Constitution.
- 3.2 It should be noted that paragraphs 45 and 54 in Section F3(a) are duplicates and, therefore, paragraph 54 needs to be deleted and subsequent paragraphs renumbered.
- 3.3 It is proposed that the delegated authority to the Corporate Director for Community Services in respect of Housing, Health and Safety Rating System: Enforcement Policy (Section F1(1)) be transferred to the Head of Environmental Health and Housing as it is considered that it is more appropriate that the senior manager with the necessary technical expertise makes these decisions. Therefore, the contents of former Section F1(1) are transferred to F3(a) as follows:-

F3(a) 56

56. Housing Health and Safety Rating System: Enforcement Policy

- 56.1 In consultation with the Chief Finance Officer, to set the charges for the enforcement actions detailed below, except in the case of owner-occupiers in receipt of means tested benefits, based on the hourly rates for the work involved.
- 56.2 Reasonable charges for the cost of enforcement will be made in accordance with Section 49 of the Housing Act 2004 in respect of the following actions:-
- (i) serving an improvement notice under section 11 or 12 of the Act – (determining whether to serve the notice, identifying any action to be specified in the notice, and serving the notice);
 - (ii) making a prohibition order under section 20 or 21 of the Act – (determining whether to make the order, and serving copies of the order on persons as owners of premises);
 - (iii) serving a hazard awareness notice under section 28 or 29 – (determining whether to serve to notice, identifying any action to be specified in the notice, and serving the notice);
 - (iv) taking emergency remedial action under section 40 – (determining whether to take such action, and serving the notice required by section (7) of that section);
 - (v) making an emergency prohibition order under section 43 – (determining whether to make the order, and serving copies of the order on persons as owners of premises); and
 - (vi) Making a demolition order under section 265 of the Housing Act 1985 – (determining whether to make the order, and serving copies of the order on persons as owners of premises).

4. Recommendation

- 4.1 The Working Party is asked to approve the amendments to the Constitution detailed in Report C243.

For further information please contact:-

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