

To the Chair and Members of the  
**ELECTIONS AND DEMOCRATIC STRUCTURES COMMITTEE**

**REVISIONS TO THE COUNCIL'S CONSTITUTION**

<b>Wards Affected</b>	<b>Relevant Overview and Scrutiny Sub-Committee (if appropriate)</b>
N/A	N/A

**Purpose**

1. To present to the Elections and Democratic Structures Committee minor revisions made to the Council's Constitution which have arisen due to the need to update specific information arising from recent legislation set out in Functions and Responsibilities Orders. These are presented for information purposes in accordance with the Council's delegated authority given to the Managing Director/Monitoring Officer (Minute No. 68 – 7th November, 2005) to carry out such revisions to the Constitution.

**Recommendation**

2. To note the revisions made by the Managing Director/Monitoring Officer under delegated authority as described in paragraph 8 of the report, which will similarly be reported to the next meeting of the Standards Committee and Full Council on 25th February, 2008 for information.

**Background**

3. On 24th April, 2002, the Council adopted a Constitution further to Section 37 of the Local Government Act 2000, to operate Executive arrangements being an Elected Mayor and Cabinet from the 6th May, 2002.
4. The Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of the processes are required by law, whilst others are chosen by the Council. The Constitution was drawn up based on guidance and model procedures produced by the Government.
5. At its meeting held on 7th November, 2005, Council gave delegated authority to the Managing Director and the Monitoring Officer to authorise amendments to any of the documents comprised in the Constitution:-
  - (a) In order to correct any minor or textual error where the amendment does not depart from the meaning or intended meaning of the document or this report;
  - (b) As necessary to give effect to the document to be amended or to give effect to another part of the Constitution;

- (c) As required by law or to give effect to decisions of the Council, or the Executive from time to time;
  - (d) Any amendments made further to this delegated Authority to be reported to Full Council as soon as reasonably practicable.
6. Since this Committee last considered revisions to the Constitution in July 2007, there have been a number of amendment regulations issued in the area of Functions and Responsibilities resulting in a requirement for Part 3 (Responsibility for functions) of the Constitution to be amended. These amendments arise from new legislative requirements and reflect a tidying up exercise by the Government. They relate to matters which the Authority already does and has arrangements in place to do so.
7. This report sets out the specific sections within Part 3 (Responsibility for Functions) of the Constitution where changes have been made, which have been brought to Members' attention to accord with the authority given to the Managing Director/Monitoring Officer as described in paragraph 5 (c) above.

### Revisions to the Constitution

#### Part III - Responsibility for Functions

8. Functions and Responsibilities Regulations determine which Local Authority functions are Council or Executive Functions and which are subject to local choice. Arising from the requirement to update specific information, the following functions set out in the Constitution have been amended and the revised wording is described in column 3 of the table below:-

Item No./ Page No	(1) Function	(2) Current Provision	(3) Revision made arising from the new Functions Order
24 Pg. 47	<u>A. Functions Relating to Town and Country Planning and Development Control</u>  Power to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 (c.9).	Omit "27(2)"  For the "Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 (c.9)", substitute "the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)".

<b>Item No./ Page No</b>	<b>(1) Function</b>	<b>(2) Current Provision</b>	<b>(3) Revision made arising from the new Functions Order</b>
25 Pg. 47	Power to determine applications for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990, as applied by section 74(3) of that Act.	For the “Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990”, substitute “the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)”.
26 Pg. 47	Duties relating to applications for listed building consent and conservation area consent.	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990 and paragraphs 8, 15 and 22 of Department of the Environment Circular 14/97.	<p>For the “Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990”, substitute “the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)”.</p> <p>For “the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990” substitute “the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (S.I. 1990/1519)”.</p> <p>For “paragraphs 8,15 and 22 of Department of the Environment Circular 14/97”, substitute “paragraphs 8, 15 and 26 of Department of the Environment, Transport and the Regions Circular 01/01”.</p>
27 Pg. 47	Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings in Conservation Areas Act 1990.	For the “Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990”, substitute “the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)”.

Item No./ Page No	(1) Function	(2) Current Provision	(3) Revision made arising from the new Functions Order
28 Pg. 47	Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.	Section 38 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.	In the entry in column 1, for “unlisted” substitute “listed”.  For the “Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990”, substitute “the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)”.
29 Pg. 47	Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.	For the “Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990”, substitute “the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)”.
30 Pg. 47	Power to apply for an injunction in relation to a listed building.	Sections 44A of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.	For the “Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990”, substitute “the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)”.
31 Pg. 47	Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.	For the “Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990”, substitute “the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9)”.
14AA Pg. 49	<p><u>B. Licensing and Registration Functions (in so far as not covered by any other paragraph of this Schedule)</u></p> <p>Duty to comply with requirement to provide information to Gambling Commission.</p>	Section 29 of the Gambling Act Order.	For “Gambling Act Order” substitute “2005 Act”.

Item No./ Page No	(1) Function	(2) Current Provision	(3) Revision made arising from the new Functions Order
7 Pg. 56	<u>D. Functions Relating to Elections</u>  Duty to provide assistance at European Parliamentary elections.	Paragraph 4(3) and (4) of Schedule 1 to the European Parliamentary Elections Act 1978 (c. 10).	For "Paragraph 4(3) and (4) of Schedule 1 to the European Parliamentary Elections Act 1978 (c. 10)", substitute "Section 6(7) and (8) of the European Parliamentary Elections Act 2002 (c.24)."
8 Pg. 56	Duty to divide constituency into polling districts.	Section 18 of the Representation of the People Act 1983.	For "Section 18" substitute "Sections 18A to 18E of, and Schedule A1 to,"
16 Pg. 57	Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.	Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (S.I. 1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S.I. 1986/2215).	To be deleted.  (Item 16, which relates to the determination of fees for the copying of election documents, is omitted because the function is no longer exercisable by local authorities.)
1. Pg. 58  1. Pg. 58	<u>FA. Functions Relating to Smoke-Free Premises, etc</u>  Power to enforce offences relating to the display of no-smoking signs.  <b>Duty to enforce Chapter 1 and regulations made under it.</b>	Section 6(5) of the Health Act 2006.  <b>Section 10(3) of the 2006 Act.</b>	To be deleted and replaced by text in bold underneath.
2. Pg. 58  2. Pg. 58	Power to enforce offences relating to smoking in smoke-free places.  <b>Power to authorise officers.</b>	Section 7(4) of the Health Act 2006.  <b>Section 10(5) of, and paragraph 1 of Schedule 2 to, the 2006 Act.</b>	To be deleted and replaced by text in bold underneath.

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3. Pg. 58	Power to enforce offence of failing to prevent smoking in smoke-free places.	Section 8(4) of the Health Act 2006.	To be deleted and replaced by text in bold underneath.
3. Pg. 58	<b>Functions relating to fixed penalty notices.</b>	<b>Paragraphs 13, 15 and 16 of Schedule 1 to the 2006 Act.</b>  <b>Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007 (S.I. 2006/760).</b>	

9. Where necessary, the textual revisions to functions listed in paragraph 8 above have also been reflected accordingly in the Scheme of Delegations for Full Council Functions in Section VII of Part III. There are no revisions to the specific delegations themselves.

### **Options Considered**

10. There are no other options considered appropriate. The amendments outlined in the report arise from the need to update specific information, which the Local Authority should incorporate within its Constitution.

### **Consultation**

11. The views of the Monitoring Officer and Corporate Director of Legal Services have been sought on the issues raised in this report.

### **Risks and Assumptions**

12. The amendments set out in this report have been made in accordance with changes laid down in recent Functions and Responsibility Orders. The revisions do not carry any particular risk to the Authority. Failure to amend the Constitution to reflect the Functions and Responsibilities the Authority is entitled/required to undertake would risk confusion over roles and responsibilities.

### **Legal Implications**

13. The amendments to the Constitution contained in the report are consistent with the provisions of the Local Government Act 2000 and Regulations made thereunder.

### **Financial Implications**

14. There are no specific financial implications associated with this report.

## Conclusions

15. This report outlines the revisions made to the Constitution by the Managing Director/Monitoring Officer under delegated authority. Replacement inserts for Members' personal copies of the Constitution will be circulated shortly.

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**and Monitoring Officer**

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### Background Papers

The Council's Constitution  
Reports to Full Council 7th November, 2005 and  
23rd July, 2007.