

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

**REVISIONS TO THE COUNCIL'S CONSTITUTION (PART 3, RESPONSIBILITY
FOR FUNCTIONS) ARISING FROM A FUNCTIONS & RESPONSIBILITIES
ORDER**

EXECUTIVE SUMMARY

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 a recent Functions and Responsibilities Order. 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. In addition, the report seeks agreement to recommend to Full Council proposed delegations to committees and/or to officers relating to new functions in respect of the registration of common land and town or village greens, the designation of localities as alcohol disorder zones and other miscellaneous functions relating to the Commons Act 2006.

RECOMMENDATIONS

2. That, subject to the views of the Standards Committee, this Committee recommends the Full Council to:-
 - (i) Note the revisions made by the Managing Director/Monitoring Officer under delegated authority as described in paragraph 8 of the report;
 - (ii) Agree the delegations to officers listed in paragraph 9 relating to the additional functions in respect of the registration of common land and town or village greens, the designation of localities as alcohol disorder zones and other miscellaneous functions relating to the Commons Act 2006, the details of which are given in paragraph 8 of the report.

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 2008, further amendment regulations have been 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 publication of Statutory Instrument Nos. 2008/1430 and 2008/2787, the following items have been added/omitted to or from the list of functions which are the responsibility of the Full Council under regulations and background information on each addition/omission is provided in column 3 of the table below:-

Item No./ Page No	(1) Function	(2) Provision of Act or Statutory Instrument	(3) Revision made arising from the new Functions Order
72 Pg. 55	<u>B. Licensing and registration functions</u> Functions relating to the registration of common land and	Part 1 of the Commons Act 2006 (c.26) and the Commons Registration	Item 72 is a new addition which specifies functions under Part 1 of the

Item No./ Page No	(1) Function	(2) Provision of Act or Statutory Instrument	(3) Revision made arising from the new Functions Order
	town or village greens.	(England) Regulations 2008 (S.I. 2008/1961).	Commons Act 2006 and under the Commons Registration (England) Regulations 2008. This has been inserted where appropriate into Section I – Functions which are the responsibility of the Full Council under Regulations.
<p>1 Pg. 58</p> <p>2 Pg. 58</p> <p>3 Pg. 58</p> <p>4 Pg. 58</p> <p>5 Pg. 58</p> <p>6 Pg. 58</p> <p>7 Pg. 58</p>	<p><u>EA. Functions relating to changing governance arrangements</u></p> <p>Duty to draw up proposals.</p> <p>Duty to consult prior to drawing up proposals.</p> <p>Duty to implement new governance arrangements.</p> <p>Duty to comply with direction given by the Secretary of State.</p> <p>Duty to hold referendum.</p> <p>Duty to publish notice if proposals not approved in referendum.</p> <p>Duty to obtain written consent of elected mayor.</p>	<p>Section 33E(2) of the Local Government Act 2000.</p> <p>Section 33E(6) of the Local Government Act 2000.</p> <p>Sections 33G and 33H of the Local Government Act 2000.</p> <p>Section 33I of the Local Government Act 2000.</p> <p>Section 33K(2) of the Local Government Act 2000.</p> <p>Section 33K(6) of the Local Government Act 2000.</p> <p>Section 33N of the Local Government Act 2000.</p>	<p>Paragraph EA deleted.</p> <p>This section, comprising 7 functions relating to changing governance arrangements under Part 2 of the Local Government Act 2000, was inserted by a previous Statutory Instrument (S.I.) into those functions which are the responsibility of the Full Council under Regulations. However, the Government has now acknowledged that as Section 48(6) of the 2000 Act already provides for functions relating to changing governance arrangements under Part 2 of that Act to not be the responsibility of the Executive, the changes made by the previous S.I. were unnecessary. Therefore, paragraph EA has been omitted in accordance with S.I. 2787.</p>
50 Pg. 64	<p><u>I. Miscellaneous Functions – Part 2: Other Miscellaneous Functions</u></p> <p>Power to make or revoke an order</p>	Section 16 of the Violent Crime Reduction Act	Item 50 relates to new powers implemented by

Item No./ Page No	(1) Function	(2) Provision of Act or Statutory Instrument	(3) Revision made arising from the new Functions Order
	designating a locality as an alcohol disorder zone.	2006.	the Local Authorities (Alcohol Disorder Zones) Regulations 2008 which allow local authorities to designate localities as alcohol disorder zones, as conferred by the Violent Crime Reduction Act 2006.
51 Pg. 64	<u>I. Miscellaneous Functions – Part 2: Other Miscellaneous Functions (continued)</u> Power to apply for an enforcement order against unlawful works on common land.	Section 41 of the Commons Act 2006.	Item Nos 51 – 53 are new additions specifying functions under Sections 41 and 45 of the Commons Act 2006. These have been inserted where appropriate into Section I – Functions which are the responsibility of the Full Council under Regulations.
52 Pg. 64	Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.	Section 45(2)(a) of the Commons Act 2006.	
53 Pg. 64	Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens.	Section 45(2)(b) of the Commons Act 2006.	

9. The additional functions listed in paragraph 8 above have also been incorporated into the Scheme of Delegations for Full Council Functions in Section VII of Part III and it is proposed that these Full Council functions be delegated to the appropriate Committee and/or to officers (if appropriate) on the following basis:-

Committee	Function	Proposed Delegation of function to:-
<u>Licensing Committee</u>	<u>Licensing and registration functions (in so far as not covered elsewhere)</u> 72. Functions relating to the registration of common land and town or village greens.	Managing Director, Director of Neighbourhoods and Communities and Assistant Director Safer, Stronger,

Committee	Function	Proposed Delegation of function to:-
		Sustainable Communities.
<u>Licensing Committee</u>	<p><u>Miscellaneous functions</u></p> <p>47. Power to apply for an enforcement order against unlawful works on common land.</p> <p>48. Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.</p> <p>49. Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens.</p>	<p>Managing Director, Director of Neighbourhoods and Communities and Assistant Director Safer, Stronger, Sustainable Communities.</p> <p>Managing Director, Director of Neighbourhoods and Communities and Assistant Director Safer, Stronger, Sustainable Communities.</p> <p>Managing Director, Director of Neighbourhoods and Communities and Assistant Director Safer, Stronger, Sustainable Communities.</p>
<u>Council</u>	63. Power to make or revoke an order designating a locality as an alcohol disorder zone.	No Delegation

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 Acting Director of Legal & Democratic 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 a recent Functions and Responsibility Order. 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, the Commons Act 2006 and the Violent Crime Reduction Act 2006 and Regulations made thereunder.

FINANCIAL IMPLICATIONS

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

BACKGROUND PAPERS

The Council's Constitution
Reports to Full Council 7th November, 2005 and Elections and Democratic Structures Committee 8th July, 2008.
Statutory Instruments 2008 Nos. 1430, 1961 & 2787

REPORT AUTHOR

Jonathan Goodrum, Democratic Services Officer
E-mail: johnathan.goodrum@doncaster.gov.uk
Direct Dial: 01302 736709

Paul Evans
Interim Director of Resources