

For publication

Delegation Scheme and Constitution – various updates

Meeting:	STANDARDS AND AUDIT COMMITTEE
Date:	14 TH FEBRUARY 2024
Cabinet portfolio:	GOVERNANCE
Directorate:	CORPORATE

1.0 Purpose of report

1.1 To seek approval of updates to the Constitution to add delegations relating to a new:

- officer delegation to determine police objections to Temporary Event Notices where the objections are aimed at ensuring consistency with existing licence conditions
- Cabinet member delegation to receive reports and recommendations from a housing advisory body (to be established by the Council)
- officer delegation to authorise spending through the health and wellbeing partnership and community grants fund.

2.0 Recommendations

2.1 That members confirm the changes to Constitution, and agree the delegations, proposed at Appendix 1.

3.0 Reasons for Recommendation

3.1 To ensure effective and efficient operation of the Council.

4.0 Report Details

4.1 The Constitution is a key document, required by law, which sets out the principal powers, duties and procedures of the Council. It also sets out in Part 3 to whom decision making over the Council's various functions is delegated.

4.2 The current form of Constitution has been in place since the early 2000s, using a government model. Most council constitutions follow a similar format, though some are now moving away from it. The constitution is publicly available on the Council's website at

<https://www.chesterfield.gov.uk/your-council/the-council/the-constitution.aspx>

4.3 The Constitution needs to be changed and updated from time to time to ensure it reflects current legislation, practices, functions, structures and efficient working of the authority.

4.4 Full Council considers the main changes and other changes are delegated to Standards and Audit Committee. Any consequential amendments and general updates are the responsibility of the Monitoring Officer.

Police TEN objections

- 4.5 Currently all police TEN objections are determined by Licensing Committee. On occasion the police object to a Temporary Event Notice submitted in relation to licenced premises – the application would be to expand the licensed activity in relation to a specific event at the premises.
- 4.6 The police would be objecting to ensure that the same or similar relevant conditions are attached to the approval of the TEN as are attached to the premises licence. As these are administrative objections rather than substantive objections it is considered that an officer delegation is appropriate.
- 4.7 Objections to TEN applications have to be determined within the 10 clear days notice period (5 clear days in the case of statutory 'late TENS'). This would create problems if a meeting of the Licensing Committee needed to be convened to consider such an objection. Officers have discussed this proposal with the Chair of Licensing Committee and they are in agreement to such an officer delegation, as without it additional decisions of the Committee would be necessary.

Housing advisory body reports and recommendations

- 4.7 As a result of new powers to be introduced in April 2024, the Regulator of Social Housing (the Regulator) will have new powers to regulate consumer standards in local authority and other social housing.
- 4.8 Local authorities are being encouraged to prepare for this change which is to ensure landlords are managed effectively and meeting regulatory requirements. Councillors and senior leaders must have clear sight of performance and effectively tackle under-performance, taking into account tenants' views. The Regulator will carry out inspections of social landlords. This new regime is emerging with specific local authority guidance anticipated in the near future.
- 4.9 In addition, the Housing Ombudsman's new complaint handling code takes effect in April 2024. This requires oversight at director and elected member level, with a nominated councillor taking the lead.
- 4.10 Some other local authorities are already on the path to putting in place appropriate arrangements. A governance model is being developed for adoption by the council, and it is anticipated that a new (non-decision-making) council advisory body will need to be established in the spring with councillor, officer and tenant's representatives to consider performance and oversight.
- 4.11 It is currently considered that the body's reports and recommendations should be considered by the executive via the Cabinet Member for Housing and a new delegation is necessary in anticipation of this.
- 4.12 As the final shape of the governance arrangements is not yet known, authority is also sought for the Head of Regulatory Law and Monitoring Officer to make any necessary changes to the new delegation to ensure effective operation and compliance with the Regulator's requirements.

Health and wellbeing partnership and community grants

- 4.13 Various funds are available to the Council to distribute to community groups within the borough via the health and wellbeing partnership or through community grants schemes.

The partnership is not a formal council committee, but has councillor and officer representation, led by the Service Director - Leisure, Culture and Community Wellbeing.

- 4.14 These are usually low value award amounts for community projects and activities, but to a maximum of £50,000. On occasion they can be higher, potentially up to £100,000. At present there is no explicit delegation in place to permit such grant awards or spend. It is proposed that there is a delegation to the Service Director to approve these grants, after consultation with the Cabinet Member for Health and Wellbeing in the case of grants over £50,000.

Statements of Truth

- 4.15 Certain legal proceeding require a signed document called a ‘statement of truth.’ This is a statement, to be included in any statement of case, witness statement, expert’s report and certain other documents, that confirms that the facts stated in the document are true.
- 4.16 The Constitution, at Article 14.3.2 of Part 2, already contains a confirmation that the Chief Executive, each Executive Director, the Chief Finance Officer and each Service Manager (or any other officer authorised by any of them) is authorised to prepare and sign statements of truth in connection with any legal proceedings.
- 4.17 Under the court Civil Procedure Rules (CPRs) there is a requirement that such signatories should hold a senior position in the authority or be authorised by any of them. The above categories would seem to comply with this, though could usefully also include Service Director. In addition the CPRs permit a legal representative (solicitor, barrister, or authorised litigator) to sign statements of truth. The paragraph of the Constitution should be clarified to reflect this.

Document information

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<p>Background documents</p> <p>The Council’s Constitution – on Council website https://www.chesterfield.gov.uk/your-council/the-council/the-constitution.aspx</p>	
<p><i>This must be made available to the public for up to 4 years.</i></p>	
<p>Appendices to the report</p>	
Appendix 1	Proposed changes to Constitution

Appendix 1

Constitution changes requiring approval by Standards and Audit Committee

Council Constitution:

<https://www.chesterfield.gov.uk/your-council/the-council/the-constitution.aspx>

Where appropriate changes are shown in red below.

1 Part 3 – Delegation Scheme – Determination of Police TEN objections

Current delegation:

Licensing Committee

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Permitted Temporary Activities

LC310 To determine police objections to a temporary event notice.

OFFICER DELEGATIONS: to the Service Director - Leisure, Culture and Community Wellbeing:

LC320D To issue counter-notices where he considers that the permitted limits have been exceeded.

LC330D To acknowledge receipt of temporary event notices.

The following changes to LC310 are proposed with addition of a new delegation LC335D (see highlighting):

Permitted Temporary Activities

LC310 Subject to LC335D, to determine police objections to a temporary event notice.

OFFICER DELEGATIONS: to the Service Director – Leisure, Culture and Community Wellbeing:

LC320D To issue counter-notices where he considers that the permitted limits have been exceeded.

LC330D To acknowledge receipt of temporary event notices.

LC335D To determine a police objection to a temporary event notice for premises licensed under the 2003 Act where the objection seeks consistency with existing premise licence conditions for the same premises

2 Part 3 – Delegation Scheme – Cabinet Member for Housing

[name of housing advisory body yet to be decided]

HO### To receive reports and recommendations of [name of housing advisory body] and to determine the most appropriate response with a view to maintaining and improving housing performance and response to housing complaints.

2A That the Head of Regulatory Law and Monitoring Officer be authorised to amend this delegation as necessary to accord with governance measures put in place by the Council to comply with requirements and guidance from Regulator of Social Housing.

3 Part 3 – Delegation Scheme – health and wellbeing partnership / community grants

New proposed delegation:

health and wellbeing partnership / community grants

OFFICER DELEGATIONS: to the Service Director – Leisure, Culture and Community Wellbeing:

HW#####D To decide the award of community grants or award of grants to community groups arising from their consideration by the Health and Wellbeing Partnership up to a value of £50,000 and for grants between £50,000 and £100,000 after consultation with the Cabinet Member for Health and Wellbeing.

4 Part 2 – Article 14.3.2

Current wording:

14.3.2 Statements of Truth

The Chief Executive, each Executive Director, the Chief Finance Officer and each Service Manager (or any other officer authorised by any of them) is authorised to prepare and sign Statements of Truth in connection with any Legal Proceedings.

Proposed wording:

The Chief Executive, each Executive Director, the Chief Finance Officer, each Service Director, each Service Manager (or any other appropriate officer authorised by any of them) or any solicitor, barrister or a person under the Legal Services Act 2007 who is authorised to conduct litigation (or who is exempt under that Act) and employed by the Council is authorised to prepare and sign Statements of Truth in connection with any Legal Proceedings. For the avoidance of doubt such people are considered to be persons holding a senior position with the Council for the purposes of legal proceedings.