

For publication

Delegation Scheme and Constitution – Tenant ASB Reviews and Decisions

Meeting:	STANDARDS AND AUDIT COMMITTEE
Date:	17 TH APRIL 2024
Cabinet portfolio:	GOVERNANCE
Directorate:	CORPORATE

1.0 Purpose of report

- 1.1 To seek approval for an amendment to the Constitution to add a new delegation to Appeals and Regulatory Committee relating to the conduct reviews and to make decisions pursuant to the Absolute Ground for Possession for Anti-social Behaviour (Review Procedure) (England) Regulations 2014.

2.0 Recommendations

- 2.1 That members confirm the changes to Constitution, and agree the delegations, proposed at paragraph 4.9 of this report.

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.

ASB Reviews and Decisions

- 4.5 Currently under the Constitution the power to conduct reviews and to make decisions pursuant to the Absolute Ground for Possession for Anti-social Behaviour (Review Procedure) (England) Regulations 2014 is delegated to the Service Director – Housing.

4.6 Section 84A of the Anti-social Behaviour, Crime and Policing Act 2014 (the Act) introduced an absolute ground for possession to enable the eviction of the most anti-social tenants, in order to bring faster relief for victims. The absolute ground is intended for the most serious cases of anti-social behaviour and the ground is used selectively and only in circumstances prescribed by law, namely where the tenant has been:

- (1) Convicted of a serious offence
- (2) Found by a court to have breached a civil injunction
- (3) Convicted for breaching a criminal behaviour order (CBO)
- (4) Convicted for breaching a noise abatement notice
- (5) The tenant's property has been closed for more than 48 hours under a closure order for anti-social behaviour

4.7 Currently the power to carry out reviews and make decisions is delegated to the Service Director – Housing:

OFFICER DELEGATIONS: to the Service Director - Housing:

HO240D The power to conduct reviews and to make decisions pursuant to the Absolute Ground for Possession for Anti-social Behaviour (Review Procedure) (England) Regulations 2014

4.8 The Service Director – Housing considers that in some circumstances they should not deal with such reviews and decisions, particularly when her own senior managers are making recommendations to her based on previous involvement with the cases, and she might be considered to be conflicted.

4.9 In those circumstances it is considered that they should have the ability to refer the matter to Appeals and Regulatory Committee and the above delegation be amended as follows:

HO240D Unless they refer the matter to Appeals and Regulatory Committee for consideration the power to conduct reviews and to make decisions pursuant to the Absolute Ground for Possession for Anti-social Behaviour (Review Procedure) (England) Regulations 2014

And a new delegation to Appeals and Regulatory Committee:

A125 (when the Service Director – Housing refers a matter to the committee for consideration under HO240D) the power to conduct reviews and to make decisions pursuant to the Absolute Ground for Possession for Anti-social Behaviour (Review Procedure) (England) Regulations 2014

4.10 The Chair of Appeals and Regulatory Committee and Cabinet Member for Housing have been consulted on this proposed change and have no objections to it.

Document information

Report author	Contact number/email
Gerard Rogers Monitoring Officer	01246 936471 gerard.rogers@chesterfield.gov.uk

Background documents	
The Council's Constitution – on Council website https://www.chesterfield.gov.uk/your-council/the-council/the-constitution.aspx	
<i>This must be made available to the public for up to 4 years.</i>	
Appendices to the report	
none	

