

Meeting of the Full Council
Meeting to be held on Thursday, 27 February 2020

Report submitted by: Head of Legal and Democratic Services

Part A

Electoral Divisions affected:
None;

Updates to the Constitution

(Appendices 'A' - 'C' refer)

Contact for further information:

Josh Mynott, Tel: (01772) 534580, Democratic and Member Services Manager,
josh.mynott@lancashire.gov.uk

Executive Summary

A number of changes to the Constitution are presented for consideration, including:

- Updates to Articles 2, 3 and 8 to bring the wording in line with current practice
- Amendments to the Terms of Reference of the Regulatory Committee
- A change to the designated Statutory Scrutiny Officer

Recommendation

That Full Council be asked to approve:

- (i) The amendments to the constitution as set out in the report.
- (ii) The Director of Corporate Services be authorised to approve consequential amendments to the constitution arising from these changes.

Background and Advice

The constitution is regularly reviewed by officers to ensure it is in line with current statute and guidance and best governance practice, and supportive of the aims and objectives of the county council.

A number of amendments are proposed, in line with these requirements.

1. Article 2 (The Full Council)

Article 2 lists a number of key policy and strategy documents which must be approved by the Full Council. Some of the documents are required by statute to be approved by Full Council, whilst others are discretionary, and may be approved by

Cabinet or a committee. A review of these has taken place and strategies which are no longer produced or required by law have been removed. Some other minor changes have also been made to correct cross referencing to other parts of the constitution which have changed since this Article was last reviewed. The revised Article is at Appendix 'A'.

2. Article 3 (The Role of the Chair)

This Article has been updated to cross references to the Chairman's role as set out in the Standing Orders, and to stress the Chairman's role as the guardian of good governance and in upholding democracy and the role of elected members. The revised Article is at Appendix 'B'.

3. Article 8 (Citizen's Rights)

A number of hyperlinks have been included to make it easy for a member of the public to find the information referred to in this Article. Cross references have been updated, and additional advice about expectations of public behaviour towards councillors and officers has been included. The revised Article is at Appendix 'C'.

4. Amendments to the Terms of Reference of the Regulatory Committee

It is proposed to amend the Terms of Reference of the Regulatory Committee to delegate the power to refuse to make public path diversion or extinguishment orders under Sections 119 and 118 of the Highways Act 1980 to the Head of Service for Planning and Environment in certain specific circumstances, in essence where a request fails to meet the statutory and policy requirements for public path orders, and therefore would be unable to be recommended for approval by Committee.

As is currently the case, only Committee would be able to decide to make an Order. Any duly made application which does not fall into the categories below would be decided by Committee following a report by officers. The change removes unnecessary bureaucracy, without impacting on the Committee's powers to exercise its responsibilities and provides clarity for applicants.

An officer would only be able to refuse to make an order:

- Where a new route for a diversion under S119 would be, for a significant distance, less than Lancashire County Council's standard minimum width of 2m for footpath, 3m for bridleway or restricted byway;
- Where a new route for a diversion under S119 would be subject to the right to have unnecessary structures or unnecessarily restrictive structures;
- Where a new route for a diversion under S119 would be substantially less convenient in terms of alignment or gradient;
- Where a new route for a diversion under S119 would result in the enjoyment of the path as a whole being significantly reduced because a feature visible from the old route would no longer be visible;
- Where a footpath, bridleway or restricted byway proposed to be extinguished under S118 is currently used to more than a trivial extent and no new public route is proposed as an alternative;

- Where a footpath, bridleway or restricted byway proposed to be extinguished under S118 has only recently become available to the public and no new public route is proposed as an alternative;
- Where a footpath, bridleway or restricted byway proposed to be extinguished under S118 is unavailable to the public or there has been significant deterrent to public use and no new public route is proposed as an alternative.

The changes were approved by the Regulatory Committee on 29 January 2019.

5. Change to the designated Statutory Scrutiny Officer

The council is required by law to identify a Statutory Scrutiny Officer to promote and uphold good practice in Overview and Scrutiny across the authority. Currently, the position is held by Paul Bond, as Head of Legal and Democratic Services. However, that officer is also the Deputy Monitoring Officer, and there may be circumstances in which there could be a perceived conflict of interests between the two posts. It is therefore proposed that the role of Statutory Scrutiny Officer be given to the Democratic and Member Services Manager, Josh Mynott.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

The council is required by the Local Government Act 2000 to prepare and keep up to date a Constitution, which includes Standing Orders, a Code of Conduct and other key documents relating to its functions and governance.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Tel
-------	------	-------------

None

Reason for inclusion in Part II, if appropriate

N/A