



**Standards and Constitutional Oversight Committee**  
**Tuesday, 27 February 2018**

<b>REPORT TITLE:</b>	<b>Constitutional Updates</b>
<b>REPORT OF:</b>	<b>Assistant Director: Law &amp; Governance (Monitoring Officer)</b>

**REPORT SUMMARY**

This report presents details of required amendments to Part 3 of the Council's Constitution relating to the delegation of functions.

**RECOMMENDATION/S**

The Committee is asked to note amendments required to Part 3 of the Council Constitution.

## SUPPORTING INFORMATION

### 1.0 REASON/S FOR RECOMMENDATION/S

Keeping the Constitution under review is a role of the Standards and Constitutional Oversight Committee and it is therefore appropriate to report to the Committee on required amendments to the Constitution.

### 2.0 OTHER OPTIONS CONSIDERED

None, amendment to the Constitution being a Council function.

### 3.0 BACKGROUND INFORMATION

The following Constitutional amendments are submitted for Members' attention.

#### **Delegations - Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002**

At a meeting held on 30<sup>th</sup> November 2017 (Minute 33 refers), on consideration of a submitted report, the Environment Overview and Scrutiny Committee resolved that –

- (1) *the Council adopts Part 6(3) of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002;***
- (2) *Schedule 4A Part 2 of the Council Constitution be amended in order to insert the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002; and***
- (3) *an in house policy be implemented for drivers to switch off engines when parked, which should include drivers of Council vehicles and employees using their own vehicles for work purposes.***

It is an offence under s98 of the Road Traffic Vehicles (Construction and Use) Regulations 1986 to leave a vehicle engine idling unnecessarily while stationary. Part 6 of the 2002 Regulations makes available powers to authorised Council Officers and other person(s) to issue Fixed Penalty Notices to drivers who allow their vehicle engines to run unnecessarily while the vehicle is stationary and who refuse to switch off the engine, thereby reducing polluting emissions from the stationary vehicle, when so requested by the authorised officer.

The Committee is asked to note that agreement of this proposal by the Council at the meeting to be held on 19 March 2018 will require and have the effect of inserting the abovementioned legislation into a delegation at Part 3 'Responsibility for Functions' Schedule 4A Part 2 of the Council Constitution enabling Officers, including the Assistant Director of Environmental Services, to authorise Officers to issue Fixed Penalty Notices to drivers of idling vehicles.

#### **Delegations - Scrap Metal Dealers Act 2013**

In the event of a local authority being minded not to issue, vary or renew, or to revoke, a licence under the 2013 Act, Schedule 1 s7 to the Act provides that the local authority must give the applicant opportunity of appearing before, and being

heard by, a person appointed by the authority to determine the matter. A right of appeal against the decision of the local authority then exists to the Magistrates Court. A delegation to the Cabinet Member for Environment (then the Cabinet Member for Environment and Sustainability) supported by Officers was agreed by Cabinet at a meeting held on 10 October 2013, but was not incorporated into the Constitution at that time.

In the four years or so since the enactment, the first requirement for an oral hearing has now arisen and this oversight has been noted. For the avoidance of doubt and in case the authority's arrangements are challenged, the Committee is asked to note the inclusion of the delegation to be made to Part 3 'Responsibility for Functions' Schedule 5 'Delegation of Functions to Individual Cabinet Members' of the Council Constitution

#### **4.0 FINANCIAL IMPLICATIONS**

There are no financial implications associated with this report as it deals with procedural matters only.

#### **5.0 LEGAL IMPLICATIONS**

There are no further legal issues associated with this report beyond those highlighted within the report.

#### **6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

There are no resource implications associated with this report as it deals with procedural matters only.

#### **7.0 RELEVANT RISKS**

Delegation to Members and Officers needs to be properly recorded and maintained in the Council Constitution to mitigate against potential challenge.

#### **8.0 ENGAGEMENT/CONSULTATION**

No engagement or consultation has been undertaken on this report as it deals with procedural matters only.

#### **9.0 EQUALITY IMPLICATIONS**

There are no direct equality implications associated with this report as it deals with procedural matters only.

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There are no background papers to this report.