



Committee and Date

Council
15 July 2021

Item

Public

Changes to the Constitution

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1. Summary

- 1.1 At its meeting held on 20 May 2021, Council resolved to approve the Responsibility for Functions, set out in Part 3 of the Constitution and the Scheme of Delegations, set out in Part 8 of the Constitution. It was not possible at that meeting to address a number of outstanding issues and so this report seeks approval for the amendments of both Parts 3 and 8 as set out below.
- 1.2 The role and effectiveness of Local Joint Committees has diminished over time and approval is sought to remove reference to them from the Constitution.
- 1.3 The Council is required by the Counter-Terrorism and Security Act 2015 to set up a local panel (known as the Channel Panel) whose purpose is to identify and prepare a support plan for individuals considered to be vulnerable to being drawn into terrorism. Reference is required to be made to the Panel within the Constitution
- 1.4 A recent cross border application for planning permission highlighted the desirability for relevant Planning Committees to be authorised to accept delegated authority from the neighbouring Local Authority to determine applications which impact on both Authorities.
- 1.5 The Council is required to participate in the Joint Health Overview and Scrutiny Committee with Telford and Wrekin Council. There is currently no mechanism in the Constitution to provide for the manner in which members are appointed to that Joint Committee.

2. Recommendations

- A) That authority be delegated to the Interim Assistant Director (Legal and Democratic Services) to remove all references to Local Joint Committees from the Council's Constitution.
- B) That the Scheme of Delegation set out in Appendix 1 to this report is adopted and published, replacing the current Scheme of Delegation set out in Part 8 of the Constitution.

- C) That the “Channel Panel” be included in Part 3 of the Constitution (Responsibility for Functions) as a Statutory Panel made up of representatives of Shropshire Council and the Chief Officer of Police plus others as specified by the Counter-Terrorism and Security Act 2015 with the function of
- i. assessing the extent to which individuals (as identified on reasonable grounds by the chief constable or the local authority) are vulnerable to being drawn into terrorism; and
 - ii. amongst other things, preparing a plan in respect of identified individuals who the panel considers should be offered support for the purpose of reducing their vulnerability to being drawn into terrorism.
- D) That paragraph 11.4(c) of Article 11 of the Constitution be amended and an additional paragraph (d) be inserted to read as follows:
- “(c) Subject to (d) below, the decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.
 - (d) the decision whether or not to accept a delegation from another local authority in respect of cross border planning applications shall be made by the relevant Planning Committee.”
- E) That the “Joint Health Overview and Scrutiny Committee” be included in Part 3 of the Constitution (Responsibility for Functions) as a Statutory Body. It is recommended that the six Shropshire Council representatives (three Councillors (politically balanced) and three co-opted members who are independent of the council) are appointed by the Health and Adult Social Care Overview and Scrutiny Committee (Councillors being selected from the membership of the Health and Adult Social Care Overview and Scrutiny Committee) in order to scrutinise health issues that impact on the wider health economy in Shropshire, Telford & Wrekin.

REPORT

3. Local Joint Committees

- 3.1 Local Joint Committees were introduced at the beginning of Shropshire Council in 2009 in order to encourage local decision making. As financial pressures have mounted the range of options for such local decision making became limited and in addition the capacity of officers to provide support for the Local Joint Committees has reduced.
- 3.2 In recent years very few Local Joint Committees have been held and where they have, their capacity to contribute to effective decision making has diminished. It is proposed to remove references to the Local Joint Committees from the Constitution.

4 Scheme of Delegation

- 4.1 Changes to the Executive Management Team have resulted in the titles of senior officers being changed and services have moved from one directorate to another. It is therefore considered appropriate to review and update the range of delegations to officers. Following the elections and the establishment of the new administration

of the Council, proposals for the amended scheme of delegations can be brought forward.

4.2 The rationale for any changes other than those which are made as a result of restructure and changes in legislation are listed below:

- i) The Council will consider the appointment of the Chief Executive as Returning Officer and Electoral Registration Officer at this meeting.
- ii) The delegations to the Executive Director of Resources (Section 151 officer) have been re-organised but there have been no significant changes to the previous arrangements. The delegations follow the CIPFA guidelines
- iii) It is anticipated that the Assistant Director of Legal and Democratic Services will be designated (when the post is appointed to permanently) as the Monitoring Officer upon the retirement of the current Director of Legal and Democratic Services later this year.
- iv) With respect to the specific licensing functions, the Tables have been rearranged and are now numbered from 1 to 16. This takes into account the creation of a new Table 1 that deals with the effect of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 ('the 2018 Regulations'), which has removed the need for separate delegations that were previously required for the licensing of performing animals, pet shops, animal boarding, animal breeding and riding establishments; these are all now controlled by the 2018 Regulations.
- v) The impact of The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 is reflected in the delegations set out in the new Table 2B.
- vi) In relation to hackney carriage and private hire drivers, operators and vehicles, the column referring to the 'Licensing Panel' has been removed. This is to make it clear that decisions are made by specific officers with the appropriate delegated authority or the Licensing and Safety Sub-committee. This has been the position for some time and the previous reference to the 'Licensing Panel' required updating. The amendment also aligns with the requirements of the Department for Transport (DfT) Statutory Taxi and Private Hire Vehicle Standards, which came into effect in July 2020.
- vii) Under the Licensing Act 2003 delegations in Table 9, there is an insertion to allow the Licensing Act Sub-committee to hear matters relating to the revocation and suspension of personal licences, where the licensing authority has become aware, after the licence has been granted, that the licence holder has been convicted of certain offences or required to pay an immigration penalty. Currently, such matters must be heard by the full Strategic Licensing Committee; this does not align with the Committee's other responsibilities and creates a significant burden on the Committee and the Council, which can be rightly reduced if the Sub-committee has the authority to make such decisions.
- viii) The new Table 10 relates to the duty on the Council, under the Business and Planning Act 2020, to determine pavement licence applications to support

economic recovery from the impact of COVID-19. Since the introduction of the duty in July 2020, the Head of Trading Standards and Licensing has had responsibility for determining such applications. This was appropriate for what was originally intended to be a very temporary duty on the Council, ending in September 2021; however, the Government has indicated its intention to extend this to at least September 2022 and the delegations set out in Table 10 will provide resilience and flexibility to enable the Council to be more responsive to such applications on a longer-term basis.

- ix) In relation to Highways and Environmental Maintenance Functions, specifically for the enforcement of matters relating to pavement permits, the additional power to act under section 149 of the Highways Act 1980 has been inserted. This provides officers with the power to require persons, by notice, to remove objects that are deposited on pavements and other parts of the highway if they constitute a nuisance and if the objects constitute a danger, officers can remove the objects immediately.
- x) Delegations relating to Planning Matters, Building Control Matters and Community Infrastructure Levy were previously to the Director of Place and it is intended that the further delegation to the Assistant Director of Economy and Place will add clarity to the identity of the Chief Planning officer as that is considered to be a more appropriate level of delegation

5 Channel Panel

5.1 The Council is required by the Counter-Terrorism and Security Act 2015 to set up a local panel (known as the Channel Panel) to identify and prepare a support plan for individuals considered to be vulnerable to being drawn into terrorism.

5.2 The Channel Panel is required to:

- i. assess the extent to which individuals (as identified on reasonable grounds by the chief constable or the local authority) are vulnerable to being drawn into terrorism; and
- ii. amongst other things, prepare a plan in respect of identified individuals who the panel considers should be offered support for the purpose of reducing their vulnerability to being drawn into terrorism.

5.3 Membership of the Panel is determined by the relevant legislation and is set out with additional information in Appendix 2.

6 Authority to accept delegated authority from neighbouring Local Authority in respect of cross border planning applications.

6.1 Authority to accept any delegation from a neighbouring Authority is currently reserved to Council by Article 11.4 in Part 2 of the Constitution.

6.2 It is proposed that such authority should be exercised by the relevant Planning Committee in circumstances where a neighbouring Authority delegate to Shropshire Council the determination of a cross border application for planning permission.

- 6.3 The proposal is designed to avoid unnecessary delay and to assist with the timely determination of the application.
- 6.3 The result of the application being determined by one local authority rather than both is that there is (if granted) one planning permission, one set of planning conditions and just one legal agreement, avoiding duplication and potential conflict.

7 Membership of the Joint Health Overview and Scrutiny Committee

- 7.1 The Council is required to participate in the Joint Health Overview and Scrutiny Committee with Telford and Wrekin Council. There is currently no mechanism in the Constitution to provide for the manner in which members are appointed.
- 7.2 Shropshire Council is required to appoint six representatives (three Councillors (politically balanced) and three co-opted members who are independent of the council)
- 7.3 In the absence of any formal procedure, appointments to the Joint Committee are made by the Health and Adult Social Care Overview and Scrutiny Committee as follows:
- i) The three elected members (politically balanced) are drawn from the membership of the Health and Adult Social Care Overview and Scrutiny Committee and
 - ii) all six members should be agreed by a majority of the Health and Adult Social Care Overview and Scrutiny Committee.
- 7.4 The proposals are intended to provide additional clarity regarding the appointments.

8 Financial Considerations

- 8.1 There are no financial implications associated with the recommendations.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) Constitution
Cabinet Member (Portfolio Holder) Lezley Picton Leader
Local Member All Councillors
Conflicts of interest declared by members
Appendices

Appendix 1– Proposed amended Scheme of Delegation (with amendments tracked)

Appendix 2 – Channel Duty