

REVIEW OF THE CONSTITUTION

Submitted by: **Monitoring Officer**

Portfolio:

Ward(s) affected: **All**

Purpose of the Report

To advise Council of an addition which has been made to the Finance Scheme of Delegation and also to recommend amendments to the Licensing Scheme of Delegation.

RECOMMENDATION:

- (a) That the addition made to the Finance Scheme of Delegation be noted.**
- (b) That the proposed amendment to the Licensing Scheme of Delegation be approved.**

Reasons

Part 2, paragraph 15.2 of the Constitution authorises the Monitoring Officer to make consequential changes to the Constitution to reflect resolutions of the Council or Cabinet, decisions properly made under delegated powers and changes of fact and law, subject to regular notification of Members to such changes.

Whilst the majority of fees and charges are approved by Cabinet decisions relating to non-statutory fees and charges in connection with Licensing functions remain with the Council.

1. **Background**

- 1.1 The Constitution is the set of rules that describe and constrain how the Council operates, how its decision are made and the procedures which are to be followed. The Council adopted a new formal Constitution in 2001 and this has been updated and reviewed on a regular basis since that date. The Constitution provides a framework for decision making through which the Council delivers its strategic objectives.
- 1.2 Revising the Constitution is necessary to ensure that the Council is efficient and effective in making and implementing decisions and is properly accountable. Changes may become necessary where the law has changed or where the Council decides to change the way it operates, for example if the management structure changes and/or services move from one directorate to another. The relevant Scheme of Officer Delegation must be updated and revised where necessary to allow officers to continue to act lawfully.
- 1.3 The addition to the Finance Scheme of Delegation has been made so that the Council can use powers to impose financial penalties in accordance with the appropriate legislation. The Cabinet report of 7th December sets out the detail in relation to this.
- 1.4 The addition to the Licensing Scheme of Delegation is proposed so that the fees and charges in relation to Gambling, Sexual Entertainment Venues, Private Hire and Hackney Carriage licensing, which are initially considered at the Licensing and Public Protection Committees, can be brought into effect at the earliest opportunity

2. Outcomes to support Corporate Priorities as set out in the Council Plan and/or the Newcastle Partnership Priorities

The objective of the Constitution is to support the intentions of the Corporate Plan in the most efficient, effective, inclusive, open and accountable manner.

The Constitution governs the way the Council works. The amended Schemes of Delegation will enable the public, Council Members and officers to engage more effectively with the decision making processes of the Council and also ensure that processes are lawful.

An effective Constitution contributes to the overall ethical wellbeing of the Council, and helps to ensure a culture of high ethical standards, which the public and the Council's partners can have confidence in.

3. Legal and Statutory Implications

The Constitution is the legal framework set by the Council and which governs the way it conducts its business. The powers of the Council to delegate the exercise of functions are set out in Section 101 of the Local Government Act 1972.

4. Major Risks

If the Schemes of Delegation for the Council's various functions are not kept up to date, it could expose the Council to legal risk, frustrate aspects of legal enforcement and may prevent the full implementation of Council decisions.

5. Financial Implications

There are no financial or resource implications flowing from this report.

6. Key Decision Information

This is not a Key Decision.

7. Background Papers

Report to Cabinet dated 7th December 2016 (Penalties Policy) and minutes.

Addition to Finance Scheme of Delegation:

(31)	<u>To impose Civil Penalties in accordance with Schedule 3 Local Government Finance Act 1992</u>	Executive Director (Resources and Support Services)
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Additions to Licensing Scheme of Delegation:

(4A)	<u>The setting of fees and charges in connection with the Private Hire and Hackney Carriage licensing regimes</u>	Public Protection Committee
(27)	<u>The setting of fees in connection with Gambling and Sexual Entertainment venues</u>	Licensing Committee