

CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of Meeting: 25 June 2009
Report of: Borough Solicitor
Subject/Title: Additional Functions – Head of Safer and Stronger Communities

1.0 Report Summary

- 1.1 This report seeks a recommendation from the Committee to Council that reference to additional pieces of legislation be added to the list contained in the Constitution relating to matters which fall within the remit of the Head of Safer and Stronger Communities.

2.0 Recommendations

That Council be recommended to agree

- (1) that the appended list of legislation be added to the list in the Appendix to the “Powers and Responsibilities of Officers” (section of Part 3 of the Constitution) which will have the effect of bringing responsibility for this legislation within the remit of the Head of Safer and Stronger Communities by virtue of paragraph 25.1.2 of that Part; and
- (2) that such consequential amendments be made to the Constitution as the Borough Solicitor considers are necessary to give effect to the wishes of Council.

3.0 Reasons for Recommendations

- 3.1 To ensure that powers have been delegated to an appropriate level to ensure the efficient discharge of the authority’s functions.

4.0 Wards Affected

- 4.1 All Cheshire East Borough Council wards

5.0 Local Ward Members

- 5.1 All Ward Members are affected since the proposed powers will apply to all Wards.

6.0 Policy Implications including - Climate change - Health

- 6.1 The Council's officers need to be properly empowered to discharge the Council's functions.

7.0 Financial Implications for Transition Costs

- 7.1 None

8.0 Financial Implications 2009/10 and beyond

- 8.1 None

9.0 Legal Implications

- 9.1 In order for the Constitution to be changed, the Governance and Constitution Committee must make a recommendation, which must then be agreed by Full Council.
- 9.2 Appropriate delegations must be in place to ensure that the actions of the Council are appropriately authorised. It is particularly important in the work carried out by the Head of Safer and Stronger Communities where legal action could be challenged if delegations were not in place (as well as consequent designation of officers).

10.0 Risk Management

- 10.1 Without the addition of relevant references to legislation in Part 3 of the Constitution, officers would not have appropriate powers to carry out the Council's environmental health functions. This would carry with it significant risk in terms of the responsiveness of the Council to environmental health issues, as all action would need to be approved by Members.

11.0 Background and Options

- 11.1 The Council adopted its Constitution on 24th February 2009, which took effect on Vesting Day.
- 11.2 It has always been recognised that the Constitution is a "living document" which will need to change from time to time in order to meet the Council's needs.
- 11.3 It is necessary to add various pieces of legislation to the Appendix to Part 3 of the Constitution, which will enable officers to discharge the Council's environmental health functions. The list of legislation appears in the Appendix to this report.
- 11.4 The addition of references to these pieces of legislation will enable the Head of Safer and Stronger Communities, and officers who he appoints and authorises, to enforce the legislation.

- 11.5 The proposed changes to the Constitution will bring environmental health functions into line with the approach adopted in respect of trading standards and licensing legislation.
- 11.6 If officers are not given the powers proposed in this report, then there will be the need for proposed action to be authorised at Member level, which would be time consuming and inappropriate, given that the powers in question are used regularly.

12.0 Overview of Year One and Term One Issues

- 12.1 The proposed changes will enable the Council to undertake its duties and responsibilities in an efficient way.

13.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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APPENDIX

List of legislation to be added to the Appendix contained in Part 3 of the Constitution entitled “Powers and Responsibilities of Officers” which will fall within the remit of the Head of Safer and Stronger Communities by virtue of paragraph 25.1.2 of that Part.

Administration of Justice Act 1985
Agriculture (Safety, Health and Welfare Provisions) Act 1956
Agriculture Act 1947
Animal Boarding Establishments Act 1963 and 1970
Animal Health Acts 1971/2002
Animal Health and Welfare Act 1984
Animal Welfare Act 2006
Anti-Social Behaviour Act 2003
Breeding of Dogs Act 1973/91
Breeding and Sale of Dogs (Welfare) Act 1999
Building Act 1984
Burials Act 1857
Caravan Sites Act 1968
Caravan Sites and Control of Development Act 1960
Cheques Act 1992
Clean Air Act 1956, 68,93
Clean Neighbourhoods and Environment Act 2005
Companies Consolidation (Consequential Provisions) Act 1985
Consumer Arbitration Agreements Act 1988
Consumer Safety Act 1978
Contracts (Rights of Third Parties) Act 1999
Control of Damage by Pests Act 1949
Control of Pollution (Amendment) Act 1989
Control of Pollution Act 1974
County Courts Act 1984 vices
Courts and Legal Services Act 1990
Criminal Attempts Act 1982/1988/1991
Criminal Justice Act 1982/1988/ 1991,
Criminal Justice and Police Act 2001
Criminal Justice and Public Order Act 1994
Dangerous Dogs Act 1991
Dangerous Wild Animals Act 1976
Defective Premises Act 1972
Deposit of Poisonous Waste Act 1972
Diseases of Animals Acts 1950 and 1975
Dogs (Amendment) Act 1928
Dogs (Fouling of Land) Act 1996
Dogs (Protection of Livestock) Act 1953
Environment Act 1995
Environment Act 1995 (Section 108) (Powers of
Entry onto land in order to undertake investigations)
Environment and Safety Information Act 1988
Environmental Damage (Prevention and Remediation) Regulations 2009
Environmental Protection Act 1990

Explosives (Age of Purchase) Act 1976
Explosives Acts 1951, 1964
Factories Act 1961
Farm and Garden Chemicals Act 1967
Farriers Registration Act 1977
Fire Precautions Act 1971
Food Safety Act 1990
Guard Dogs Act 1975
Health Act 2006
Home Safety Act 1961
House to House Collections Act 1939
Hypnotism Act 1952
Indictable Offences Act 1848
Insurance Companies Act 1982
Interpretation Act 1978
Knives Act 1997 (Comment) (No.2) Order 1999
Land Drainage Acts 1961, 1976 and 1991
Law of Property (Miscellaneous Provisions) Act 1989
Legislative and Regulatory Reform Act 2006
Licensing Act 1964/2003
Limitation Act 1980
Litter Acts 1958 and 1983
Local Government (Miscellaneous Provisions) Acts 1976 and 1982
Local Government Act 1972/1987
Local Government and Housing Act 1989
Magistrates' Courts Act 1980
Magistrates' Courts Procedure Act 1998
Medicines Act 1968
Milk and Diaries (General) Regulations 1959
Misrepresentation Act 1967
Mobile Homes Act 1977
Motor Vehicles (Safety Equipment for Children) Act 1991
National Assistance Act 1948 / 51
Noise Act 1996
Noise and Statutory Nuisance Act 1993
Offices, Shops & Railway Premises Act 1963
Olympic Symbol etc (Protection) Act 1995
Patents, Designs and Marks Act 1986
Performing Animal (Regulation) Act 1925 Regulatory Services
Pesticides (Fees and Enforcement) Act 1989
Pesticides Act 1998
Pet Animals (Amendment) Act 1983
Pet Animals Act 1951
Pharmacy & Poisons Act 1933
Pharmacy Act 1954
Police and Criminal Evidence Act 1984
Police and Criminal Evidence Act 1984
Pollution Prevention and Control Act 1999
Powers of Criminal Courts Act 1973
Prevention of Damage by Pests Act 1949

Private Security Industry Act 2001
Private Water Supply Regulations 1991
Proceeds of Crime Act 1995
Property Mis-descriptions Act 1991
Prosecution of Offences Act 1985
Protection Against Cruel Tethering Act 1988
Protection from Harassment Act 1997
Protection of Animals (Cruelty to Dogs) Act 1933
Protection of Birds Act 1954
Protection of Children (Tobacco) Act 1986
Public Health (Control of Disease) Act 1984
Public Health (Infectious Disease) Regulations 1988
Public Health (Recurring Nuisances) Act 1969
Public Health Acts 1872 /1875/1975 1907 / 1925 /1936 / 1961
Rag Flock and other Filling Materials Act 1951
Refuse Disposal (Amenity) Act 1978
Registered Designs Act 1949
Regulation of Investigatory Powers Act 2000
Riding Establishments Act 1964/70
Rivers Prevention of Pollution Act 1961
Sale and Supply of Goods Act 1994
Sale of Goods (Amendment) Act 1994/1995
Sale of Goods Act 1979
Scrap Metal Dealers Act 1964
Shops (Early Closing Days) Act 1965
Shops Act 1950
Smoke Free (premises and Enforcement) Regulations 2006
Sunday Theatre Act 1972
Sunday Trading Act 1994
Supply of Goods and Services Act 1982
Tattooing of Minors Act 1969
Theatres Act 1843/1968
Theft Acts 1968/1978
Timeshare Act 1992
Torts (Interference with Goods) Act 1977
Town Police Clauses Act 1847 / 89
Traffic Management Act 2004
Unfair Contract Terms Act 1977
Vagrancy Act 1824
Vehicles (Crime) Act 2001 and 2006
Veterinary Surgeons Act 1948/ 66
Water Acts 1945, 1948, 1973 and 1981
Water Industry Act 1991
Water Supply (Water Quality Regulations 2000
Water Resources Act 1963
Weeds Act 1959
Wildlife and Countryside Act 1981
Young Persons (Employment) Act 1938
Zoo Licensing Act 1981