

# CHESHIRE EAST COUNCIL

## Governance and Constitution Committee

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

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### **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 24<sup>th</sup> 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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## AMENDED 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 1993  
Clean Neighbourhoods and Environment Act 2005  
Companies Consolidation (Consequential Provisions) Act 1985  
Contracts (Rights of Third Parties) Act 1999  
Control of Pollution (Amendment) Act 1989  
Control of Pollution Act 1974  
County Courts Act 1984  
Courts and Legal Services Act 1990  
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  
Dogs (Amendment) Act 1928  
Dogs (Fouling of Land) Act 1996  
Dogs (Protection of Livestock) Act 1953  
Environment Act 1995  
Environment and Safety Information Act 1988  
Environmental Damage (Prevention and Remediation) Regulations 2009  
Environmental Protection Act 1990  
European Communities Act 1972  
Factories Act 1961  
Farm and Garden Chemicals Act 1967  
Farriers (Registration) Act 1975  
Food Safety Act 1990  
Guard Dogs Act 1975  
Home Safety Act 1961  
Indictable Offences Act 1848

Land Drainage Acts 1991  
Law of Property (Miscellaneous Provisions) Act 1989  
Legislative and Regulatory Reform Act 2006  
Licensing Act 2003  
Litter Act 1983  
Local Government (Miscellaneous Provisions) Acts 1976 and 1982  
Local Government Act 1972/1987  
Local Government and Housing Act 1989  
Misrepresentation Act 1967  
Motor Vehicles (Safety Equipment for Children) Act 1991  
National Assistance Act 1948  
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  
Pesticides (Fees and Enforcement) Act 1989  
Pesticides Act 1998  
Pet Animals (Amendment) Act 1983  
Pet Animals Act 1951  
Pollution Prevention and Control Act 1999  
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 Children (Tobacco) Act 1986  
Public Health (Control of Disease) Act 1984  
Public Health (Infectious Disease) Regulations 1988  
Public Health Acts 1936 and 1961  
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  
Sunday Trading Act 1994  
Supply of Goods and Services Act 1982  
Tattooing of Minors Act 1969  
Torts (Interference with Goods) Act 1977  
Town Police Clauses Act 1847 / 89  
Traffic Management Act 2004  
Unfair Contract Terms Act 1977  
Vagrancy Act 1824

Veterinary Surgeons Act 1966

Water Act 1989

Water Industry Act 1991

Water Supply (Water Quality Regulations 2000

Water Resources Act 1963

Weeds Act 1959

Wildlife and Countryside Act 1981

Zoo Licensing Act 1981