



Report to: Cabinet Council

Date: 11th December 2008
7th January 2009

Subject: Amendments to the Council's Constitution

Report of: Service Director - Borough Solicitor

Contact officer: Peter Hassett (Telephone: 01942 827381)

PURPOSE/SUMMARY: To invite Members to amend the Council's Constitution to reflect changes of job titles of officers and to amend the delegations to the Executive Director of Environmental Services in relation to housing matters

ALTERNATIVE OPTIONS CONSIDERED AND REASON FOR SELECTING THE ONE RECOMMENDED: There is the option of not amending the Constitution but this will not ensure efficient decision taking by officers.

RECOMMENDATION/DECISION: That Cabinet recommend and Council resolve to amend the Council's Constitution as described in paragraphs 4, 6, 7 and 8 of this report.

Key Decision: This report does not involve a key decision.

Risks / Implications:

Financial:	Not known
Staffing:	Not known
Policy:	Amendment to Wigan Council Constitution
Equal Opportunities - Has a Diversity Impact Assessment been conducted?	No
Wards affected:	All

Property Implications– Does the proposal involve a reduction, addition or change to the Council’s asset base or its occupation?

No

If yes have the property implications been agreed with the Corporate Property officer?

Does this proposal have significant implications for the Council and the local population?

No

Does this proposal involve a new policy or procedure or significant changes to an existing policy or procedure?

No

Has the Service Director - Borough Solicitor confirmed that the recommendations within this report are lawful and comply with the Council’s Constitution? **Yes**

Has the Service Director – Corporate Services confirmed that any expenditure referred to within this report is consistent with the Council’s budget? **No**

Are any of the recommendations within this report contrary to the Policy Framework of the Council? **No**

* delete which applicable

For Cabinet reports only :

Categorisation of the report:	x
Discussion leading to a decision	
Monitoring	
Sharing for corporate understanding	

	X
Discussion	
Decision	X
Information	

Tracking/Process:

	Consultation	Ward Members	Partners
Panel	Overview & Scrutiny	Cabinet	Council
		11 th December 2008	7 th January 2009

List of Background Papers in accordance with Section 100D of the Local Government Act 1972:

Document	Date	File Reference	Place of Inspection
Wigan Council Scheme of Delegations contained within Part 3 of the Council's Constitution			The Director of Legal and Property Services, Town Hall, Library Street, Wigan

Proper Officer Kevin Lawson

Date 2nd December 2008

BACKGROUND:

1. As Monitoring Officer I am required to monitor and review the operation of the Council's Constitution. Accordingly, Members are reminded that at the Annual Meeting of the Council held on 14th May 2008 the Council adopted various amendments to the Constitution and requested Cabinet to review the amendments to the Constitution and report back to Council should it then have any further recommendations to make. A report in that regard relating to the operation of the Constitution is intended to be presented to Cabinet on 22nd January 2009 and Council on 4th March 2009.
2. However, this report requests Members to approve amendments to the Council's Constitution in the interim to reflect changes of posts and responsibilities of officers that take effect prior to March 2009 and to amend the delegations to the Executive Director of Environmental Services to ensure that delegated decisions taken in relation to housing matters reflect the statutory requirements.

DELEGATIONS TO THE DIRECTORS OF ADULT SERVICES, CHILDREN AND YOUNG PEOPLE'S SERVICES AND ENVIRONMENTAL SERVICES,

3. The posts of the Directors of Adult, Children and Young People's and Environmental Services are changing to Executive Directors. The second tier officers within each of those three departments are changing to be Service Directors and the third tier officers within each department are changing to Heads of Service.
4. Accordingly, it is recommended that any reference in the Council's Constitution to the Director of Adult Services, the Director of Children and Young People's Services or the Director of Environmental Services be amended to read the Executive Director of Adult Services, the Executive Director of Children and Young People's Services and the Executive Director of Environmental Services respectively, or such other designation as may be finally agreed and reported verbally to the meeting.
5. The delegations to the Director of Environmental Services are currently proceeded with the following words:

"THE DIRECTOR OF ENVIRONMENTAL SERVICES

All these delegations may also be exercised by the Head of Performance and Resource Management, the Head of Neighbourhood Services, the Head of Development, the Head of Regeneration and Protection, the Head of Operations and the Assistant Directors within the Environmental Services Department."

6. For the reasons stated in paragraph 3 above it is recommended that the wording referred to in paragraph 5 above be amended to read as follows:

“THE EXECUTIVE DIRECTOR OF ENVIRONMENTAL SERVICES
All these delegations may also be exercised by the Service Directors and Heads of Service within the Environmental Services Department.”

DELEGATIONS TO THE EXECUTIVE DIRECTOR OF ENVIRONMENTAL SERVICES IN RESPECT OF HOMELESSNESS DECISIONS

7. Members are advised that the job titles of certain posts referred to in delegations (89) and (90) to the Director of Environmental Services, relating to homelessness matters, have changed and two new posts have been created. To avoid the need to report back to Cabinet and Council any future changes in job titles it is recommended that delegations (89) and (90) be amended to remove the underlined wording and to add the wording in bold as follows:

“(89) *To discharge the Council’s duty under section 184 of the Housing Act 1996 to make inquiries into a homelessness application and notify applicants of their decisions . This delegation may also be exercised by **such Environmental Services Officers that are authorised by the Executive Director of Environmental Services in writing to the extent of such authorisation.** the Deputy Homelessness Advice Manager or in his/her absence by the Housing Policy Officers.*

“(90) *To discharge the Council’s duty under section 202 of the Housing Act 1996 to carry out reviews of decisions made under delegation 89 above. This delegation may also be exercised by **such Environmental Services Officers that are authorised by the Executive Director of Environmental Services in writing to the extent of such authorisation.** the Service Manager Housing Strategy or in his/her absence by the Housing Policy Officers.*”

DELEGATION (88) TO THE EXECUTIVE DIRECTOR OF ENVIRONMENTAL SERVICES

8. Delegation (88) to the Executive Director of Environmental Services is a delegation affecting approvals, authorisations, demands, licences, notices, orders and other documents in relation to a number of listed matters that includes housing. It is recommended that the delegation be amended to make it clear that reviews of decisions taken in relation to matters covered by the delegation are included and to also add an additional note 3 to the delegation to authorise the Executive Director to decide which of his officers are able to take decisions and hold reviews in relation to housing matters so that the decisions of such officers are protected from challenge. The suggested amendments are as follows (added words in bold):

*“(88) The signature, issuing, making, service, **review**, variation, suspension and revocation of any approvals, authorisations, demands, licences, notices, orders and other documents; the procuring of samples, the seizure of unsound food and articles and the execution of work to be carried out in default under legislation relating to animal health and welfare, anti-social behaviour, community safety, contaminated land, statutory nuisances, offensive trades, pest control, public health (including control of disease), infectious diseases, food and drugs, food safety, private sewers and drains, environmental protection, housing, pollution control, air quality, licensing, health and safety at work, health safety and welfare in agriculture, weights and measures, trading standards, underage sales, Sunday Trading and waste”*

“N.B. 3. Notwithstanding the above, in relation to housing matters, this delegation may also be exercised by such Environmental Services Officers that are authorised in writing by the Executive Director of Environmental Services to the extent of such authorisation.”

RECOMMENDATION:

9. That Cabinet recommend and Council resolve to amend the Council's Constitution as described in paragraphs 4, 6, 7 and 8 of this report.

Kevin Lawson
Service Director Borough Solicitor