

MEETING:	REGULATORY COMMITTEE
DATE:	1 FEBRUARY 2011
TITLE OF REPORT:	CHANGES TO THE CONSTITUTION FOR REGULATORY COMMITTEE
REPORT BY:	ASSISTANT CHIEF EXECUTIVE LEGAL AND DEMOCRATIC

CLASSIFICATION: Open

Purpose

To note the changes to the Council's Constitution for the Regulatory Committee and delegate certain functions to the Regulatory Sub-Committee.

Recommendations

THAT :

- a) the changes to the Constitution regarding the Regulatory Committee be noted
- b) the responsibility for hearing appeals, revocation of licences and applications for footpath diversions which fall within the remit of the Regulatory Committee, be delegated to the Regulatory Sub-Committee

Key Points Summary

- Phase three of the review of the Council's constitution was carried out during the autumn of last year and included changes to the provisions regarding the Regulatory Committee. A review group was appointed by the Constitutional Review Working Group (CRWG) and comprised of the Chairman of the Committee, Councillor Seldon, Assistant Chief Executive (Legal and Democratic Services) (Interim), Assistant Director Public Health), Regulatory Services Manager, Committee Manager (Planning & Regulatory) and Democratic Services Officer (Planning & Regulatory).
- The proposals in the review were approved by Council at its meeting on 19th November 2010 and are set out in appendix A to this report.
- The Committee has also been asked by Council to review its procedures and this will be dealt with as a separate process.

Alternative Options

- 1 The alternative options have been discussed at Council, the CRWG and other appropriate bodies.

Reasons for Recommendations

- 2 The changes to the Constitution clarify the responsibilities regarding regulatory matters which fall to the Committee, Cabinet or the officers and provide safeguards for review and appeal. The changes have also brought about a consistency within the Functions Scheme and other areas of the Constitution.
- 3 An officer review panel is being established with powers to deal with certain taxi licensing matters but not to revoke licences. The proposal is that the Sub-Committee, in addition to its existing duties, will hear appeals arising from this officer panel in relation to the refusal of taxi driver applications and panel recommendations for the revocation of existing licences. The Sub-Committee will therefore be delegated to revoke any licence, permission consent or certificate granted by the Council, except where a separate statutory framework exists, and to deal with certain footpath/bridleway diversion matters which fall within the remit of the Regulatory Committee.
- 4 The aim is to give greater flexibility to the Committee by removing the need for it to have to deal with relatively routine licensing and footpath diversion matters, as is the case at the moment. This will free up the Committee to deal with the more strategic matters and policy issues, and receive information about the performance of the departments involved in the regulatory process.

Introduction and Background

- 5 The Council has been undertaking a process of Constitutional Review since June 2009. The work has been done under the guidance and direction of the cross party CRWG. Phase three of that process has included the constitutional arrangements for discharge of Regulatory functions. Part of the process is to delegate certain responsibilities to the Regulatory Sub-Committee which will give greater flexibility to the process. The Sub-Committee will meet on a regular basis with three Members drawn from the Committee on a rota basis.
- 6 It is important that the Committee is kept informed of the regulatory matters that are dealt with in this way and the intention is to submit regular reports to it about the activities of the Sub-Committee and the officer review panel.

Key Considerations

- 7 The Council's Constitution provides for the Regulatory Committee to carry out the functions of the Council relating to trading standards, consumer protection, animal health, environmental protection, food safety, some highway functions and the consideration of appeals against the refusal of some licences. The Regulatory Sub-Committee has been in existence since 2005 and was established to determine individual applications for licensable activities under the Licensing Act 2003 and the Gambling Act 2005. The intention is to expand its role to include the other regulatory functions which are outlined above and currently sit with the Committee.
- 8 The Constitution has been changed so that matters delegated to the Chief Executive and in turn the Directors about the regulatory function are clarified and are consistent throughout the functions scheme. Information is also included about the types of licences which are the subject of a right of appeal to the Regulatory Committee. It also sets out the non-executive

functions within its remit, the “local choice functions” which are vested in it and those which rest elsewhere.

- 9 There is also a need to have a consistent approach across departments regarding the safeguarding of ‘vulnerable persons’. Some of the regulatory functions could have an impact on safeguarding and the Constitutional changes seek to ensure consistency with the regulatory functions. This will be done through:
- i. officers discharging regulatory functions also having regard to the Council’s safeguarding functions.
 - ii. the officer review panel being comprised of officers from regulatory and safeguarding where cross-directorate considerations make it appropriate. The police will be invited to attend. The panel may also review an officer decision prior to but not as an alternative or replacement for a full appeal if that is requested by an applicant
 - iii. safeguarding officers providing expert evidence and advice to the Regulatory Committee and the Sub-Committee at hearings.
- 10 The changes agreed at Council preserve the right of appeal to the Committee and that only the Committee or Sub-Committee may revoke licences.
- 11 Council also decided that key stakeholders should be consulted about the proposals and this process has involved Members, the appropriate officers from the Council, and the West Mercia Police representative. It is felt that the new arrangements will enhance the coordinated approach between departments, provide greater flexibility for the way in which matters are dealt with and create a less ‘daunting’ environment for applicants to present their case. It will also help to enhance the way in which the Council fulfils its safeguarding role and overcome potential difficulties where legislation and regulations for hackney carriage/private are different for those governing school contracts. It will also allow for meetings to be held more frequently if required, because the Sub Committees will only have three members.

Community Impact

- 12 These amendments to the Constitution have sought to clarify the roles and responsibilities for the discharge of regulatory functions and to enable stakeholders and the public to understand the arrangements more clearly. By clarifying that officers have delegated authority to fulfil regulatory functions not reserved to Committee, the system is much simpler and preserves the role of the Committee/Sub-Committee to be the arbiter on contentious matters and deal with licence revocation. The Committee will set the detailed policy framework for the conduct of all regulatory functions and this will ensure that community interests are reflected in the regulatory policy and procedural framework.

Financial Implications

- 13 The changes to Regulatory functions have been made to provide greater clarity and consistency in the way these are discharged and have minimal financial impact which will be absorbed within existing budgets. The more frequent use of Regulatory Sub Committees will also be a cost saving, in comparison with the need for a full Regulatory Committee to meet each month.

Legal Implications

14 The amendments to the Constitution reflect all appropriate statutory requirements and guidance.

Risk Management

15 There are no risk management issues other than the need to ensure legal compliance.

Consultees

16 The Committee and appropriate officers have been consulted on the proposals. The regulatory review working group considered and proposed the changes.

17 All Councillors were invited to comment on the proposals.

Appendices

Appendix 1 Revised Parts 1, 2 and 3 of the Constitution which were approved by Council on 19th November 2010.

Background Papers

The reports included in the Council agenda on 19th November 2010.