



**Full Council**  
23 November 2009

## **Report from the Borough Solicitor**

For Action

Wards Affected:  
NONE

### **Changes to the Constitution**

#### **1.0 Summary**

- 1.1 This report proposes and reports minor changes to the Council's Constitution arising out of the annual review of the operation of the Constitution.

#### **2.0 Recommendations**

Members are asked to:

- 2.1 Agree the amendments to the delegated powers as set out in the detail of this report at paragraphs 3.5 - 3.7 below
- 2.3 Note the recent minor changes made to the Constitution by the Borough Solicitor using her delegated powers as set out in paragraphs 3.8 – 3.10 below.

#### **3.0 Detail**

##### *Introduction*

- 3.1 The Constitution is kept under review throughout the year to ensure that it complies with relevant legislation and that it operates effectively. Each year, in May and November, the Borough Solicitor brings a report to Full Council with any recommendations for changes that should be made to the Constitution.
- 3.2 Each change is discussed in detail below and members are asked to approve or note (depending on the nature of the change) the changes as set out in the appendices and described below.

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- 3.3 Following this report the Borough Solicitor will update the electronic version of the Constitution available on the Council's intranet and internet sites to take account of the changes agreed by the Council.
- 3.4 In a separate report to the Special Full Council Meeting of 23<sup>rd</sup> November 2009 members are informed of the need for changes to the Executive arrangements which are due to come into effect on 9<sup>th</sup> May 2009. The changes will impact on the Constitution and accordingly amendments to the Constitution will need to be made. This is addressed in the report to members on the change in executive arrangements.

#### *Designated Places – Alcohol Consumption.*

- 3.5 Item 49 of that table relates to the power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption where the Council is satisfied that nuisance or annoyance to members of the public, or a section of the public, or disorder, has been associated with the consumption of alcohol in that place. Once designated as such a place, the police have powers to require a person not to consume alcohol in the area, or to confiscate open containers of alcohol. It is recommended that this power be delegated to the Director of Environment and Culture. The power is within that service area and is consistent with other powers delegated to him. The making of the order has little immediate effect on any person as enforcement will always be at the discretion of the police. It is therefore recommended to members that this responsibility is more appropriately exercised by a senior officer rather than being a matter which requires consideration by Full Council. The Director of Environment and Culture will be required to seek advice from Legal Services prior to making such an order.

#### *Unclaimed Registered Land*

- 3.6 Item 52 relates to the power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference. It is recommended that this power be delegated to the Director of Environment and Culture, as it falls within his area of responsibility (parks and open spaces) and other functions relating to common land are also delegated to him. Additionally this power effectively allows the Council to take the steps as an owner of the land to protect it from unwanted interference. It is therefore appropriate that the power be exercised by a senior officer so that decisions can be made as and when the circumstances require it, whereas at the moment a decision can only be taken at Full Council. Once again legal advice will be sought before exercising this power.
- 3.7 Members are asked to approve the changes set out in **appendix 1**.

#### *Changes Made by the Borough Solicitor under delegated powers*

- 3.8 Some minor changes have been made by the Borough Solicitor under delegated powers to give effect to changes required by statute, made to remove ambiguity or inconsistency or where the changes were considered minor. In accordance with the Constitution these are now being reported to Full Council for information.

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3.9 The minor amendments concerned Councillor Call for Action and were made in order to make the powers relating to Councillor Call for Action clearer.

3.10 Members are asked to note these amendments which are attached as **appendix 2**

#### **4.0 Financial Implications**

4.1 There are no financial implications arising from this report.

#### **5.0 Legal Implications**

5.1 The legal issues are dealt with in the body of the report.

#### **6.0 Diversity Implications**

6.1 There are no diversity implications arising from this report.

#### **7.0 Staffing**

7.1 There are no staffing implications arising from this report.

#### **Background Papers**

*Brent Constitution*

#### **Contact Officers**

Should any person require any further information about the issues addressed in this report, please contact Kathy Robinson, Senior Solicitor, Borough Solicitor's Office on telephone number 020 8937 1368.

**TERRY OSBORNE**  
**Borough Solicitor**