

Agenda Item No: 5

Report To: Selection and Constitutional Review Committee

Date of Meeting: 1st October 2020

Report Title: Constitutional Amendment – Pavement Licensing

Report Author & Job Title: Trevor Ford – Environmental Protection & Licensing Team Leader

Portfolio Holder: Cllr. Feacey

Portfolio Holder for: Portfolio Holder for Community Safety and Wellbeing



Summary: The report recommends an amendment to the Responsibility for Functions in the Constitution – Delegations to the Community Safety and Wellbeing Manager(s) in order to make specific written reference to the new 'Pavement Licensing' regime

Key Decision: NO

Significantly Affected Wards: N/A

Recommendations: The Committee is asked to recommend to Full Council that the changes in the Constitution as set out in Paragraph 4 of this report be made.

Policy Overview: There is a duty to review the Constitution and keep it up to date.

Financial Implications: None

Legal Implications: None

Equalities Impact Assessment: N/A

Other Material Implications: None

Exempt from Publication: NO

Background Papers: None

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Constitutional Amendments

Introduction and Background

1. In July 2020, in response to Covid19, the government introduced a new temporary 'pavement licence' regime for the placing of furniture on the highway, in order to assist the reopening hospitality industry following lockdown.
2. This new regime was to create a quick and relatively inexpensive process to obtain the relevant permissions for tables and chairs etc. to be placed on the highway. It also prevented the need for applicants to seek a time-consuming Highways Act consent, need for separate planning consent, and, potentially a street trading consent/licence, each with their own associated costs and processes.

This regime was introduced immediately on enactment, and information made available online in order to assist businesses through the period associated with non-pharmaceutical interventions (social distancing, face-coverings, etc.) up until 30 September 2021.

3. In line with other legislative changes at the time, there was limited time in which to report the introduction of the scheme via Council, and accordingly existing broad delegations were used to implement the existing regime so that businesses could be supported effectively.

It is however, the purpose of the Council's Constitution to enable decisions to be taken efficiently and effectively and to ensure that those responsible for decision-making are clearly identifiable to local people. The Constitution also sets the legal framework within which the Council operates.

Accordingly, this proposal seeks a minor amendment to the existing scheme of delegations in order to explicitly reference these new provisions.

Proposal

4. The following changes to the Constitution are recommended with reference to delegations (Responsibility for Functions) to the Community Safety and Wellbeing Manager(s) :-

Powers Relating to Functions that can be Executive, Non-Executive, Incidental to Either or Administrative

11.9 - In accordance, where appropriate, with Council policy to serve or issue any statutory notice or direction and to take subsequent steps to achieve the purpose of the notice, issue any caution, determine applications for and grant, exercise the powers conferred by, make arrangements for, instruct or appoint appropriate persons, take any action considered necessary, detain, examine or seize, institute proceedings, enter premises, enforce the provisions of, act as an inspector for, examine

and test, register and maintain appropriate registers, vary licence conditions, recover the cost for action taken or award grants, discharge the functions and duties imposed on the Council, under any statute or regulation in respect of the following:-

- (a) protection of members of the public from the risk of danger or prejudicial to health or to abate a nuisance.*
- (b) securing certain empty properties*
- (c) health and safety at work.*
- (d) Functions relating to the Health Act 2006 and Smoke-Free Regulations.*

To have the following functions inserted :-

To set and vary standard conditions
To determine any application for a licence,
Attach conditions or state grounds of refusal

And, update the list of relevant statutes or regulations to include:-

- (e) pavement licensing*

Conclusion

5. I recommend that changes to the Constitution as set out in this report be agreed. This will ensure that the Council's arrangements continue to be efficient and understandable.

Portfolio Holder's Views

6. These proposals are supported by the Portfolio Holder for Community Safety and Wellbeing

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