

Constitutional Updates and Council Delegations

REPORT TO FULL COUNCIL



DATE	16/12/2020
PORTFOLIO	Leader
REPORT AUTHOR	Alison McEwan
TEL NO	01282 477259
EMAIL	amcewan@burnley.gov.uk

PURPOSE

- 1) To inform Members of minor amendments to Part 3 of the Constitution – Scheme of Delegation in relation to the Head of Streetscene to deal with submission of representations in Licensing matters.
- 2) To consider granting a delegation to the Chief Executive to allow him to make temporary changes to Polling Stations in exceptional circumstances in consultation with Group Leaders.
- 3) To note the revised Portfolios as submitted by the Leader on 23rd November 2020.
- 4) To consider the addition of the COVID-19 Economic Recovery Board to the list of the Council’s Outside Bodies, and consider appropriate qualifications for representation on that body, and to appoint representatives.
- 5) To inform members of the Urgent Delegated (Council Function) decision made by the Chief Executive regarding:
 - Temporary Planning & Compliance Officer
- 6) To inform Members of call-in waivers for Urgent Delegated (Executive Function) decisions made by the Chief Executive relating to:
 - Local restrictions Support Grant & Additional Support Grant
 - COVID Grant Acceptance

RECOMMENDATION

- 7) To note minor amendments to the Constitution – Part 3 Scheme of Delegation in relation to the Head of Streetscene to deal with submission of representations in Licensing matters.
- 8) That Council approves a delegation to the Chief Executive to allow him to make, in exceptional circumstances between polling district reviews, temporary alterations to the designation of polling places in consultation with Group Leaders.

- 9) To note the revised Executive Portfolios as submitted by the Leader of the Council on 23rd November.
- 10) To approve:
- i. the inclusion of the COVID-19 Economic Recovery Board on the Council's list of Outside Bodies, and
 - ii. to agree that the Leader of the Council and one experienced opposition member should be appointed to the Board, and
 - iii. To appoint the Leader of the Council and an 'Experienced Opposition Member' to the COVID-19 Economic Recovery Board from nominations received.
- 11) To note the Urgent Delegated (Council Function) decision made by the Chief Executive regarding:
- Temporary Planning & Compliance Officer
- 12) To note the call-in waivers for Urgent Delegated (Executive Function) decisions made by the Chief Executive relating to:
- Local restrictions Support Grant & Additional Support Grant
 - COVID Grant Acceptance

REASONS FOR RECOMMENDATION

- 13) To ensure that the requirements of the constitution are upheld, and that maximum transparency is maintained.
- 14) To ensure that appropriate representation is maintained on Outside Bodies.

SUMMARY OF KEY POINTS

15) The Monitoring Officer approved the following minor amendments to Part 3 of the Constitution – Scheme of Delegation on 23rd November 2020, granting delegations (Council & Executive Functions) to the Head of Streetscene to make representations on behalf of the Responsible Authority in relation to Licensing Act 2003 matters; and to allow those powers to be further delegated as appropriate.

Delegated Powers to the Head of Streetscene:

- (i) To make representations in relation to any matter for which the Council is a responsible authority in respect of that matter under the Licensing Act 2003;
- (ii) To apply for a review of a premises licence (including an off-sales review of a premises licence) or a club premises certificate;
- (iii) To apply for an extension of the time allowed for the carrying out of an entry and inspection under section 96 of the Licensing Act 2003.

The rationale for the amendments is that there are various provisions in the Licensing Act which specify the Licensing Authority as a "responsible authority" with

the right to make representations in relation to particular licence applications/reviews of licences that are made. Sometimes representations can be made under the terms of the scheme as it currently stands on the basis that the person making the representation is responsible for Health and Safety or Environmental Protection, but where a representation is relevant to one of the licensing objectives that fall outside of those two matters (i.e. that are not concerned with public safety or public nuisance), the current delegation doesn't cover those representations being made by a Head of Service on behalf of the licensing authority. In addition, it makes it unambiguously clear that the public safety and public nuisance basis is also covered.

16) As we approach the May 2021 elections, it may be that a number of polling places are either unavailable or are unsuitable to facilitate voting (for example to accommodate social distancing requirements in force at the time). Currently changes to polling places can only be made through a review of polling places which must be approved by Council. This is a lengthy and time consuming process.

In order to avoid the possibility of having to undertake a review of polling places it is proposed to grant the following delegation to the Chief Executive (Council Function):

'To make, in exceptional circumstances between polling district reviews, temporary alterations to the designation of polling places in consultation with Group Leaders.'

Explanatory note

Polling district: the area created by the division of a ward into smaller parts, within which a polling place can be determined, which is convenient to electors. The designation of polling districts is the responsibility of the Council.

Polling place: the geographical area in which polling stations will be designated by the Returning Officer. The designation of polling places is the responsibility of the Council.

Polling station: the actual area where the poll takes place and which must be located within the polling place. Polling stations are designated by the Returning Officer (not a Council function).

17) The Leader of the Council submitted amendments to the Executive Portfolios on 23rd November 2020. Tracked changes and final versions are attached.

18) At their meeting on 26th October the Executive approved the formation of an Economic Recovery Board for Burnley. This Board's key aim is to co-ordinate and maximise the effectiveness of the Council and its key partners. In order that the Council is represented on this Board it is proposed that the Board be added to the Council's formal list of Outside Bodies, and that the Leader of the Council and an experienced opposition member be appointed.

The Council has strict criteria for inclusion of a body or organisation in the Outside Bodies list. These are:

- It makes a direct and significant contribution to the Council's Strategic Objectives
- There aren't any significant cost and resource implications set against the benefit obtained for the Council

- That having considered the balance of risk, there would be a detrimental effect on the Council if there wasn't representation
- The appointment would raise the profile of the Council at a National or Regional level

Nominations to the position of 'experienced opposition member' will be sought prior to the meeting, and a vote will take place in accordance with Council Procedures Rules should there be more nominations than places.

19) An urgent decision was taken by the Chief Executive on 28th October to appoint a temporary Planning & Compliance Officer.

20) Part 4.5 of the constitution requires that a waiver to call-in be reported at Full Council. The Chair of Scrutiny waived call-in regarding the following decisions:
i. Local restrictions Support Grant & Additional Support Grant
ii. COVID Grant Acceptance

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

13. None.

POLICY IMPLICATIONS

14. None.

DETAILS OF CONSULTATION

15. Member Structures Officer and Working Groups.

BACKGROUND PAPERS

16. None.

FURTHER INFORMATION

PLEASE CONTACT: Alison McEwan

ALSO: Catherine Waudby 7198