

REPORT TO COUNCIL

**REPORT OF: CHAIRMAN OF THE CONSTITUTION COMMITTEE –
COUNCILLOR RAY WOOTTEN**

REPORT NO: LDS134

DATE: 11th September 2014

TITLE:	Recommendations from the Constitution Committee - 8th September 2014	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	n/a	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Councillor Paul Carpenter – Portfolio Holder for Governance and Communication	
CONTACT OFFICER:	Lucy Youles – Head of Legal and Democratic Services (Monitoring Officer) E-mail: l.youles@southkesteven.gov Telephone: 01476 406105	
INITIAL IMPACT ANALYSIS:	Carried out and appended to the report: n/a	Full impact assessment Required: n/a
Equality and Diversity		
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council’s website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	The Council’s Constitution http://www.southkesteven.gov.uk/index.aspx?articleid=1974 Constitution Committee Agenda – 8.9.14 http://moderngov.southkesteven.gov.uk/mgConvert2PDF.aspx?ID=3159&T=10	

1. RECOMMENDATIONS

It is recommended that Council approve the recommendations made by the Constitution Committee at its meeting on the 8th September 2014 as detailed in the minutes of the meeting of the Constitution Committee as follows:

Powers Delegated to officers

1.1 Amendment of the Constitution to delegate to the Executive Manager Environment (formerly Operations Director) and the Head of Housing and Neighbourhood the authority to use the powers set out in the Anti-social Behaviour, Crime and Policing Act 2014 (which comes into force on 20th October 2014), as follows:-

- *Constitution – Part 3 Operations Director – “Waste Services” -amend to Executive Manager Environment and at paragraph 1, after “.....in respect of the following statues” insert:-*

“including the provisions as provided and amended by the Anti-Social Behaviour, Crime and Policing Act 2014 “

- *Constitution – Part 3 – Operations Director “Waste Services” - amend to Executive Manager Environment and at the end of paragraphs 3,4 and 5 insert:-*

“as provided and amended by the Anti-Social Behaviour, Crime and Policing Act 2014 “

- *Constitution – Part 3 – Operations Director - amend to Executive Manager Environment and at “Community Safety” remove paragraph 1 and replace with:-*

“Authorised and to authorise Officers to exercise any of the powers in relation to anti social behaviour as set out in the Anti-Social Behaviour, Crime and Policing Act 2014 (and any amendments) and authorised to delegate power to officers and Lincolnshire Police (including Police Community Safety Officers) to issue Fixed Penalty Notices on behalf of the Council.”

- *Constitution – Part 3 “Head of Housing & Neighbourhood” at the end of paragraph 12 insert :-*

“including the provisions as provided and amended by the Anti-Social Behaviour, Crime and Policing Act 2014”

Council Procedure Rules

1.2 Members’ Conduct - Delete clause 21.7 at page 138 – Recording of meetings

Protocol Concerning the Recording of Public Meetings in the Council Chamber.

1.3 At page 305 delete the words – “it is intended that Council Procedure Rules will be amended to preclude any other form of audio recording of meetings when the official system is operative.”

1.4 At page 305 –paragraph 5 and 6– Ownership, add the words “made by the Council” after the word “recordings”

2. PURPOSE OF THE REPORT

The purpose of this report is to detail the recommendations made by the Constitution Committee to amend the Constitution at its meeting on the 8th September 2014 to Council for approval. The reports made to the Constitution Committee are included as a link to background papers and minutes of the Constitution Committee meeting of the 8th September are attached to this report as an Appendix for information.

3. DETAILS OF REPORT

- 3.1** The details of the recommendations and the reasons for the recommendation are given in the minutes of the Constitution Committee meeting attached to this report.
- 3.2** The recommendation at paragraph 1.1 above relate to delegations to officers in respect of new powers introduced by the Anti-Social Behaviour, Crime and Policing Act 2014 which will come into force on 20th October 2014. The delegations to officers will enable officers to implement the new powers as soon as they are in force.
- 3.3** The recommendation at 1.2, 1.3 and 1.4 relate to amendments to the Constitution relating to the Openness of Local Government Bodies Regulations 2014 which came into force on the 6th August 2014. The Regulations allow anyone attending meetings of the District Council, including Members, to take photographs, film, audio-record and report on the meeting. This right includes tweeting, blogging or face booking. It does not permit oral reporting or commentary and it does not apply where the public has been lawfully excluded from the meeting. The Council Procedure Rules currently prevent Members from making their own recording of meetings. This rule is contrary to the Regulations and should be removed from the Constitution. The Protocol should relate to recordings made by the Council. The amendments recommended are required to make it clear that the Protocol does not apply to recordings made by others.

4. OTHER OPTIONS CONSIDERED

No other options are proposed.

5. RESOURCE IMPLICATIONS

There are no resource implications relating to the recommendation.

6. RISK AND MITIGATION

Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls
No high risks were identified	

7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT

No assessment is required in respect of this report.

9. CRIME AND DISORDER IMPLICATIONS

No crime and disorder implications arise as a result of this report

10. COMMENTS OF FINANCE SECTION

There are no financial implications resulting from this report.

11. COMMENTS OF LEGAL AND DEMOCARATIC SERVICES

The proposed amendments are required to ensure the Council is able to carry out its functions and the content of the Constitution is relevant and up to date.

12. COMMENTS OF OTHER RELEVANT SERVICE MANAGERS

None relevant

13. APPENDIX:

Minutes of the Constitution Committee held on the 8th September 2014

MINUTES

CONSTITUTION COMMITTEE
MONDAY, 8 SEPTEMBER 2014



COMMITTEE MEMBERS PRESENT

Councillor Ray Auger
Councillor Vic Kerr
Councillor Alan Parkin (Vice-Chairman)
Councillor Rob Shorrocks
Councillor Raymond Wootten (Chairman)

OFFICERS

Executive Manager Environment (Ian Yates)
Executive Manager Corporate (Lucy Youles)
Business Manager Neighbourhoods (Mark Jones)
Democratic Officer (Lucy Bonshor)

48. DISCLOSURE OF INTERESTS

None disclosed.

49. MINUTES OF THE MEETING HELD ON 9 JUNE 2014

The minutes of the meeting held on 9th June 2014 were agreed as a correct record of the recommendations made.

50. REFORM OF ANTI SOCIAL BEHAVIOUR POWERS

Decision:

The Constitution Committee recommends to Council the following amendments to the Scheme of Delegation contained within the Constitution following powers introduced by the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act comes in to force on 20th October 2014). Also that references to the Operations Director be changed to the Executive Manager Environment

- *Constitution – Part 3 ~~Operations Director~~ Executive Manager Environment – “Waste Services” paragraph 1, after “.....in respect of*

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the following statues” insert:-

“including the provisions as provided and amended by the Anti-Social Behaviour, Crime and Policing Act 2014 “

- ***Constitution – Part 3 – ~~Operations Director Executive Manager Environment~~ “Waste Services” at the end of paragraphs 3,4 and 5 insert:-***

“as provided and amended by the Anti-Social Behaviour, Crime and Policing Act 2014 “

- ***Constitution – Part 3 – ~~Operations Director Executive Manager Environment~~ “Community Safety” remove paragraph 1 and replace with:-***

“Authorised and to authorise Officers to exercise any of the powers in relation to anti social behaviour as set out in the Anti-Social Behaviour, Crime and Policing Act 2014 (and any amendments) and authorised to delegate power to officers and Lincolnshire Police (including Police Community Safety Officers) to issue Fixed Penalty Notices on behalf of the Council.”

- ***Constitution – Part 3 “Head of Housing & Neighbourhood” at the end of paragraph 12 insert :-***

“including the provisions as provided and amended by the Anti-Social Behaviour, Crime and Policing Act 2014”

The Executive Manager Environment gave a presentation to the Committee about changes necessary to the Constitution following the introduction of the Anti-Social Behaviour, Crime and Policing Act 2014 which would come into force on 20th October 2014. A presentation had also been given to the Communities PDG highlighting the proposed changes to the Anti Social Behaviour Legislation.

The Executive Manager Environment together with the Business Manager Neighbourhoods then gave an overview of the new tools and how they would replace the existing tools. The legislation was more comprehensive and the powers enabled a more streamlined approach with the burden of evidence being more civil based rather than criminal. It was hoped that the use of the new powers would lead to a more proactive approach with action being taken in advance with a view to prevention.

The six main powers covered;

- Criminal Behaviour Order
- Civil Injunction
- Community Protection Notice

- Public Space Protection Order
- Closure Powers
- Dispersal Powers

Dispersal Powers were the only power only available to the Police.

Key features of each power were highlighted and examples given. A comment was made about any resource implications but the Executive Manager Environment stated that each issue would go through the current system and would be dealt with as appropriate. Currently there was a realignment of services and a trial had been undertaken to integrate how anti social behaviour was dealt with between teams. Until the legislation had been in place for a period of time it was hard to tell the impact, it was a “learning curve” for everyone involved.

Comments were made about aspects of the new legislation with regard to the making of orders and the criminality aspect of the legislation to which Officers responded.

A short discussion followed on Community Remedy (the responsibility of the Police Crime Commissioner) and Community Trigger. The Community Trigger had been trialled in a number of areas including Boston but there had been a very low complaint rate. Due to the joint partnership working and the shared data base used by relevant organisations including the Police information was shared regularly and meetings held monthly with key issues discussed. A draft guidance document was currently being compiled by the Lincolnshire Partnership and until such time as this was available government guidance would be used.

Reference was made to the change of job title from the Operations Director to the Executive Manager Environment following the realignment of services currently happening within the Council and it was asked that this be taken into consideration when making recommendations to Council.

A further comment was made about the powers to make a Public Space Protection Order, currently that was a decision for Council. Unless a change was made to the Function Regulations, this power could be exercised as a matter of local choice by Cabinet or an individual Cabinet Portfolio Holder. It was proposed, seconded and agreed to make the recommendations to Council as outlined in report ODES03 subject to the change of name from Operations Director to Executive Manager Environment.

51. ANY OTHER BUSINESS WHICH THE CHAIRMAN, BY REASONS OF SPECIAL CIRCUMSTANCES, DECIDES IS URGENT

The following item was considered as a matter of urgency following the requirements of the Openness of Local Government Bodies Regulations 2014 which came into force on 6th August 2014

Decision:

The Constitution Committee recommends to Council the following amendments to the Constitution:

- 1. Members' Conduct – delete clause 21.7 at page 138 – Recording of meetings.***
- 2. At page 305 delete the words – “it is intended that Council Procedure Rules will be amended to preclude any other form of audio recording of meetings when the official system is operative.”***
- 3. At page 305 – paragraph 5 and 6 – Ownership, add the words “made by the Council” after the word “recordings”.***

Members had been circulated with report LDS132 which concerned amendments necessary to the Constitution following the Openness of Local Government Bodies Regulations 2014 which had come in to force on 6th August 2014.

The Regulations allowed anyone attending meetings of the District Council to take photographs, film, audio-record and report on the meeting. This included tweeting, blogging or face booking. It did not permit oral reporting or commentary and it did not apply where the public had been lawfully excluded from the meeting.

The Council Procedure Rules needed to be amended as currently Members were prevented from making their own recordings of meetings and this was contrary to the Regulations.

Members were happy with the proposed recommendation to Council and it was proposed seconded and agreed.

Meeting closed at 12.02pm