



Report for: ACTION
Item Number: 5

Contains Confidential or Exempt Information	NO
Title	CONSTITUTION AMENDMENTS – RIGHTS OF WAY AND HIGHWAYS LICENSING PANEL TERMS OF REFERENCE
Responsible Officer(s)	Ben Smith, Strategic Manager, Highways, Engineering and Transport
Contact officer, job title and phone number	Anthony Hurst, Principal Rights of Way Officer 01628-796180 or 07775818622
For Consideration By	Rights of Way and Highway Licensing Panel
Date to be Considered	3 rd December 2012
Affected Wards	All
Keywords/Index	Constitution

Report Summary

1. This report deals with proposed amendments to the Constitution, which are required to ensure best practice.
2. It recommends that the Panel requests Council to approve the proposed revisions to the Panel's Terms of Reference and officer delegations, thereby enabling efficient and effective operation of the Council's public rights of way and highways services.
3. If adopted, there are no key financial implications for the Council.

If recommendations are adopted, how will residents benefit?

Efficient and effective operation of the Council's public rights of way and highways services without unnecessary delays, and in accordance with appropriate officer delegations.	December 2012
An up to date Constitution will help the democratic process to run efficiently and effectively, and ensure residents are informed of the correct constitutional processes.	December 2012

1. Details of Recommendations

RECOMMENDATION:

That the Panel requests Council to approve amendments to the Council's Constitution as set out in Appendices A and B.

2. Reason for Recommendation and Options Considered

2.1 The Constitution of the Royal Borough of Windsor and Maidenhead is a single point of reference which contains the principal operating structures and procedures of the authority. It sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. A full review of the Constitution was agreed by Council on 25th October 2011.

2.2 What amendments are requested to be made to the Constitution?

The Constitution currently delegates a number of functions relating to public rights of way and highways to the Rights of Way and Highway Licensing Panel. It has recently been identified that some of the functions delegated to the Panel relate to detailed routine matters which for operational reasons are better dealt with by officers on a day-to-day basis.

For avoidance of doubt, it is recommended that the Panel's Terms of Reference should be amended to delegate to officers some of those functions currently delegated to the Panel, as set out in Appendices A and B.

Other functions relating to public rights of way and highways that are not specifically delegated to the Panel can already be dealt with by officers, under the terms of the existing Scheme of Delegation to Officers set out in the Constitution

Option	Comments
1. Approve the changes to the Constitution Recommended Option	This will ensure that the Constitution contains appropriate officer delegations.
2. Do not approve changes	The Terms of Reference of the Panel as set out in the Constitution will continue to include operational functions, which could hamper efficient and effective delivery of services.

3. Key Implications

Defined Outcomes	Unmet	Met	Exceed	Significantly Exceeded	Date they should be delivered by
Amend the Constitution by Dec 2012	Do not amend the Constitution	Amend the Constitution	n/a	n/a	December 2012

4. Financial Details

a) Financial impact on the budget (mandatory)

There are no financial implications.

5. Legal Implications

The Constitution must be in compliance with the terms of the Local Government Act 2000, Local Government and Public Involvement in Health Act 2007 and Local Democracy, Economic Regeneration and Construction Act 2009, Localism Act 2010 and any statutory guidance issued in relation to those and other Acts.

6. Value For Money

An updated Constitution will ensure the Council is less likely to be challenged on its procedures and processes. Decision making at the most appropriate level in the organisation is more cost effective and efficient.

7. Sustainability Impact Appraisal

There is no impact on sustainability objectives.

8. Risk Management

Risks	Uncontrolled Risk	Controls	Controlled Risk
There is a risk of challenge if the Constitution is not legally updated.	Constitution is not updated.	Constitution is regularly reviewed and updated.	Revised Constitution available on website.

9. Links to Strategic Objectives

The main links are to:

Residents First

- Work for safer and stronger communities

Value for Money

- Improve the use of technology

Delivering Together

- Enhanced Customer Services
- Deliver Effective Services

Equipping Ourselves for the Future

- Developing Our systems and Structures

10. Equalities, Human Rights and Community Cohesion

It has been considered that the proposed amendments to the Constitution do not require a full EQIA. No negative impacts were identified.

11. Staffing/Workforce and Accommodation implications:

None.

12. Property and Assets

None.

13. Any other implications:

None.

14. Consultation

None.

15. Timetable for Implementation

By December 2012

16. Background Information

None

17. Consultation (Mandatory)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Mike McGaughrin	Chief Operating Officer, Operations Directorate	9 th Nov.	10 th Nov.	
Ben Smith	Strategic Manager, Highways, Engineering and Transport	9 th Nov.		
David Perkins	Head of Operations	9 th Nov	12 th Nov.	
Stephen Brown	Head of Highways, Engineering and Transport	9 th Nov	12 th Nov.	
Maria Lucas	Head of Legal Services	9 th Nov.		
Cllr Stretton	Chairman of Rights of Way and Highway Licensing Panel	<i>TBC</i>	Briefing 19 th Nov.	
Cllr Hunt	Vice-Chairman of Rights of Way and Highway Licensing Panel	<i>TBC</i>	Briefing 19 th Nov.	

Report History

Decision type:	Urgency item?
Non-key decision	No

Full name of report author	Job title	Full contact no:
Anthony Hurst	Principal Rights of Way Officer	01628 796180

Appendix A

Existing RBWM Rights of Way and Highway Licensing Panel Terms of Reference – Extract from RBWM Constitution Part 6.

D8 Rights of Way and Highway Licensing Panel

D8.1 Purpose:

(i) In accordance with Council Policy, the Approved Code of Practice and available budgets to exercise the Council's functions relating to functions set out in Part 2.

(ii) To consider any public objections to the making of any Statutory Order and determining those Orders in relation to the above functions.

D8.2 Membership- 7 Members

N.B: A Cabinet Member may be a Member of the Rights of Way and Highway Licensing Panel

D8.3 Quorum: 2 Members

D8.4 Frequency: Quarterly

Proposed addition to Terms of Reference:

D8.5 Delegations to Officers

8.5.1 Power to permit deposit of builder's skip on highway (Section 139 of the Highways Act 1980)

Officer: Head of Operations.

8.5.2 Power to license planting, retention and maintenance of trees etc. in part of highway (Section 142 of the Highways Act 1980)

Officers: Strategic Manager, Highways, Engineering and Transport, or Head of Operations.

8.5.3 Power to authorise erection of stiles etc on footpaths or bridleways (Section 147 of the Highways Act 1980)

Officer: Strategic Manager, Highways, Engineering and Transport

8.5.4 Power to license works in relation to buildings etc which obstruct the highway (Section 169 of the Highways Act 1980).

Officers: Strategic Manager, Highways, Engineering and Transport, or Head of Operations

8.5.5 Power to consent to temporary deposits or excavations in streets (Section 171 of the Highways Act 1980)

Officers: Strategic Manager, Highways, Engineering and Transport, or Head of Operations

8.5.6 Power to dispense with obligation to erect hoarding or fence (Section 172 of the Highways Act 1980).

Officer: Strategic Manager, Highways, Engineering and Transport, or Head of Operations.

8.5.7 Power to restrict the placing of rails, beams etc. over highways (Section 178 of the Highways Act 1980).

Officer: Strategic Manager, Highways, Engineering and Transport, or Head of Operations.

8.5.8 Powers relating to the removal of things so deposited on highways as to be a nuisance (Section 149 of the Highways Act 1980).

Officers: Strategic Manager, Highways, Engineering and Transport, or Head of Operations.

8.5.9 Duty to assert and protect the rights of the public to use and enjoyment of highways (Section 130 of the Highways Act 1980).

Officer: Strategic Manager, Highways, Engineering and Transport

8.5.10 Duty to keep a definitive map and statement under review (Section 53 of the Wildlife and Countryside Act 1981).

Officer: Strategic Manager, Highways, Engineering and Transport in consultation with Head of Legal Services

APPENDIX B

The following functions referred to in Part 2 of the Council's Constitution will continue to be delegated to the Rights of Way and Highway Licensing Panel

Power to create footpaths and bridleways (Section 26 of the Highways Act 1980)

Power to stop up footpaths and bridleways (Section 118 of the Highways Act 1980)

Power to divert footpaths and bridleways (Section 119 of the Highways Act 1980)

Power to register common land or town or village greens (Regulation 6 of the Commons Registration (New Land) Regulations 1969) (S.I 1969/1843)

Power to register variation of rights of common (Regulation 29 of the Commons Registration (New Land) Regulations 1966) (S.I 1966/1471((a)