

MEETING	COUNCIL
DATE	5 December 2024
TITLE	Review of the Constitution
PURPOSE	To secure approval of amendments to the Constitution
RECOMMENDATION	<p>a) That a Council adopts the changes to the Delegation Scheme listed in Appendix 1</p> <p>b) That the Council accepts the information on delegated changes to the Constitution in Annexes 2 and 3</p>
CABINET MEMBER	Cyng Menna Trenholme
RESPONSIBLE OFFICER	Iwan Evans - Monitoring Officer

1. Introduction

The report reports on amendments to the Constitution that either require a resolution or are submitted to inform the Council of delegated changes. The changes follow legislative developments or a review of arrangements particularly so regarding licencing.

2. Hackney Vehicle Licensing and Private Hire

The arrangements for granting or refusing applications for taxi licences include rights of appeal, to the Magistrates' Court. Decisions to refuse to allow applications by a Sub-Committee, or to revoke or suspend licences by officers are made for the protection of the public. All referrals to a Sub-Committee lead to a hearing. It is believed that the consequences of the Delegation Scheme as it stands are:

- Unnecessary workload for the Sub-Committee due to the number of applications in they must be reported because the applicant has any criminal record.
- Unnecessary workload for the Licensing and Committee Services because of the need to prepare reports and ad-hoc meetings of the Sub-Committee
- Delays in the determination of applications due to the need to report to the Sub-Committee that means candidates have to wait longer for a decision

It is believed that the delegation scheme can be reviewed ensuring continuity of robust decisions of officers and the Sub-Committee ; but by allowing the Sub-Committee the opportunity to focus on the most serious or complex applications.

Delegated decision arrangements like this vary from Council to Council. Some Licensing Authorities delegate the right of an officer to decide any application which is not against policy. Some delegate the rights of a decision to an Officer; but with an appeal arrangement to a Sub - Committee if an applicant does not agree with the decision. From Gwynedd Council's point of view we believe that the Sub-committee has an important role in considering and deciding applications that are contrary to any policy in force; such as the current policy which provides guidance on determining if an individual is fit and proper to hold a taxi driving licence – (Policy Suitability Criteria for Drivers and Operators). We need clarity in defining the circumstances in which an application should be referred to the Sub-committee. However where there is an application within Policy the Sub-Committee hearing becomes a matter of formality which has the repercussions set out above.

A report was submitted to the General Licensing Committee on the 11th of November 2024([DELEGATION OF RIGHTS TO DETERMINE APPLICATIONS FOR TAXI LICENCES.pdf \(llyw.cymru\)](#)) The amendments to the Constitution contained in **Annex 1** were supported by the Committee. As these matters are matters within the range of the Full Councils functions the its support is sought for the adoption of this change.

3 New Compulsory Licensing Scheme – Special Treatments

The Welsh Government is introducing a new licensing scheme for 'Special Treatments' in 2024. Special Treatments include tattooing, semi-permanent skin colouring, cosmetic piercing, acupuncture, dry needling and electrolysis; and the new licensing scheme will be mandatory.

The licensing scheme is intended to improve and maintain infection prevention and control standards in the special treatment industry and ensuring the safety and health of clients and practitioners alike.

It has been confirmed that the date for implementation of this scheme will be 29 November 2024; Regulations governing all aspects of the scheme will come into force on the date this, under Part 4 of the Public Health (Wales) Act 2017 ("The Act") ; Including Special Treatments (Wales) Regulations 2024 and Licensing Committees Regulations Special Treatments (Wales) 2024. As part of the arrangements the Central Licensing Committee which has direct statutory responsibility for this area has delegated operational responsibility to the Central Licensing Sub-Committee. The Constitution was amended in Section 13 Part 1 to reflect this decision – **Atodiad 2**

4. The Historic Environment (Wales) Act 2023

In accordance with paragraph 2.6.3 of the Constitution I may incorporate legislative changes into the Constitution.

"2.6.3 Legislative Change

The Monitoring Officer may amend any part of the Constitution where such amendment is necessary to comply with any legislative provision. Such amendments shall come into force when the Monitoring Officer so determines, or the legislation (where applicable) provides for it. Such changes will be reported to the next meeting of the Full Council for information."

The Historic Environment (Wales) Act 2023 legislation brings together the main legislation for historic environment in Wales . The main Acts brought together in this consolidation exercise are:

- a. Historic Buildings and Ancient Monuments Act 1953
- b. Ancient Monuments and Archaeological Areas Act 1979
- c. Planning (Listed Buildings and Conservation Areas) Act 1990
- d. Historic Environment (Wales) Act 2016

The consolidation exercise also reaffirms provisions currently to be found in other Acts that apply to the historic environment to improve accessibility and clarity. These include:

- a. Local Government Act 1972
- b. Town and Country Planning Act 1990
- c. Planning and Compulsory Purchase Act 2004

The provisions of the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 were also amended to enshrine the new powers in the Constitution. These changes are shown in **Appendix 3**. The Legislation came into force on 4th November 2024. Because this is consolidating legislation I have used my delegated powers to make the necessary changes.

5. RECOMMENDATION

- a) That a Council adopts the changes to the Delegation Scheme listed in Appendix 1
- b) That the Council accepts the information on delegated amendments to the Constitution in Annex 2 and 3

Monitoring Officer

Author of the Report

Head of Finance

"No objections from the perspective of financial propriety."

ANNEX 1

Section 13 Part 3

- 11.3.5 To exercise the Council's powers in the field of **hackney and private hire vehicle licensing** except for the following matters which are the responsibility of the Sub-committee of the General Licensing Committee.
- (a) To determine an application for a hackney/private hire driver's licence when the report of the Criminal Records Bureau discloses a conviction or police caution, **and the application is contrary to the Authority's policy.**
 - (b) To determine an application for a hackney/private hire vehicle licence **when the vehicle does not comply with the authority's policy.**
 - (c) To determine an application for a private hire operator licence when the report of the Criminal Records Bureau discloses a conviction or police caution, **and the application is contrary to the Authority's policy.**

ANNEX 2

Section 13 Part 1

Public Health (Wales) Act 2017 – Special Treatments

The operation of functions under paragraph 21(1) of the Schedule 3 of the Public Health (Wales) Act 2017 ('the 2017 Act') delegated to the Committee as the licencing committee of the authority established under section 6 of the 2003 Act has been delegated to the Central Licensing Sub-Committee. .

ANNEX 3

Section 13 Part 1

20. Power to determine applications for listed building consent and related powers.	Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act (6.9). Sections 96(1) and (2) and 97(1) to (8) of, and Schedule 9 paragraphs (1), (2) and (3) to, the Historic Environment (Wales) Act 2023 (asc 3).	Head of Environment
21. Power to determine application for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as applied by Section 74(3) of that Act. Sections 96(1) and 97(1) to (4) and (7) and (8) of the Historic Environment (Wales) Act 2023 as applied by section 163 of that Act.	Head of Environment
22. Duties relating to applications for listed building consent and conservation area consent.	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 <u>ection</u> 95(1) of the Historic Environment (Wales) Act 2023 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1987 and paragraph 127 of the Welsh Office Circular 61/96 Planning and the Historic Environment; Historic Buildings and Conservation Areas.	Head of Environment
23. Power to serve a <u>building preservation notice</u> <u>temporary listing notice</u> and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Sections 83(1) and (2) and 84(1) and (2) of the Historic Environment (Wales) Act 2023	Head of Environment
24. Power to issue <u>an</u> enforcement notice in relation to demolition of <u>unlisted building in conservation areas.</u>	Sections 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Sections 123, 124 and 125 of the Historic Environment (Wales) Act 2023.	Head of Environment
25. Power to acquire a listed building in need of repair and to serve a repair notice.	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Sections 137 to 139 and 111(5) of the Historic Environment (Wales) Act 2023.	Head of Environment
26. Power to apply for an injunction in relation to a listed building.	Sections 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 135 of the Historic Environment (Wales) Act 2023	Head of Environment
27. Power to execute urgent works.	Sections 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990. Section 144(1) and (3) to (7) of the Historic Environment (Wales) Act 2023."	Head of Environment