

COUNCIL – 18 OCTOBER 2022

PART I

6. MINOR AMENDMENT TO PART 2 OF THE COUNCIL CONSTITUTION – ARTICLE 14 – POINT 14:03 (CED)

1 Summary

1.1 This report is being brought to Council to agree a minor amendment to Part 2 of the Council Constitution, Article 14, Point 14:03.

1.2 Article 14, Point 14:03 currently states the following:

14.03 Legal Proceedings

The Solicitor to the Council is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests.

1.3 Council are asked to agree to add the following wording:

The Solicitor to the Council (***or, with the Solicitor to the Council's prior written authorisation, a Principal Lawyer***), is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests.

2. Details

2.1 The reason for the report coming to Council is to provide more resilience.

3. Options and Reasons for Recommendations

3.1 To agree the minor amendment to Article 14, Point 14.03 as detailed at Paragraph 1.3 and that the Council Constitution be updated accordingly.

4. Policy/Budget Reference and Implications

4.1 The recommendations in this report are within the Council's agreed policy and budgets. The relevant policy is entitled the Council Constitution.

5. Financial, Legal, Equal Opportunities, Environmental, Community Safety, Public Health, Customer Services Centre, Communications & Website, Risk Management and Health & Safety Implications

5.1 None specific.

6. Legal Implications

6.1 Detailed elsewhere in the report.

7. Equal Opportunities Implications

7.1 Not applicable

Has a relevance test been completed for Equality Impact?	No
Did the relevance test conclude a full impact assessment was required?	Not applicable

7.2 Impact Assessment

Not applicable.

8. Staffing Implications

- 8.1 If the recommendation is agreed it will allow for greater resilience in the Legal Team to be able to undertake legal proceedings.

9. Risk and Health & Safety Implications

- 9.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.
- 9.2 The subject of this report is covered by the Legal and Committee service plan. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this/these plan(s).

Nature of Risk	Consequence	Suggested Control Measures	Response <i>(tolerate, treat, terminate, transfer)</i>	Risk Rating <i>(combination of likelihood and impact)</i>
Insufficient officers able to undertake legal proceedings	The Council are not able progress legal proceedings promptly	To allow Principal Lawyers the responsibility to undertake legal proceedings	Treat	4

- 9.3 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

Very Low	Low 4	High 8	Very High 12	Very High 16
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	Low 3	Medium 6	High 9	Very High 12
	Low 2	Low 4	Medium 6	High 8
	Low 1	Low 2	Low 3	Low 4
	<p style="text-align: center;">Impact</p> <p>Low -----> Unacceptable</p>			

Impact Score

4 (Catastrophic)

3 (Critical)

2 (Significant)

1 (Marginal)

Likelihood Score

4 (Very Likely (≥80%))

3 (Likely (21-79%))

2 (Unlikely (6-20%))

1 (Remote (≤5%))

- 9.4 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

10. Recommendation

- 10.1 Council are asked to agree the following amendment to Article 14:03:

The Solicitor to the Council (***or, with the Solicitor to the Council's prior written authorisation, a Principal Lawyer***), is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests.

- 10.2 Subject to the minor amendment being agreed that the Council Constitution be updated accordingly.

Report prepared by: Sarah Haythorpe, Principal Committee Manager

Data Quality

Data sources: Council Constitution

Data checked by: Ciara Feeney, Interim Solicitor to the Council

Data rating:

1	Poor	
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2	Sufficient	
3	High	x

Background Papers

Council Constitution

APPENDICES / ATTACHMENTS

None