

**GOVERNANCE AND AUDIT COMMITTEE
22 MARCH 2011**

**AMENDMENTS TO THE COUNCIL'S CONSTITUTION
Director of Corporate Services – Legal**

1 PURPOSE OF DECISION

- 1.1 This report seeks approval to amendments to the Council's Constitution which are proposed as a result of the recent introduction of the Regulatory Enforcement and Sanctions Act 2008 and the requirements of the Council to become the primary authority under the act.

2 RECOMMENDATION

- 2.1 **That Part 2 Table 1 General Powers of the Director of Environment, Culture and Communities be amended at paragraph 1.11 to add the general duties under the Regulatory Enforcement and Sanctions Act 2008 be one of his general functions.**

3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 3.1 The Borough Solicitor is the author of this report.

Borough Treasurer

- 3.2 There are no financial implications directly arising save that after 10 hours of Primary Authority work the Council is entitled to charge under Section 31 of the Act. The legislation will generate a level of income for the Council.

Equalities Impact Assessment

- 3.3 Not relevant.

Strategic Risk Management Issues

- 3.4 Not relevant.

4 SUPPORTING INFORMATION

- 4.1 A primary authority under Section 25 of the Act provides the single point of contact for all local regulators, and uses its in-depth understanding of the partner business to resolve issues more efficiently and ensure consistency.

- 4.2 Regardless of its size, a business operating across Council boundaries can form a primary authority partnership with a single local authority in relation to regulatory compliance. These partnerships can cover all environmental health and trading standards legislation, or specific functions such as food safety or petroleum licensing.

- 4.3 The companies likely to be captured by these provisions are:-

- Waitrose
- Panasonic
- Dell
- Hewlett Packard
- MCM Select Foods
- Anglo European Trading

- 4.4 By working closely with the business a primary authority can apply regulations to their specific circumstances providing robust and reliable advice. This advice must be respected by all local regulators enabling the business to operate with assurance and confidence.
- 4.5 A national inspection plan can be produced by the Primary Authority to improve the effectiveness of inspection, avoid repeated checks, and enable better sharing of information.
- 4.6 If a problem arises, the primary authority can co-ordinate enforcement action to ensure that the business is treated consistently and that responses are proportionate to the issue.
- 4.7 A business can choose what level of support it requires from the Primary Authority. The question of resource in the partnership is up to the Council and businesses concerned. Where necessary the Primary Authority can recover its costs other than the first 10 hours per annum which are not rechargeable.

The benefits for businesses which are not rechargeable.

- 4.8 Primary authority delivers confidence to invest and grow. Businesses have access to a stable source of information that draws on a detailed understanding of their operations, prevents inconsistent interpretation of regulations, and applies regardless of where stores, factories or offices are based or products are sold.
- 4.9 Where businesses seek to confirm that their existing procedures accord with the rules or simply want to know what to do to comply, tailored advice is available from their primary authority – with the assurance that it is respected by all local regulators.
- 4.10 By assessing the feedback from inspections conducted across the UK, primary authorities can provide other Councils with evidence of compliance and recommendations about how best to tackle broad issues quickly and effectively at a local level. Both aspects serve to drive down costs for businesses in partnerships.

Benefits for Local Authorities

- 4.11 Primary authority is a means of helping businesses prosper without compromising consumer protection from harm and fraud, by working with those that appreciate the value of the advice they receive. Local authorities willing to deliver tailored expertise can expect to see increased investment and employment within their local communities. As partnerships are established, Councils also gain from access to better intelligence.
- 4.12 The flexibility to adapt to local circumstances must be retained, eliminating inconsistent interpretation serves to enhance the credibility of all local regulators, as well as preventing unfair variations in the level of protection that the public receives.

This supports the creation of a level commercial playing field, giving businesses more confidence to invest and grow within the Borough.

Background Papers

Sections 25 – 31 of the Regulatory Enforcement and Sanctions Act 2008.

Contact for Further Information

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