

**AMENDMENT TO THE SCHEME OF DELEGATION
(APPLICATIONS UNDER THE PUBLIC ORDER ACT 1986)
3rd February 2010
Report of the Monitoring Officer**

PURPOSE OF REPORT
To report an amendment to the Scheme of Delegation to Council in accordance with Rule 1.4 of the Cabinet Procedure Rules, in order for Council to approve the appropriate amendment to the Scheme of Delegation to Officers in Part 3 Section 15 of the Constitution.
This report is public

RECOMMENDATIONS

(1) That the Scheme of Delegation in Part 3 Section 15 of the Constitution be amended to reflect the Cabinet delegation to the Chief Executive of authority to make application to the Home Secretary for consent to make an Order under the Public Order Act 1986 in response to an application from the Chief Constable, and to make the appropriate Order following the receipt of the Home Secretary's consent.

1.0 Introduction

1.1 By an Individual Cabinet Member Decision of the 10th December 2009, the Cabinet Scheme of Delegation was amended to authorise the Chief Executive to make application to the Home Secretary for consent to make an Order under the Public Order Act 1986 in response to an application from the Chief Constable, and to make the appropriate Order following the receipt of the Home Secretary's consent.

1.2 The Police have powers at common law and under the Public Order Act 1986 to deal with public disorder and the threat of public disorder. However, in extreme cases, the Chief Constable may have occasion to apply to the district council for an order prohibiting public processions or trespassory assemblies. Before making such an Order, the Council must obtain the consent of the Home Secretary.

1.3 Whilst this situation will be extremely rare, if the need for an application arises, it will by its very nature need to be dealt with promptly. The Head of the Lancashire Constabulary's Legal Department recently asked the district councils within Lancashire to review their procedures to ensure that they would be in a position to react quickly to such an application. The Individual Cabinet Member decision came about as a result of this request, and it was felt that the delegation to the Chief Executive was consistent with his other emergency responsibilities.

2.0 Proposal Details

- 2.1 As the delegation is of an executive function, it must be reported to Council for inclusion in the Scheme of Delegation to Officers in Part 3 Section 15 of the Constitution.

3.0 Details of Consultation

- 3.1 The delegation arose from a meeting between the Head of the Lancashire Constabulary's Legal Department and representatives of the district councils in Lancashire.

4.0 Options and Options Analysis (including risk assessment)

- 4.1 There are no options. The delegation of an executive function is simply being reported for inclusion in the Constitution.

5.0 Conclusion

- 5.1 Council is asked to amend the Scheme of Delegation to Officers in Part 3 Section 15 of the Constitution accordingly.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None directly arising from this report. However, with regard to the substance of the delegation, it is in the interests of Community Safety for the police and Council to work together to ensure a proper use of the available powers under the Public Order Act 1986. In considering any application from the Chief Constable for an Order, the human rights implications will be fully considered and balanced against the general public interest.

FINANCIAL IMPLICATIONS

There are no financial implications arising directly from this report.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

The legal implications are included in the report.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer, as the officer responsible for recommending changes to the Constitution.

BACKGROUND PAPERS

None

Contact Officer: Mrs S Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

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