

Agenda Item No:	9	
Meeting:	Council	
Date:	3rd October 2022	
Report Title:	Constitutional Amendments Update	

Cover sheet:

1 Purpose / Summary

- 1.1 Paragraph 2.1(a) of Article 4 of the Constitution provides that Full Council will be responsible for approving and reviewing the Council's Constitution to ensure the continuous improvement of local democracy. Paragraph 3.1 of Article 15 of the further specifies that changes to the Constitution will only be approved by the Council after consideration of the proposals by Cabinet. However, in conjunction with this, the Monitoring Officer has delegated authority under Part 3, Table 4, paragraph 47 to make amendments to the Constitution in any way whatsoever in order to secure compliance with the law and the convenient, effective discharge of any Council function provided that such amendment is reported to and ratified at the following meeting of the Council.
- 1.2 The purpose of this Report is to seek Full Council's ratification of the changes that have been made by the Acting Monitoring Officer since its last meeting and to approve a further amendment following approval of a recommendation to Cabinet at its meeting on 3rd October 2022

2 Key Issues

- 2.1 On 22nd July 2020 the Business and Planning Act 2020 came into force amending the Licensing Act 2003 to automatically incorporate off-sales into existing licences and to introduce a temporary new regime in relation to the grant of pavement licences. At its meeting of 6th August 2020, Fenland District Council ratified the Monitoring Officer's amendments to paragraph 104A of the constitution which gave effect to this. The Government has since extended the timeframe for this provision to September 2023 and ratification of the associated constitutional amendment is therefore again required to ensure continued compliance with the law.
- 2.2 Further, and in or to ensure the convenient and effective discharge of Council functions, the Acting Monitoring Officer has recommended Cabinet approval of an amendment to Standing Orders so that motions on notice must be submitted by no later than 12 noon 5 clear working days prior to the meeting to which they relate as opposed to by 5 p.m. as is currently required. Subject to Cabinet's agreement, Full Council are subsequently recommended to approve that change.

3 Recommendations

- 3.1 Members are requested to note and ratify the change that the Monitoring Officer has made to the Constitution in exercise of the authority delegated to her under Part 3, Table 4, paragraph 47 of the Constitution and to approve Cabinet's recommendation to amend the paragraph 10.1 of the Standing Orders so that motions on notice are required to be submitted by 12 noon as opposed to 5 p.m.

Wards Affected	N/A
Forward Plan Reference	N/A
Portfolio Holder(s)	Councillor Boden, Leader of the Council
Report Originator(s)	Amy Brown, Acting Monitoring Officer Peter Catchpole, Corporate Director with responsibility for Governance
Contact Officer(s)	Amy Brown, Acting Monitoring Officer Elaine Cooper, Team Leader – Elections, Land Charges and Member Services
Background Papers	Report to Full Council of 6 th August 2020: Report and Appendix A.pdf (fenland.gov.uk)

Report:

1 BACKGROUND AND INTENDED OUTCOMES

- 1.1 The purpose of this Report is to request that Full Council:
- 1.1.1 Exercise their delegated authority under Article 4, paragraph 2.1(a) to amend the Standing Orders on the recommendation of Cabinet so that paragraph 10.1 is amended to read 12 noon rather than 5 p.m. as the deadline by which motions on notice must be received; and
- 1.1.2 To ratify the constitutional amendments made by the Monitoring Officer in exercise of her delegated authority under Part 3, Table 4, paragraph 47 of the Constitution. so as to secure compliance with the law and the convenient, effective discharge of any Council function.

2 REASONS FOR RECOMMENDATIONS

- 2.1 As a result of the impact of the pandemic, a new fast-track process was implemented by the Business and Planning Act 2020 (BPA2020) for the purpose of enabling relevant businesses to obtain a pavement licence permitting furniture such as tables and chairs to be placed outside their premises thereby maximising capacity whilst still ensuring compliance with safety requirements. The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2022 have extended these provisions so that they continue to now remain in force until 30th September 2023. Fenland District Council must therefore incorporate these provisions into the arrangements for the discharge of its functions and the Constitution was amended accordingly.
- 2.2 Paragraph 10.1 of Fenland District Council's Procedure Rules (Standing Orders) provided that notice of any motion (other than those which can be moved without notice under Rule 11) must be delivered in writing or by electronic mail to the Chief Executive by not later than 5 p.m. at least 5 clear working days before the date of the relevant meeting (not counting the day of delivery or the day of the meeting). Similarly, notice of the meeting must be given to members of the public and the summons issued to all Councillors along with the publication of the Agenda and associated reports again at least 5 clear working days before the date of the relevant meeting. Whilst the Council's Procedure Rules and Access to Information Procedure Rules do not specify a time by which this must take place, in the interests of expedience every effort is made to ensure that these tasks are completed within ordinary business hours. In order therefore to ensure the convenient and effective discharge of the Council's functions, it is recommended that the deadline for receipt of motions is changed from 5 p.m. to 12 noon in order to enable Member Services colleagues adequate time to prepare and publish the final version of the Agenda before close of business.

3 CONSULTATION

- 3.1 The Acting Monitoring Officer has exercised her delegated authority in consultation with the relevant portfolio holder, CMT and service leads. There are no specific consultation requirements in relation to the proposed amendment to Standing Orders which will only impact members who are collectively responsible for determining the recommended approach.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The recommendation proposes that members of Full Council ratify the Monitoring Officer's amendments to the Constitution. As an alternative, members may decline to do so. Should this option be favoured, the Constitution would not reflect Fenland District Council's current legislative obligations in respect of pavement licences.
- 4.2 The recommendation also proposes, on the recommendation of Cabinet, that the time for receipt of motions is changed to 12 noon. Should this not be agreed, the time would remain at 5 p.m.

5 IMPLICATIONS

Legal Implications

- 5.1 There are no specific legal implications associated with the recommendations other than as already set out in this Report.

Financial Implications

- 5.2 There are none.

Equality Implications

- 5.3 There are none.