

# TONBRIDGE & MALLING BOROUGH COUNCIL

## COUNCIL

18 February 2010

### Report of the Monitoring Officer

#### Part 1- Public

#### Matters For Decision

#### **1 CHANGES TO CONSTITUTION TO IMPLEMENT PROVISIONS IN THE ANIMAL WELFARE ACT 2006**

##### **Summary**

**The report deals with changes to the Constitution to deal with the above legislation effectively**

- 1.1 In November last year LEMAB received a report on the Act which seeks to protect a wide range of animals. The Act introduced a number of new offences in respect of cruelty to protected animals and also set out a new welfare duty for people responsible for animals which if breached would be a further offence.
- 1.2 Local authorities are given a discretionary power under the legislation to enforce the Act and to investigate and prosecute any offences created under it.
- 1.3 There is no power in the Constitution for officers to appoint Inspectors under the Act or to investigate offences and instruct the Chief Solicitor to prosecute offences.
- 1.4 In order to expeditiously deal with the day to day implementation of the new legislation the following amendments to the list of delegations to Director of Health and Housing in part 3 of the Constitution are proposed:
  - 1.4.1 "DHH 100 To be responsible for the Council's environmental health and housing functions, including the following services: food safety , health and safety, dog control and pest control, animal welfare, environmental protection and public health, refuse collection, street cleansing, recycling and public conveniences, housing and Home Improvement Agency and to inspect the Borough and research as necessary the need for services and to plan and implement programmes and appropriate action as allowed by the following scheme of delegations"
  - 1.4.2 DHH 138 be amended to include after DHH 138.20 the following additional wording:

“DHH 138.21 Animal Welfare Act 2006”

This will allow the Director of Health and Housing to instruct the Chief Solicitor to prosecute offences under the Act.

- 1.4.3 “DHH 142 To deal with all aspects of the welfare of animals under the Animal Welfare Act 2006 including the power to appoint Inspectors for the purposes mentioned in the Act and to recover any costs expended in accordance with the Act”.
- 1.4.4 The provisions of the Act are already in force and it is proposed that the revised officer delegations are approved with effect from the date of this meeting.
- 1.4.5 A minor change is also required to Article 12 of the Constitution to reflect the responsibility of the Director of Health and Housing for Animal Welfare.

### **Legal Implications**

- 1.4.6 Article 15 in part 2 of the Constitution sets out the procedure for review and revision of the Constitution. Changes to the Constitution may only be approved by full Council after consideration of a report on the proposal from the Council’s Monitoring Officer.

### **1.5 Financial and Value for Money Considerations**

- 1.5.1 None.

### **1.6 Risk Assessment**

- 1.6.1 If the changes are not made to the Constitution to deal with the legislation then officers will not be able to enforce its provisions effectively and efficiently.

### **1.7 Recommendations**

- 1.7.1 The Monitoring Officer be authorised to amend Part 3 of the Constitution to give effect to the changes to the Delegations to the Director of Health and Housing as set out in this report and to amend article 12 in part 2 of the Constitution to refer to “Animal Welfare” in the list of functions and areas of responsibility for the Director of Health and Housing.

Background papers:

contact: Lynn Francis

Nil

Julie Beilby  
Monitoring Officer