

# **NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**

## **Environment & Highways Cabinet Board**

1<sup>st</sup> September 2016

### **Report of the Head of Planning and Public Protection**

Nicola Pearce

#### **Matter for Decision**

**Wards Affected:** All

#### **Changes to Officer Delegation Arrangements – the Highways Act 1980, the Hedgerow Regulations 1997**

#### **Purpose of Report**

- 1 To seek approval from Members to amend the Authority's current constitution and delegation arrangements to officers in relation to legislation enforced by the Environment Directorate [which are currently set out in the Officers of the Council Delegation Arrangements in Part 3 of the Authority's Constitution (version 14-Aug-15)].

#### **Executive Summary**

- 2 This report seeks to add to the Constitution:
  - An additional duty of the Highways Act 1980, following an amendment brought in by the Countryside and Rights of Way Act (CROW) 2000; and
  - The right to enter land under the Hedgerow Regulations 1997, not previously addressed within the Constitution.

#### **The Highways Act 1980**

- 3 The Highways Act, 1980 deals with the management and operation of the highway network, including Public Rights of Way.
- 4 The CROW Act, 2000, enacted an amendment to the Highways Act, under Section 130a, introducing measures for any person to be able to serve notice on the Highway Authority to remove an

obstruction from a highway. The Highway Authority is required to respond to this notice within 1 month of the notice having been served, outlining the action, if any, that will be taken to remove the obstruction.

- 5 If the person serving the notice is not satisfied that the obstruction has been removed, they may subsequently apply to the Magistrate's Court for an order requiring the Highways Authority to take measures to secure the removal of the obstruction.

### **The Hedgerow Regulations 1997**

- 6 The Hedgerow Regulations, 1997, protects certain countryside hedgerows from being removed. The Local Planning Authority (LPA) administers the regulations and a landowner wishing to remove a hedgerow covered by the regulations must apply to the LPA in writing.
- 7 The LPA is required to respond to the notification, laying out whether the hedgerow may be removed, or must be retained. The LPA may be required to enter land for the purpose of surveying the hedgerow where a notification has been made, or to ascertain whether an offence has been committed in relation to the Regulations.

### **Financial Impact**

- 8 There is already a requirement for the Highway Authority to deal with obstructions on the Highway, and for the Planning Authority to administer notifications for the removal of hedgerows covered by the Regulations. There is no additional cost to implementing the requirements outlined above.

### **Equality Impact Assessment**

- 9 A Screening Assessment has been undertaken to assist the Council in discharging its Public Sector Equality Duty under the Equality Act 2010. After completing the assessment it has been determined that this proposal does not require an Equalities Impact Assessment.

### **Workforce Impact**

- 10 There is already a requirement for the Highway Authority to deal with obstructions on the Highway, and for the Planning Authority to

administer notifications for the removal of hedgerows covered by the Regulations. The workforce impact of responding to these notices will be negligible.

### **Legal Impact**

11 There are no legal impacts in respect of this report.

### **Risk Management**

12 There are no significant risks associated with this report.

### **Consultation**

13 There is no requirement under the Constitution for external consultation on this item.

### **Recommendation**

14 That having considered the report, it is resolved to make the following recommendations for approval:

1. That the delegation arrangements in respect of the Environment Directorate for the Highways Act (1980), which are set out in version 14-Aug-15 of the Authority's Constitution are amended to include: Section 130a – to be able to respond to notices served on the Authority for the removal of obstructions on the Public Right of Way.
2. That the delegation arrangements in respect of the Planning Department, for (ix) Rights of Entry (p. 3.160), which are set out in version 14-Aug-15 of the Authority's Constitution, are amended to include: The Hedgerow Regulations (1997) - Section 12.
3. That the Head of Legal Services be authorised to seek amendment of the Constitution by the Council in due course in order to reflect the above changes to the Authority's delegation arrangements.

### **Reason for Proposed Decision**

- 15 To ensure that the Constitution reflects changes that has been made to certain legislation.

### **Implementation of Decision**

- 16 The decision is proposed for implementation after the three day call in period.

### **Appendices**

- 17 None.

### **List of Background Papers**

- 18 None.

### **Officer Contact**

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