

Report to: **Governance Committee**

Date of meeting: **28 January 2020**

By: **Assistant Chief Executive**

Title: **Constitutional changes arising from withdrawal from the European Union (EU)**

Purpose: **To seek authority to make amendments the Council's Constitution, instruments and agreements following the United Kingdom's withdrawal from the European Union**

RECOMMENDATIONS

The Governance Committee is recommended to recommend County Council to agree:

- 1) to amend the County Council's Constitution as set out in paragraph 2.1 of the report;**
 - 2) to agree to the wording set out at paragraph 2.2 being inserted in Part 1 of the Council's Constitution; and**
 - 3) to delegate authority to the Assistant Chief Executive to amend the Council's Constitution, policies, procedures and guidance or any other legal instrument or agreement to reflect any changes in legislation arising from the United Kingdom's withdrawal from the EU**
-

1 Background and context

1.1 On the 31 January 2020 the United Kingdom will leave the European Union. The European Union (Withdrawal) Act 2018 (the EUWA) will end the supremacy of EU law and will convert directly applicable EU legislation into domestic law. Unless or until changed by Parliament the legislation will generally have the same effect as before the UK left the EU.

1.2 Transitional provisions are set out in the EUWA which means that anything done or in force before exit day and which relates to any element of retained EU law is preserved.

1.3 The County Council's constitution contains a number of provisions which arise from legislation from the EU or which refer to Directives or Regulations linked to EU legislation. It will be necessary for these constitutional references to be amended to take account of the departure of the United Kingdom from the EU on 31 January and to make any further changes needed to accommodate the transition arrangements as provided in UK primary legislation.

1.4 It is necessary for all references to EU legislation, obligations and directives within the Council's Constitution and in any policies and internal guidance to be amended to take account of these changes. As a precaution authority is also sought to amend any legal instrument or agreement to which the County Council is a party which may be required to ensure continued effect and to preserve the rights and interests of the Council.

2 Conclusion and recommendations

2.1 It is recommended that the references to EU legislation, obligations and directives within the Council's Constitution, policies, practices and guidance are amended to "retained" EU legislation, obligations and directives.

2.2 The Constitution and the legislator framework referred to within it is kept under review, but it is also recommended to include an advisory note in the Constitution reminding users that we are in a period of transition:

References to legislation including statutory instruments contained within this Constitution may have been superseded and therefore substituted by changes derived from the European (Withdrawal) Act 2018 ("the Act") and subordinate legislation introduced following the United

Kingdom's exit from the European Union. Users should check references contained within to ensure that they are up to date.

2.3 It is recommended that authority be delegated to the Assistant Chief Executive to make any changes to the Council's Constitution, policies, practices and guidance documents to reflect changes in legislation arising from the UK's withdrawal from the EU and to make changes to any other affected legal instrument or agreement to which the County Council is or will be a party.

PHILIP BAKER
Assistant Chief Executive

Contact Officer: Philip Baker
Tel. No. 01273 481564
Email: philip.baker@eastsussex.gov.uk