

NON-CONFIDENTIAL



Borough of Tamworth

4 July 2012

Dear Councillor

You are hereby summoned to attend a **meeting of the Council of this Borough** to be held on **WEDNESDAY, 11TH JULY, 2012** at 6.00 pm in the **COUNCIL CHAMBER - MARMION HOUSE**, for the transaction of the following business:-

AGENDA

NON CONFIDENTIAL

- 1 Apologies for Absence**
- 2 To receive the Minutes of the previous meeting (Pages 1 - 6)**
- 3 Declarations of Interest**

To receive any declarations of Members' interests (personal and/or personal and prejudicial) in any matters which are to be considered at this meeting.

When Members are declaring a personal interest or personal and prejudicial interest in respect of which they have dispensation, they should specify the nature of such interest. Members should leave the room if they have a personal and prejudicial interest in respect of which they do not have a dispensation.

- 4 To receive any announcements from the Mayor, Leader, Members of the Cabinet or the Chief Executive**
- 5 Question Time:**

- (i) To answer questions from members of the public pursuant to Procedure Rule No. 10.
- (ii) To answer questions from members of the Council pursuant to Procedure Rule No. 11

6 Petition (Pages 7 - 8)

Cemetery Access Petition


7 Implementation of Dog Control Orders (Pages 9 - 22)

Report of the Portfolio Holder for Environment and Waste Management

8 Proposed Changes to the Constitution and Code of Conduct and Appointment of Independent Persons (Pages 23 - 34)

Report of the Solicitor to the Council and Monitoring Officer

Yours faithfully



CHIEF EXECUTIVE

People who have a disability and who would like to attend the meeting should contact Democratic Services on 01827 709264 or e-mail committees@tamworth.gov.uk preferably 24 hours prior to the meeting. We can then endeavour to ensure that any particular requirements you may have are catered for.

Marmion House
Lichfield Street
Tamworth



MINUTES OF A MEETING OF THE COUNCIL HELD ON 19th JUNE 2012

PRESENT: Councillor T Clements (Chair), Councillors J Garner, L Bates, B Beale, M Clarke, D Cook, C Cooke, M Couchman, S Doyle, J Faulkner, K Gant, M Gant, M Greatorex, G Hirons, A James, R Kingstone, A Lunn, M McDermid, R McDermid, K Norchi, S People, S Pritchard, E Rowe, P Seekings, P Standen and M Thurgood

The following officers were present: Anthony E Goodwin (Chief Executive), John Wheatley (Executive Director Corporate), Jane Hackett (Solicitor to the Council and Monitoring Officer) and Lara Allman (Democratic & Election Services Officer)

17 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors S Claymore, D Foster, R Pritchard and J Oates.

18 TO RECEIVE THE MINUTES OF THE PREVIOUS MEETINGS

The minutes of the meetings held on 15 May 2012 were approved and signed as a correct record.

(Moved by Councillor D Cook and seconded by Councillor E Rowe)

The minutes of the meetings held on 17 May 2012 were approved and signed as a correct record.

(Moved by Councillor D Cook and seconded by Councillor L Bates)

19 DECLARATIONS OF INTEREST

There were no Declarations of Interest.

20 TO RECEIVE ANY ANNOUNCEMENTS FROM THE MAYOR, LEADER, MEMBERS OF THE CABINET OR THE CHIEF EXECUTIVE

Announcement by Councillor D Cook

Councillor D Cook sent his congratulations to Councillor Jeremy Oates and Nicola Oates on the birth of their daughter.

Councillor D Cook announced that Ian Gibbons is currently ill and in hospital and sent regards to Ian and his family.

Announcement by Councillor R McDermid

Councillor R McDermid has spoken to Ian Gibbons and his wife and announced that Ian is currently in the George Bryan Hospital. Any Councillor wanting to visit him can do. He does not want to be excluded and would welcome a visit, whichever side of the Chamber you are from.

21 QUESTION TIME:**QUESTIONS FROM MEMBERS OF THE COUNCIL****NO.1**

Under Procedure Rule No 11, Councillor C Cooke will ask the Portfolio Holder for Environment & Waste Management, the following question:-

"Early last year Tamworth Council finalised and produced its Climate Change Strategy. It contained a One Year Action Plan, from April 2011 until March 2012. Could you please tell me what progress has been made on this Climate Change action plan during that time and to date?"

The Portfolio Holder for Environment & Waste Management gave the following reply:

I would like to thank Councillor Cooke for his question, the Strategy to which he refers to was never formally adopted by Cabinet and as a result the actions set out in the document have not been fully realised.

The draft Strategy however has provided the basis for other key strategic documents providing the framework for the many positive actions to be undertaken across the Council and various partnerships.

There are however examples of progress towards reducing the impact on Global Climate Change, these can be seen on a local level further illustrating the Council's approach towards a sensible and realistic 'Environmental Management Strategy'.

1. Initiatives within Housing Assets through Energy Efficiency Activities
2. Reducing energy usage where possible be it electrical or fossil fuels, encouraging car sharing and encouraging the reduction mileage travelled while on Council Business – directly targeting CO2 emissions.

3. An active Environmental Management Policy, such as reminding staff to turn off computer equipment when leaving work, also recycling waste where ever possible – again addressing the level of CO2 emissions.
4. Also exploring alternative methods of work such as 'Agile' working identifying patterns of work and the benefits to be gained such as staff working form home etc. this is intended to present new opportunities for the Council and its employees while also benefiting the environment through lower CO2 emissions.

These cover just a few of the initiatives been taken to reduce our impact on the environment.

Councillor Cooke's question has prompted a review of actions and timelines which will be undertaken by a Task & Finish Group reporting to the Tamworth Strategic Partnership.

In the meantime, I have asked officers to compile a more specific list of all activities undertaken by Council services that relate to addressing Climate Change. This will be forwarded to Cllr. Cooke in writing and copied to all members.

Supplementary Question

As this whole Climate Change document has been based on the premise of Global Warming and, for the last 14 years at least, since 1998, there has been Global Cooling - would you agree that it would be much more sensible for Tamworth Council to direct it's money and activities to the pollution reduction and energy and materials conservation parts of this policy rather than promoting and acting on highly doubtful theories about Global Warming per se?

The Portfolio Holder for Environment & Waste Management gave the following reply:

No.

22 CHANGES TO CONSTITUTION ARISING FROM THE LOCALISM ACT

The Report of the Solicitor to the Council and Monitoring Officer describing the changes and recommending the actions required for the Council to implement under the Localism Act 2011 which makes fundamental changes to the system of regulation of Standards of Conduct for elected and co-opted Councillors was considered.

RESOLVED:

- That:
- a (i) Council establish a larger Audit and Governance Committee comprising seven elected members of the District Council, appointed proportionally;
 - b the Terms of Reference of the Audit and Governance Committee be extended to encompass issues and

complaints relating to Standards of Conduct of members;

- c Council adopts a Code of Conduct to have effect from 1 July 2012.

As attached at Appendix B of the report.

The minimum Statutory requirement requires a Code that

(i) is consistent with the principles of public life and
(ii) specifies the interests which are required to be registered in addition to the mandatory registration of by the Disclosable Pecuniary Interests (DPI's).

- d Council adopts Arrangements for dealing with complaints regarding members of the Council as attached at Appendix C in terms of Section 28(6) of the Act, which is the proposal for all Staffordshire Councils to allow for uniformity and consistency in dealing with complaints across Staffordshire;
- e the Monitoring Officer appoint a Deputy Monitoring Officer from one of the members of Corporate Management Team
- f the Monitoring Officer advertise a vacancy of the appointment of 1 Independent Person and up to 2 Reserve Independent Persons
- g a Committee comprising the Chair and two other members of Standards Committee/ Audit and Governance Committee be set up to deal with the appointment at (f) above and proceed to short-list and interview candidates, and to make a recommendation to Council for appointment;
- h the Monitoring Officer, in consultation with the Chair of the Committee and the Leader, be authorised to set the initial allowances and expenses for the Independent Person and any Reserve Independent Persons, and this function subsequently be delegated to the said Committee;
- i the Monitoring Officer prepares and maintains a new register of members interests to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted, and ensure that it is available for inspection as required by the Act;
- j Council adopts a Standing Order which equates to the current Code of conduct requirement that a member

must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which e/she has a DPI, except where he/she is permitted to remain as a result of the grant of a dispensation;

- k Council delegates the power to grant dispensations –
 - i to the Monitoring Officer with an appeal to the said Committee, and
 - ii to the said Committee after consultation with the Independent Person; and
- l that the current Standards Committee and appointment of Independent members ceases to have effect from 30 June 2012 and that any complaints not concluded at that date be referred to the Committee for consideration.

(Moved by Councillor D Cook and seconded by Councillor L Bates)

A motion to add further recommendations was made

- RESOLVED:** That:
- a The four amendments that were moved at the Council meeting on 17 May 2012 be dealt with in terms of Article 15 paragraph 15.02;
 - b Audit & Governance Committee review the wording under The Code of Conduct of the sanctions available, and;
 - c The recommendations as made by the Audit & Governance Committee be reported back to Council.

(Moved by Councillor D Cook and seconded by Councillor S Peaple)

The Mayor

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Council

11 July 2012

Cemetery Access Petition

CEMETARY ACCESS PETITION TO TAMWORTH COUNCIL

CONCERNS:

We, the undersigned petitioners, are concerned that the gates to the Tamworth Cemeteries are closed to cars during the day and open to pedestrians during the night.

The effect of this is that -

1. Less able people are unable to visit the graves of the deceased at a time convenient to them. Items cannot easily be carried to and from the graves. This is upsetting to many people.
2. Property is being stolen from cemeteries during the night. There has been a well publicised case of this occurring but it is actually becoming commonplace and other items of grave furniture and adornment are being interfered with
3. Graves are tended less often.

ACTION REQUESTED

We ask that Tamworth Council reconsider their Cemetery Gate closure policy to allow for vehicles to visit during the day and to secure the cemetery from visitors during the night.

Please click on the attached link to see the full petition

<http://www.tamworth.gov.uk/pdf/Cemetary%20Access%20Petition%20to%20Tamworth%20Council.pdf>

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DATE OF COMMITTEE
11 July 2012

REPORT OF THE PORTFOLIO HOLDER
ENVIRONMENT & WASTE MANAGEMENT

TITLE OF REPORT
Implementation of Dog Control Orders 2012

EXEMPT INFORMATION

None

PURPOSE

To approve the formal adoption of four Dog Control Orders:-

The Fouling of Land by Dogs (Tamworth Borough Council) Order 2012
The Dogs on Lead By Direction (Tamworth Borough Council) Order 2012
The Dogs on Lead at All Times (Tamworth Borough Council) Order 2012
The Dog Exclusion (Tamworth Borough Council) Order 2012

RECOMMENDATIONS

That Members approve the formal adoption of the Dog Control Orders with effect from 1st August 2012

EXECUTIVE SUMMARY

Following a period of initial consultation, the notice of formal consultation of 28 days was approved by Cabinet at their meeting of 30th May, 2012 for the areas to be included for the implementation of Dog Control Orders and for this to be recommended to full Council for adoption.

The Clean Neighbourhoods and Environment Act 2005 requires that formal adoption of Dog Control Orders be endorsed by Full Council.

The formal consultation ended on 30th June 2012 with no further comments or additions submitted by members of the public or stakeholder organisations. Results of the initial consultation showed overwhelming support (see below background information)

As no further representation has been received, the orders can be implemented after approval in Tamworth following a further public notice (attached as Appendix 1).

The adoption of these Dog Control Orders makes it easier for the authority to deal quickly and efficiently with the small minority of dog owners who behave irresponsibly, while at the same time encouraging a culture of responsible dog ownership.

These orders, along with our ongoing Mucky Pup – Clean It Up campaign, will bring a number of benefits, including the creation of a cleaner environment, reduction of health problems associated with dog faeces and the promotion of responsible dog ownership.

They represent a modern and effective way of enforcement when required and provide a commonsense method of dealing with an issue of constant concern for our residents.

RESOURCE IMPLICATIONS

There are no additional financial implications to those identified in the Cabinet Report dated 14 December 2011

LEGAL/RISK IMPLICATIONS BACKGROUND

All legal implications are detailed within the report

SUSTAINABILITY IMPLICATIONS

BACKGROUND INFORMATION

The initial consultation regarding proposals for the introduction of Dog Control Orders ended on 28 February 2012. The Council received 257 responses. The results of this consultation has provided the following outcomes on the proposed orders:-

- **Fouling of Land by Dogs Order – the whole of the Borough**

The survey showed that 93% of the respondents were in favour of the introduction of this order

- **Dogs on Lead by Direction Order – the whole of the Borough**

The survey showed that 89.8% of respondents were in favour of the introduction of this order

- **Dogs On Lead at ALL times Order - designated land Tamworth Borough Council cemeteries, pedestrian area of the town centre, top lawn Castle Grounds, all public footways or grass verges adjacent to a road in Tamworth (as defined by the RTA 1988) and Anker Valley Sports Pitches**

The survey showed that 89.9% of respondents were in favour of the introduction of this order

- **Dog Exclusion Order – designated children's' play areas only**

The survey showed that 83.8% of respondents were in favour of the introduction of this order

Stakeholder/Landowner feedback

Feedback was received from:-

- The Kennel Club
- The Dogs Trust
- Staffordshire Wildlife Trust
- Dunroamin (the Council's stray dog collection service)
- Waterloo Housing
- Tamworth Dog Walkers

No further comments were received from the other stakeholders invited.

The responses received contained no major objections to the proposals, although the Kennel Club advised upon the need to allow dogs to roam free with children in parks and advised against a total banning of dogs from parks or open space or for dogs to be on the lead at all

time.

In designating only formal play areas and specific locations where dogs must be on a lead means that Tamworth Borough Council continues to support responsible dog ownership in public spaces, but acknowledges the fact that dogs need to roam free under the control of their owners.

Overall the initial consultation indicates there is support from residents for the control of dogs, as detailed in the bullet points above.

The proposed orders for implementation, in accordance with legislation, must be approved by Full Council and implemented within 10 days following with all signage in place.

Education

Street Wardens have commenced the "Saxon Hound" Mucky Pup Clean it Up campaign and will continue to educate and inform residents on Dog Control.

Leaflets on dog fouling and the implication of dog control orders are also widely available, and the instantly recognisable "Saxon Hound" will be used for all branding associated with the education campaign.

Enforcement of the Dog Control Orders

Many comments in the initial consultation referred to enforcement. It is not proposed to increase the level of enforcement the Council currently delivers, but it is proposed that all enforcement staff will receive delegated authority to operate the new powers and the Mucky Pup Clean it Up campaign will encourage residents to report irresponsible dog owners. This should enable the council to more effectively allocate resources to enforce the orders.

Additional Areas

The consultation did not include strong proposals for additional areas to be included, but after consideration some additional areas are proposed for a dog exclusion area as they are designated play areas:-

Tennis Courts – Tamworth Castle Pleasure Grounds

Skate Park – Tamworth Castle Pleasure Grounds

REPORT AUTHOR

Jo Sands

LIST OF BACKGROUND PAPERS

Cabinet reports dated 14 December 2011 and 30 May 2012

APPENDICES

App 1 – Public Notice

App 2 –Fouling of Land By Dogs (Tamworth Borough Council) Order 2012

App 3 – Dogs on Lead At All Times (Tamworth Borough Council) Order 2012

App 4 – Dog Exclusion (Tamworth Borough Council) Order 2012

App 5 – Dogs On Lead by Direction (Tamworth Borough Council) Order 2012

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Tamworth Borough Council
The Clean Neighbourhoods and Environment Act 2005
Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006

Notice is hereby given that Tamworth Borough Council has made the following Orders on 11th July 2012 which will come into force on 1st August 2012

Order One – Dogs Fouling of Land

This Order requires people, in control of a dog, to immediately remove faeces deposited by the dog from all areas of land, to which the public are entitled or permitted to have access, within the Borough of Tamworth.

There are exemptions for people with registered guide dogs and trained assistance dogs.

Order Two – Dogs on Leads at All Times

This Order requires people in control of a dog to keep it on a lead in the following areas:- Amington Cemetery, Wilnecote Cemetery (Old and New), Glascote Cemetery, Wigginton Cemetery, Anker Valley Sports Pitches, Pedestrian area of the Town Centre, Upper and Lower Lawn (Castle Grounds), St Edithas Church Graveyard and all public footpaths and grass verges to highways in Tamworth (as defined by the Road Traffic Act 1988)

Order Three – Dogs on Leads by Direction

This Order requires people in control of a dog to put and keep the dog on a lead when told to do so by an authorised officer of the Council.

The Order applies to all areas of land within the Borough of Tamworth and which are open to the air and to which the public are entitled or permitted to have access.

Order Four – The Exclusion of Dogs

This Order excludes dogs from specific areas of land. There are exemptions for blind people with guide dogs and disabled people using trained assistance dogs.

The Order prohibits dogs from entering the following designated areas (fenced or unfenced) :- Amington Recreation Play Area, Beauchamp Road Play Area, Brendon /Ealingham Play Area, Castle Pleasure Grounds Activity Centre (former outdoor swimming baths), Castle Pleasure Grounds Play Area, Castle Grounds Skate Park, Castle Grounds Tennis Courts, Crowden Road Play Area, Dosthill Park Play Area, Hamble Play Area, Hawksworth Play Area, Irwell Play Area, Lakenheath Play Area, Lakeside Park Play Area, Linthouse Walk Play Area, Lothersdale Play Area, Park Farm Road Play Area, Parkfield Crescent Play Area, Rainscar Play Area, Reedmace Play Area, St Georges Way/Rosemary road Play Area, Wigginton Park Play Area

Fixed Penalty Notices and Enforcement

Tamworth Borough Council intends to issue fixed penalty notices to enforce the Dog Control Orders as prescribed by Section 59 of the Clean Neighbourhoods and Environment Act 2005. The Fixed Penalty will be £80 (reduced to £50 if paid within 7 days). Failure to pay the fixed penalty within fourteen days may lead to prosecution in the Magistrate's Court and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Further Information

Information is available on the Council's website regarding the Dog Control Orders, alternatively any queries can be made via email to environmentalmanagement@tamworth.gov.uk or by contacting Neighbourhood Services on telephone number 01827 709445.

The areas covered by the Dog Control Orders may be viewed free of charge at Tamworth Borough Council, Marmion House, Lichfield Street Tamworth, B79 7BZ or at www.tamworth.gov.uk

Chief Executive
12 July 2012

**The Clean Neighbourhoods and Environment Act 2005
The Dog Control Orders Regulations 2006
(Prescribed Offences and Penalties, etc.)**

The Fouling of Land by Dogs (Tamworth Borough Council) Order 2012

Tamworth Borough Council hereby makes the following Order:

1. This Order comes into force on **1st August 2012**
2. This Order applies to the land specified in the Schedule below.

Offence

3. (1) If a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless—

(a) he has a reasonable excuse for failing to do so; or

(b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

(2) Nothing in this article applies to a person who—

(a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or

(b) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.

(3) For the purposes of this article—

(a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;

(b) placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land;

(c) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces;

(d) each of the following is a "prescribed charity"—

(i) Dogs for the Disabled (registered charity number 700454);

(ii) Support Dogs (registered charity number 1088281);

(iii) Canine Partners for Independence (registered charity number 803680).

Penalty

4. In lieu of prosecution for an offence under article 3, the alleged offender will be given the opportunity to discharge any liability to conviction for the offence by the payment of a fixed penalty to the maximum allowed by statute (currently £80) with a reduction to £50 if paid within 7 days

Failure to pay the fixed penalty within fourteen days will lead to the instigation of legal proceedings. A person found guilty of an offence under article 3 in the Magistrate's Court shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Signed

Chief Executive

Date 12 July 2012

Schedule

1. Subject to the exception in paragraph 2 below, this Order applies to all land which is within the area of Tamworth Borough Council and which is –

- i. Open to the air (which includes land that is covered but open to the air on at least one side); and
 - ii. to which the public are entitled or permitted to have access with or without payment.
2. Excepted from the description in paragraph 1 above is:
- i. land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967; or
 - ii. agricultural land.

**The Clean Neighbourhoods and Environment Act 2005
The Dog Control Orders Regulations 2006
(Prescribed Offences and Penalties, etc.)**

The Dogs on Lead at All Times (Tamworth Borough Council) Order 2012

Tamworth Borough Council hereby makes the following Order:

1. This Order comes into force on **1st August 2012**
2. This Order applies to the land specified in the Schedule below.

Offence

3. (1) A person in charge of a dog shall be guilty of an offence if, at any time, on any land to which this Order applies he does not keep the dog on a lead unless—

- (a) he has a reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

(2) For the purposes of this article—

- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;

Penalty

4. In lieu of prosecution for an offence under article 3, the alleged offender will be given the opportunity to discharge any liability to conviction for the offence by the payment of a fixed penalty to the maximum allowed by statute (currently £80) with a reduction to £50 if paid within 7 days

Failure to pay the fixed penalty within fourteen days will lead to the instigation of legal proceedings. A person found guilty of an offence under article 3 in the Magistrate's Court shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Signed

Chief Executive

Date 12 July 2012

Schedule

Subject to the exception in paragraph 2 below, this Order applies to the following designated land:- Amington Cemetery, Wilnecote Cemetery (Old and New), Glascote Cemetery, Wigginton Cemetery, Anker Valley Sports Pitches, Pedestrian area of the Town Centre, Upper and Lower Lawn (Castle Grounds), St Edithas Church Graveyard and all public footpaths and grass verges to highways in Tamworth (as defined by the Road Traffic Act 1988)

2. Excepted from the description in paragraph 1 above is:
 - i. land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967; or
 - ii. agricultural land.

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**The Clean Neighbourhoods and Environment Act 2005
The Dog Control Orders Regulations 2006
(Prescribed Offences and Penalties, etc.)**

The Dog Exclusion (Tamworth Borough Council) Order 2012

Tamworth Borough Council hereby makes the following Order:

1. This Order comes into force on **1st August 2012**
2. This Order applies to the land specified in the Schedule below.

Offence

3.1 A person in charge of a dog shall be guilty of an offence if, at any time, he takes the dog onto, or permits the dog to enter or to remain on, any land to which this Order applies unless –

- (a) he has a reasonable excuse for doing so: or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.

3.2. Nothing in this article applies to a person who –

- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
- (b) is deaf, in respect of a dog trained by the Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; or
- (c) has a disability which affects his mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.

3.3 For the purposes of this article –

- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog; and
- (b) each of the following is a “prescribed charity” –
 - (i) Dogs for the Disabled (registered charity number 700454);
 - (ii) Support Dogs (registered charity number 1088281);
 - (iii) Canine Partners for Independence (registered charity number 803680).

Penalty

4. In lieu of prosecution for an offence under article 3, the alleged offender will be given the opportunity to discharge any liability to conviction for the offence by the payment of a fixed penalty to the maximum allowed by statute (currently £80) with a reduction to £50 if paid within 7 days

Failure to pay the fixed penalty within fourteen days will lead to the instigation of legal proceedings. A person found guilty of an offence under article 3 in the Magistrate's Court shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Signed

Chief Executive

Date 12 July 2012

Schedule

1. Subject to the exception in paragraph 2 below, this Order applies to designated play areas (fenced or unfenced) within the Borough of Tamworth as follows – Amington Recreation Play Area, Beauchamp Road Play Area, Brendon /Ealingham Play Area, Castle Pleasure Grounds Activity Centre (former outdoor swimming baths), Castle Pleasure Grounds Play Area, Castle Grounds Skate Park, Castle Grounds Tennis Courts, Crowden Road Play Area, Dosthill Park Play Area, Hamble Play Area, Hawksworth Play Area, Irwell Play Area, Lakenheath Play Area, Lakeside Park Play Area, Linthouse Walk Play Area, Lothersdale Play Area, Park Farm Road Play Area, Parkfield Crescent Play Area, Rainscar Play Area, Reedmace Play Area, St Georges Way/Rosemary road Play Area, Wigginton Park Play Area
2. Excepted from the description in paragraph 1 above is:
 - i. land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967; or
 - ii. agricultural land.

**The Clean Neighbourhoods and Environment Act 2005
The Dog Control Orders Regulations 2006
(Prescribed Offences and Penalties, etc.)**

The Dogs On Lead By Direction (Tamworth Borough Council) Order 2012

Tamworth Borough Council hereby makes the following Order:

1. This Order comes into force on **1st August 2012**
2. This Order applies to the land specified in the Schedule below.
3. In this Order “an authorised officer of the Authority” means an employee of the Authority or other persons authorised in writing by the Authority for the purpose of giving directions under this Order.

Offence

4.1 A person in charge of a dog shall be guilty of an offence if, at any time, on any land to which this Order applies, he does not comply with a direction given him by an authorised officer of the Authority to put and keep a dog on a lead unless –

- a) he has a reasonable excuse for failing to do so; or
- b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

4.2 For the purpose of this article –

(a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;

(b) an authorised officer of the Authority may only give a direction under this Order to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person [on any land to which this Order applies] or the worrying or disturbance of any animal or bird.

Penalty

5. In lieu of prosecution for an offence under article 3, the alleged offender will be given the opportunity to discharge any liability to conviction for the offence by the payment of a fixed penalty to the maximum allowed by statute (currently £80) with a reduction to £50 if paid within 7 days

Failure to pay the fixed penalty within fourteen days will lead to the instigation of legal proceedings. A person found guilty of an offence under article 3 in the Magistrate’s Court shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Signed

Chief Executive

Date 12 July 2012

Schedule

1. Subject to the exception in paragraph 2 below, this Order applies to all land which is within the area of Tamworth Borough Council and which is –

- i. Open to the air (which includes land that is covered but open to the air on at least one side); and
- ii. to which the public are entitled or permitted to have access with or without payment.

2. Excepted from the description in paragraph 1 above is:

- i. land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967; or
- ii. agricultural land.

Council

11 July 2012

REPORT OF THE SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

Proposed Changes to the Constitution and Code of Conduct and Appointment of Independent Persons

EXEMPT INFORMATION

None

PURPOSE

To consider (1) the proposals put to Audit and Governance Committee in respect of changes to the Constitution
(2) the sanctions available when a member fails to comply with the Code of Conduct and
(3) the transitional arrangements for the Appointment of Independent Person(s)

RECOMMENDATIONS

It is recommended that the Council

- (1) approve the amendments to the Constitution**
- (2) refer to the Governance Review Group consideration of the detail required to appoint an Independent Member on to the Nominations Committee**
- (3) approve the wording of the sanctions relating to failure of a member to comply with the Code of Conduct**
- (4) approve the transitional arrangements for the appointment of Independent Person(s) in terms of the Localism Act 2011 and**
- (5) decide the number and term of appointment of the Independent Person(s)**

EXECUTIVE SUMMARY

At the Council meeting on 19 June 2012 in terms of Article 15 changes to the Constitution were referred to the Solicitor to the Council and the Audit and Governance Committee for consideration. The said changes have been considered and are now referred back to Council for approval. In addition under the Localism Act transitional power has been granted to assist with the appointment of Independent Persons. The Authority remains under a duty to promote and maintain high standards of conduct for its elected members accordingly the Audit and Governance Committee is recommending to full Council the actions to be taken in relation to amendment of the Constitution and where a member is found to have failed to comply with the Code of Conduct. The transitional arrangements for the appointment of independent persons is also recommended for approval.

RESOURCE IMPLICATIONS

The amendments as required to the Constitution will be carried out as part of the duties of the Monitoring Officer and have no additional resource implications for the Authority. The appointment of an Independent Member on to the Nominations Committee could involve significant cost to the authority both fiscal and in officer time depending on the process adopted to appoint the Independent Member. The transitional arrangements for appointing

independent persons to the standards regime will if adopted result in significant savings in time and costs in dealing with this position.

LEGAL/RISK IMPLICATIONS BACKGROUND

To have a Constitution that is not fit for purpose could lead to the Council making decisions that would be *ultra vires*. In addition an effective Standards regime will provide the mitigating action necessary to ensure that the Council's obligations under the Localism Act 2011 are met.

EQUALITY IMPLICATIONS

An Equalities Impact Assessment is not required in this instance. In approving the recommendations it is envisaged that the Citizens of Tamworth will benefit from a robust Constitution and an open and transparent Standards regime.

BACKGROUND INFORMATION

At the Council meeting on 17 May 2012 the Portfolio holder for Core Services and Assets put forward for adoption into the Constitution four changes to the following articles of the Constitution namely :

Article 6 Paragraph 6.03 (iv)
Article 10A,
The Council Procedure Rules Paragraph 11.2 and
The Executive Decision Rules paragraph 1.8.

The changes were approved at the said meeting and incorporated into the Constitution. At the Council meeting on 19 June 2012 the Leader of the Opposition objected to the aforesaid changes made at the meeting on 17 May as the correct procedure to make changes to the Constitution had not been followed. It was agreed in terms of Article 15 paragraph 15.02 that the proposed changes had to be first considered by the Solicitor to the Council and the Audit and Governance Committee. Accordingly the proposals after consideration by the Solicitor to the Council and Audit and Governance Committee on 28 June 2012 are attached at **Appendices 1 and 2**. In relation to Appendix 1 the amendments are put forward for approval. In relation to Appendix 2 it is recommended that the Governance Review Group consider the detail required to appoint an Independent Member on to the Nominations Committee.

At the Council meeting on 19 June 2012 the new Code of Conduct and regime to deal with member's failure to adhere to the code were amongst the matters discussed and approved. The wording in relation to the sanctions to be imposed where a member has been found to have failed to comply with the Code of Conduct were also referred to the Solicitor to the Council and the Audit and Governance Committee and are attached at **Appendix 3** and put forward for approval.

Paragraph 7 of The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions Order) 2012 provides that a person may be appointed by a relevant authority as the Independent Person... if that person is not a member or co-opted member of the Standards Committee of the relevant authority on 1 July 2012 but has held such a post at any time during the five years ending on 30 June 2012. Clearly as the Standards Committee ceased to exist on 30 June 2012 the co-opted members of the Standards Committee were not members on the relevant date but have been during the previous period ending on 30 June 2012. In order to appoint the former standards committee members as Independent Persons the appointment has to be made before 1 July 2013. There are two former independent members who would be suitable for appointment as Independent Persons. There is no time limit on the appointment accordingly Council can appoint now for a 4-year term, but when that term expires in 2016, the Independent Persons would no longer be eligible for re-election. But appoint now for a 6-year term and in 2018, when they come up for re-election, and provided they are not co-opted to any other

Committees, they will not have been a co-opted member in the previous 5 years and will be eligible for re-appointment.

REPORT AUTHOR

Jane M Hackett Solicitor to the Council and Monitoring Officer Tel 709258 if you would like further information or clarification prior to the meeting

LIST OF BACKGROUND PAPERS

Local Government Act 1972

Localism Act 2011

The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions Order) 2012

APPENDICES

Appendix 1: Amendments to the Constitution for approval

Appendix 2: Amendment for referral to the Governance Review Group

Appendix 3: Amendment to sanctions available in relation to Member's failure to comply with the Code of Conduct for approval

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Amendments to The Constitution for Approval

1. The following amendment be made to 6.03 **Specific functions:**

(iv) question members of the executive and committees and chief officers about their views on issues and proposals affecting the area and receive a reply/progress statement from the responsible body or member within 3 calendar months, relating to any recommendations accepted by full council or cabinet which have been referred from the scrutiny process; and

2. The following be amended at Article 10A – Nominations Committee:

Article 10A – Nominations Committee

10A. 01 The Council will establish a standing committee of five members to:-

1. Consider nominations to be made to the Council pursuant to section 249(1) of the Local Government Act 1972 for conferring the title of honorary aldermen or honorary alderwomen on persons who have, in the opinion of the Council, rendered eminent services to the Council.

2. Consider nominations to be made to the Council pursuant to section 249(5) of the Local Government Act 1972 to admit to be honorary freemen or honorary freewomen of the Borough of Tamworth persons who are of distinction and who have, in the opinion of the Council, rendered eminent services to the Borough.

The Committee shall be attended by the Monitoring Officer or the Deputy Monitoring Officer.

10A. 02 **Composition**

(a) **Membership.** The nominations committee will be composed of at least:

- five councillors

(b) **Chairing the Committee.** The Chairman and Vice-Chairman will be appointed in accordance with Council Procedure Rules.

(c) **Independent members.** Independent members will be entitled to vote at meetings;

10A. 03 **Role and Function**

The Nominations Committee will have the following roles and functions:

1. Consider nominations to be made to the Council pursuant to section 249(1) of the Local Government Act 1972 for conferring the title of honorary aldermen or honorary alderwomen on persons who have, in the opinion of the Council, rendered eminent services to the Council.
2. Consider nominations to be made to the Council pursuant to section 249(5) of the Local Government Act 1972 to admit to be honorary freemen or honorary freewomen of the Borough of Tamworth persons who are of distinction and who have, in the opinion of the Council, rendered eminent services to the Borough.
3. Maintain a publicly accessible application process for the two above honours
4. Any approved applications are referred to Full Council for Full Council approval.
5. Act as a sponsor to a new application, make referral to, or support an existing application that nominates a Tamworth resident to any outside bodies' awards or recognition scheme.
6. Seek nominations from the Tamworth public, persons worthy of public recognition for their service or work for the Borough of Tamworth.

3. The following amendment be made to

11.2 Questions on notice at Ordinary Meetings of the Council:

Subject to Rule 11.4, a member of the Council may ask:

- any member in receipt of a Special Responsibility Allowance, except the Mayor and Deputy Mayor.
- a question on any matter in relation to which the Council has powers or duties or which affects Tamworth.

4. The following be added:

1.8 Decisions to be taken by the executive

(c) The executive are to reply recommendations accepted from Full council or the scrutiny Committees within a 3 month period;

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Amendment for referral to the Governance Review Group

That the Governance Review Group consider the detail required to appoint

- *one person who is not a councillor or an officer of the council.*

To the membership of the Nominations Committee (Article 10A)

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Amendment to Sanctions Available in Relation to Member's Failure to Comply With The Code Of Conduct

The Committee should

- Report its findings to Council for information and may;
- Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Instruct the Monitoring Officer to arrange training for the member;
- Remove the member from all outside appointments to which he/she has been appointed or nominated by the authority;
- Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or

Excluding the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

Appeals

There is no requirement to put in place any appeals mechanism against such decisions. The decision would be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the authority had no power to impose.

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