

COUNCIL

15 DECEMBER 2015

REPORT OF THE LEADER AND SOLICITOR TO THE COUNCIL & MONITORING OFFICER

REVIEW OF THE CONSTITUTION AND SCHEME OF DELEGATION

EXEMPT INFORMATION

None

PURPOSE

To obtain Council comments, endorsement and approval of the amendments to the Constitution as attached at Appendix 1 to the Report.

RECOMMENDATIONS

That the Council:

- 1) Adopt and approve the changes to the Constitution as presented in Appendix 1 and
- 2) Endorse the changes to the then reviewed Constitution and Scheme of Delegation

EXECUTIVE SUMMARY

The Constitution and Scheme of Delegation as reviewed are adopted by Council at the first business meeting each year to ensure probity and legal compliance. Each year new legislation requires to be taken into account as well as any political arrangements and changes that have arisen from practical considerations. The current Constitution and Scheme of Delegation can be sourced by the link detailed at Appendix 2.

The Constitution can only be amended at six month intervals and usual practice at Tamworth Borough Council is to incorporate any changes contemporaneously to the Constitution at the adoption thereof on the first business meeting of the Council each year.

A key role of the Monitoring Officer is to be aware of the strengths and weaknesses of the constitution, to make recommendations in order to better achieve the purposes set out in Article 1 thereof, ensure good governance and probity. Monitoring of the Constitution highlighted procedures that were incomplete and difficult to follow surrounding the Call-in process.

Thus the proposed changes as presented in Appendix 1 relate to

Schedule 5 - Overview and Scrutiny Procedure Rules Paragraph 17 – Call-in and

The amendments are designed to improve and enhance the democratic process for Members and Officers within the Council.

RESOURCE IMPLICATIONS

No external advice was required for the review this municipal year.

LEGAL/RISK IMPLICATIONS BACKGROUND

Without a Constitution and Scheme of Delegation the Council could not operate effectively. The Council would run the risk of failure to comply with statutory requirements which in turn would expose the organisation to further vulnerability in relation to legal challenge and ultra vires operation. Such challenges could lead to serious financial and reputational damage.

SUSTAINABILITY IMPLICATIONS

It is essential that the Constitution and Scheme of Delegation are lawful, fit for purpose and utilised with a pragmatic approach to improve and enhance the democratic process of the Council and operation of its associated services. In addition there is no provision to cover the cost of legal challenge within any envisaged contingency

BACKGROUND INFORMATION

The Local Government Act 1972 (as amended) provides *inter alia* for a Constitution and Scheme of Delegation.

The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. Accordingly the Constitution governs the Council's business.

The Scheme of Delegation is a document whereby the Council delegates to certain officers powers to undertake functions and duties on behalf of the Authority. Tamworth Borough Council has operated a Scheme of Delegation for officers for several years. The proposed Scheme of Delegation does not purport to grant officers any additional authority to which is already provided, it merely seeks to formulate arrangements into a workable document.

REPORT AUTHOR

If members would like any further information or clarification prior to the meeting please contact Jane M Hackett, Solicitor to the Council and Monitoring Officer , Ext 258

LIST OF BACKGROUND PAPERS

The Local Government Act 1972

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000

The Localism Act 2011

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

APPENDICES

Appendix 1 – Proposed changes to Constitution and Scheme of Delegation

Appendix 2 - Link to Constitution and Scheme of Delegation -

<http://democracy.tamworth.gov.uk/documents/s10553/Constitution%2012th%20Edition%20-%20Updated%20September%202014.pdf>