

## COUNCIL

24 MAY 2016

### 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 Constitution and Scheme of Delegation as required by legislation.

#### RECOMMENDATIONS

That the Council:

- 1) **Adopt and approve the changes to the Constitution and Scheme of Delegation as presented in Appendix 1.**
- 2) **Endorse the changes to the then reviewed Constitution and Scheme of Delegation and**
- 3) **Refer the reviewed Constitution and Scheme of Delegation to Audit and Governance Committee for consideration and overview.**

#### 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.

A comprehensive review of the Constitution was undertaken a few years ago. In the last municipal year the Constitution Working Group consisting of the Leader and Deputy Leader of the Controlling group, Leader and Deputy Leader of the Opposition group and the UKIP Member have met on 3 occasions to assimilate and discuss proposed changes to the Constitution. The culmination of the Groups proposals are attached at Appendix 1. Similarly updates required to the Scheme of Delegation for officers proposed changes are contained in Appendix 1. The amendments are designed to improve and enhance the democratic process for the public engaging with the Council.

In addition year on year a raft of new legislation requires to be taken into account when updating and reviewing the constitution and Scheme of Delegation prior to adoption at full Council.

Articles 13 and 15 of the Constitution require the Solicitor to the Council to maintain, monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. It also requires formal approval and adoption by the Council at the beginning of each municipal year.

In the coming Municipal Year it will be necessary to reappoint the Independent Persons. The process will commence in September 2016 and will be carried out by open competition as agreed at Council on 5 June 2014 (Appendix 3).

The Scheme of Delegation forms part 3 of the Constitution and also requires approval and adoption by the Council at the beginning of each municipal year in relation to those functions arising from the Local Government Act 1972 and subsequent legislation as well as those functions approved by the Leader in accordance with Section 14 of the Local Government Act 2000.

## **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. A link to the Constitution is contained in Appendix 2.

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>

**Appendix 3** – Link to Report on Process to Appoint Independent Persons (05.06.14)

<http://tammodgov/documents/g6111/%2005th-Jun-2014%2018.00%20Council.pdf?T=110>

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