

## COUNCIL

16 MAY 2017

### 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) **Endorse the changes to the Constitution and Scheme of Delegation as presented in Appendix 1 and then**
- 2) **adopt and approve 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.

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 larger Opposition group and the leader of the minor Opposition group met on 23 February 2017 the focus of the group being the functionality of the overview and scrutiny committees. As a result a working party was set up and its recommendations put to the Constitution Working Group on 27 April 2017. The group consider that the overview and scrutiny purpose will be improved by the creation of a third committee. Thus the proposition to create three overview and scrutiny committees:-

- Health and Wellbeing Scrutiny
- Infrastructure, Safety and Growth Scrutiny and
- Corporate Scrutiny

With nine members in each committee, which committees shall meet at least 4 times in each municipal year. Five meetings of each of the proposed overview and scrutiny committees have been out into the draft calendar of meetings before Council for approval tonight. It is also a recommendation that the Special Responsibility Allowance payable to the chair of each committee is sourced from adding the current

two Special Responsibility Allowances and dividing into three. This will mean that there is no additional direct financial cost to the establishment of the three overview and scrutiny committees. The Special Responsibility Allowance for each Chair of overview and scrutiny committee under the proposition will be £3,967, subject to any annual increase that may apply.

Detail of the proposition is contained with the draft constitution at Article 6. Schedule 5 relative to the conduct of overview and scrutiny committee proceedings has also been amended to assist the operational aspects of the scrutiny function. All of the advocated changes are tracked within the draft Constitution at Appendix 1.

The other proposed changes tracked within the draft documents relate to:

1. Responsibility for Council Functions, the inclusion of start-up business grant applications to be dealt with by Cabinet Grants Sub-committee
2. Procedure Rules
  - (i) Committees Chairs will be appointed at the Annual Council meeting ( this will commence from Annual Council in 2018)
  - (ii) substitution shall be extended to the three overview and scrutiny committees and the statutory officers and chief officers conduct committees
3. Scheme of Delegation in particular statutory updates to Council Tax duties, in Section (C) Resources; Annex 2 Development Management Functions; Annex 3 Environmental Health and Community Safety Functions and some minor changes to Officer delegations

All other amendments are either statutory, minor, formatting or factual references. The amendments are designed to improve and enhance the democratic process for the public engaging with the 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. 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.

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**

There is no extra financial resource required despite the addition of another overview and scrutiny committee to the Council as the two current Special Responsibility Allowances for overview and scrutiny committees are being divided into three. 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 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 Constitution and Scheme of Delegation 2017-18 with tracked changes

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