

COUNCIL

12 DECEMBER 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 reviewed Constitution and Scheme of Delegation as provided in the link at Appendix 1 to the Report.

RECOMMENDATIONS

That the Council:

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

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. It is normally an annual occurrence but on occasion the Constitution has been amended within the municipal year. Provision exists within the Constitution to allow a motion for amendment after a period of six months has elapsed. This municipal year has seen an alteration in Chief Officer appointments and as a result there have been substantive entries in the Constitution to address the duties of the officers concerned. Members are now required by law to be registered with the Information Commissioners Office as they handle personal data in their role as a Councillor when representing constituents Data. Each member has to pay an annual subscription fee to the Data Protection Commissioner. Changes to the code of conduct and job descriptions for members have been made to the constitution as well as the allowance structure which takes account of the annual fee. (Members have been appraised of this obligation in the Members Information Bulletin and training is being provided). There are also a few other changes in Part 3 relating to Council Functions and to Members subsistence in Part 6.

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

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.

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

APPENDICES

Link to Constitution and Scheme of

<http://democracy.tamworth.gov.uk/ecSDDisplay.aspx?NAME=SD382&ID=382&RPID=19572>

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