

COUNCIL

22 MAY 2018

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

REVIEW OF THE CONSTITUTION AND SCHEME OF DELEGATION

EXEMPT INFORMATION

None

PURPOSE

To ensure lawfulness and operational functionality of the Governance process of the Council, as required by the endorsement and approval of the Constitution and Scheme of Delegation as required by Local Government legislation.

RECOMMENDATIONS

That the Council:

- 1) endorse the Constitution and Scheme of Delegation as presented in Appendix 1
- 2) adopt and approve the Constitution and Scheme of Delegation, and
- 3) allow a further report to Council on 6 June 2018 which will include required operational changes and amendments to align the Constitution and Scheme of Delegation with the proposed Senior Management Review.

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.

At the time of writing the Council is currently consulting on a comprehensive review of senior management. As a result changes need to be incorporated into the Constitution and Scheme of Delegation, a full report on all the changes will be presented to Council on 6 June 2018.

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 16 December 2017 and 15 February 2018, the focus of the group again being the functionality of the overview and scrutiny committees. The group consider that the overview and scrutiny purpose has been improved by the creation of a third committee.

It was agreed that the Scrutiny Committees would meet prior to the end of each municipal year and plan ahead items for inclusion in the following year's work plan and take the proposals to the first Scrutiny meeting in the new municipal year.

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. 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. 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 –

<http://tammodgov.tamworth.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13229>

Link to the Constitution and Scheme of Delegation 2017-18 16th edition

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