

COUNCIL

TUESDAY, 21 MAY 2019

REPORT OF THE PORTFOLIO HOLDER FOR ASSETS AND FINANCE & MONITORING OFFICER

REVIEW OF THE CONSTITUTION & 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

It is recommended that:

1. The Council approve and adopt the Constitution and Scheme of Delegation 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. Each year new legislation requires to be taken into account as well as any political arrangements and changes that have arisen from practical considerations.

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, a member of the minor Opposition group and a Chair of a Scrutiny Committee met on the 16th April 2019. The focus of the group being to discuss practical amendments to the Constitution including a review of the Scheme of Delegation. This revision of the Constitution contains minor amendments. The group will meet to discuss further amendments following independent advice and the revised version will be reported back to the next full Council meeting.

Articles 13 and 15 of the Constitution require the Monitoring Officer 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.

OPTIONS CONSIDERED

N/A

RESOURCE IMPLICATIONS

None.

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.

EQUALITIES IMPLICATIONS

None identified

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 Constitution is attached as Appendix 1.

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.

REPORT AUTHOR

If members would like any further information or clarification prior to the meeting please contact Angela Struthers, Head of Audit & Governance and Monitoring Officer , Ext 234

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 18th edition with tracked changes

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