

Agenda Item 7

Audit and Governance Committee

28 June 2012

REPORT OF THE SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

Proposed Changes to the Constitution and Code of Conduct

EXEMPT INFORMATION

None

PURPOSE

To consider (1) the proposals put forward as amendments to the Constitution at Council on 17 May 2012 in terms of Article 15 paragraph 15.02 and
(2) the sanctions available when a member fails to comply with the Code of Conduct

RECOMMENDATIONS

It is recommended that the Committee

- (1) consider the four proposals for amendment to the Constitution and whether to propose to Council that they be approved and
- (2) consider the sanctions available when a member fails to comply with the Code of Conduct and propose to Council that they be approved

EXECUTIVE SUMMARY

Article 15 of the Constitution provides *inter alia* that changes to the constitution will only be approved by the full Council after consideration of the proposal by the Solicitor to the Council and the Audit and Governance Committee. Under the Localism Act the Authority remains under a duty to promote and maintain high standards of conduct for its elected members accordingly the Audit and Governance Committee has been asked to recommend to full Council the actions to be taken where a member is found to have failed to comply with the Code of Conduct.

RESOURCE IMPLICATIONS

The amendments as required to the Constitution and the decided hearing processes arising from alleged breaches of the Code of Conduct will be carried out as part of the duties of the Monitoring Officer and have no additional resource implications for the Authority.

LEGAL/RISK IMPLICATIONS BACKGROUND

To have a Constitution that is not fit for purpose could lead to the Council making decisions that would be *ultra vires*. In addition an effective Standards regime will provide the mitigating action necessary to ensure that the Council's obligations under the Localism Act 2011 are met.

EQUALITY IMPLICATIONS

An Equalities Impact Assessment is not required in this instance. In approving the recommendations it is envisaged that the Citizens of Tamworth will benefit from a robust Constitution and an open and transparent Standards regime.

BACKGROUND INFORMATION

At the Council meeting on 17 May 2012 the Portfolio holder for Core Services and Assets put forward for adoption into the Constitution four changes to the following articles of the Constitution namely :

Article 6 Paragraph 6.03 (iv)
Article 10A,
The Council Procedure Rules Paragraph 11.2 and
The Executive Decision Rules paragraph 1.8.

The changes were approved at the said meeting and incorporated into the Constitution. At the Council meeting on 19 June 2012 the Leader of the Opposition objected to the aforesaid changes made at the meeting on 17 May as the correct procedure to make changes to the Constitution had not been followed. It was agreed in terms of Article 15 paragraph 15.02 that the proposed changes had to be first considered by the Solicitor to the Council and the Audit and Governance Committee. Accordingly the proposals are attached at **Appendix 1** for discussion and consideration by the Committee. The Solicitors comments are attached at **Appendix 2**.

At the Council meeting on 19 June 2012 the new Code of Conduct and regime to deal with member's failure to adhere to the code were amongst the matters discussed and approved. The sanctions to be imposed where a member has been found to have failed to comply with the Code of Conduct are attached at **Appendix 3**.

REPORT AUTHOR

Jane M Hackett Solicitor to the Council and Monitoring Officer Tel 709258 if you would like further information or clarification prior to the meeting

LIST OF BACKGROUND PAPERS

Local Government Act 1972
Localism Act 2011

APPENDICES

Appendix 1: Proposed changes to the Constitution as tabled at the Council meeting on 17 May 2012.

Appendix 2: Solicitor to the Council's comments in relation to the proposed changes in **Appendix 1**.

Appendix 3: List of proposed sanctions available in relation to Member's failure to comply with the Code of Conduct.