

13 DECEMBER 2012

REPORT OF THE SOLICITOR TO THE COUNCIL AND MONITORING OFFICER**REVIEW OF THE CONSTITUTION AND SCHEME OF DELEGATION****EXEMPT INFORMATION**

None

PURPOSE

To review the governance process of the Council with regard to the Constitution and Scheme of Delegation with a view to improving current process, ensuring compliance with statutory obligations, to obtain fit for purpose documents that will be intra vires, equitable and legal.

RECOMMENDATIONS

That the Council set up a project team comprising Chief Executive Leader and Deputy Leader of both parties, Independent Member and lead by an independent advisor (quotations have been received and are currently being evaluated) to source

- (a) review the Constitution and Scheme of Delegation thereafter;**
- (b) to report the results to Audit and Governance Committee, and**
- (c) with a report seeking approval of both revised documents being made to the first business meeting of the Council in 2013.**

EXECUTIVE SUMMARY

The Constitution and Scheme of Delegation are adopted by Council at the first business meeting each year to ensure probity and legal compliance. Each year the report takes into account changes in legislation. It can also include different political arrangements, changes that have arisen from practical considerations, and items, such as standing orders, which may require clarification. In addition there can be pragmatic suggestions designed to improve and enhance the Council's democratic processes.

The changes that have been proposed and approved and those imposed by legislation in the past year are set out in the links in the Appendices to the Constitution and Scheme of Delegation.

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. As members are aware the Constitution has been subject to various amendments and additions and as a result of recent legislative changes and practical issues that arose in recent months, it is considered that now is a good time to undertake a complete review.

The Scheme of Delegation forms part 3 of the Constitution and requires approval by the Council 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.

It is suggested that a project team be set up to take the review forward. It is proposed the group consist of the Chief Executive, Leader and Deputy Leader of the controlling and opposition groups, Councillor C Cooke, and lead by the external adviser.

The first meeting to discuss the issues in connection with the governance arrangements of the Council should be fixed in early January 2013, with regular meetings thereafter in accordance with a project plan, in order to complete the review within the proposed timescale.

RESOURCE IMPLICATIONS

It has been considered that it will be essential to procure external advice for this project given the scope of the review that members wish to be undertaken at this time. Such expert advice will bring focus to the project team and ensure probity is maintained. Quotes for the work have been submitted ranging from £10,000 to £24,500. The most cost effective quote will be accepted which is expected to be the cheapest which has scope for savings within the quoted price. Accordingly the cost will be within present budget resource held by the Solicitor to the Council.

LEGAL/RISK IMPLICATIONS BACKGROUND

Failure to have a Constitution and Scheme of Delegation that comply with statutory requirements exposes the organisation to risk of challenge, damage to reputation and operating ultra vires which in turn could lead to serious financial consequences if challenged.

SUSTAINABILITY IMPLICATIONS

It is essential that the Constitution and Scheme of Delegation are lawful and fit for purpose as the cost of legal challenge has no provision within any envisaged contingency

REPORT AUTHOR

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LIST OF BACKGROUND PAPERS

None

APPENDICES

Link to Constitution

<http://democracy.tamworth.gov.uk:9071/ecCatDisplay.aspx?sch=doc&cat=12929&path=0>

Link to Scheme of Delegation

<http://democracy.tamworth.gov.uk:9071/ecCatDisplay.aspx?sch=doc&cat=12924&path=0>