

**CONSTITUTION UPDATES**

Relevant Portfolio Holder	Councillor Matthew Dormer, Leader of the Council and Portfolio Holder for Planning, Governance and Partnerships
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services
Ward(s) Affected	All
Ward Councillor(s) Consulted	N/A
Key Decision / Non-Key Decision	Non-key

**1. SUMMARY OF PROPOSALS**

- 1.1 Following discussions at the Annual Council meeting, the Constitutional Review Working Party (CRWP) was asked to review the Delegations. This has now been carried out as part of the CRWP's ongoing work and this report presents a number of updates for consideration.
- 1.2 During the course of its work the CRWP also discussed the Planning Code of Practice, the reporting of minutes to Council, HR policies, substitution arrangements for the Grants Panel and the Members' Role Descriptors. Recommendations in respect of all of these matters are included within this report.

**2. RECOMMENDATIONS**

**Council is asked to RESOLVE that**

- 1) the amendments to the existing delegations detailed at Appendix 1 to this report, made in accordance with the Monitoring Officer's power to make amendments following changes to legislation, job titles and to reallocate functions, be noted;**
- 2) the additional delegations requested for Community, Environmental and Leisure and Cultural Services, as detailed at Appendix 2, be approved**
- 3) the proposed changes to the Housing delegations, as detailed at Appendix 3 to this report, be approved;**
- 4) the proposed changes to the HR delegations, as detailed at Appendix 4, be approved;**
- 5) an Appointments Committee be established and the proposed terms of reference for this Committee, as detailed at Appendix 5, be approved;**

- 6) the minutes of meetings of the Planning, Licensing and Audit, Governance and Standards Committees, where no recommendations have been made, should no longer be received at meetings of Council for noting;**
- 7) the updated Planning Code of Practice, as detailed at Appendix 6, be approved;**
- 8) the Council's constitution be amended so that the power to determine all employment and health and safety policies is delegated to the Head of Transformation and Organisational Development, following consultation with the Corporate Management Team, the Joint Corporate Health, Safety and Welfare Committee (where applicable), the Leader of the Council and the relevant Portfolio Holder;**
- 9) trained substitutes should be permitted to serve at meetings of the Grants Panel; and**
- 10) the proposed changes to the Members' Role Descriptors, as detailed at Appendix 8, be approved.**

**3. KEY ISSUES**

**Financial Implications**

- 3.1 There are no financial implications arising directly from this report.

**Legal Implications**

- 3.2 Review and revision of the Constitution is governed by Article 15 of the Constitution.
- 3.3 Section 101 of the Local Government Act 1972 (as amended) gives a general power to local authorities to discharge functions through Officers. Local Authorities are required by the same Act to maintain a list of these, which is referred to as the Scheme of Delegation. This sets out those powers of the Council which can be carried out by Officers of the Council.

**Service / Operational Implications**

- 3.4 The Council's Constitution currently requires that the Officer Scheme of Delegations be approved by Members at the Annual Meeting of the Council.
- 3.5 The Officer Scheme of Delegations is the part of the Constitution that gives authority for certain decisions to be delegated from Council, the Executive Committee or other Committees to certain specified Officers. It sets out the

decisions which are delegated by Council to Officers and the decisions which are delegated by the Executive Committee / Leader to Officers.

- 3.6 The Scheme of Delegations is regularly altered and updated to reflect changes in the operation of the Council and changes to legislation. At Appendix 1 changes have been made by the Monitoring Officer in accordance with the delegation that currently exists to amend the scheme to reflect changes in legislation, job titles and reallocation of functions. Such amendments do not extend the delegations.
- 3.7 Relevant Officers were asked to review each specific section of the scheme of delegations and the CRWP considered and agreed a number of amendments, as detailed in Appendix 2. Officers also proposed changes to the Housing and HR delegations which were again agreed by the CRWP and are attached at Appendices 3 and 4. Council is asked to approve these amendments.
- 3.8 At a meeting of the CRWP in October 2017 Members discussed the need for the Council to introduce a Committee to appoint statutory Officers and to take disciplinary action in relation to Chief Officers. The CRWP considered this matter again in August 2018 and Members proposed that an Appointments Committee should be introduced, and that proposed terms of reference should be agreed. Council is asked to approve this proposal.
- 3.9 During a meeting of the CRWP in July Members considered existing arrangements, whereby minutes from meetings of the Planning, Licensing and Audit, Governance and Standards Committee are presented at Council, often in cases where no decisions are required from Council. There is no legal requirement for the Council to receive these minutes for noting. In this context, and to help reduce printing costs, the CRWP is proposing that the Council should no longer receive minutes from these Committees for noting. Members would however, still receive minutes where the Committee has made a recommendation for consideration at Council.
- 3.10 During the course of its work the CRWP also considered proposals in respect of amendments to the Planning Code of Practice. This is attached at Appendix 6. Members are invited to approve the updated Planning Code of Practice.
- 3.11 The CRWP considered arrangements for amending HR and health and safety policies at its meeting in July 2018. Currently Officers do not have delegated powers to amend these policies and any changes must be approved by the Executive Committee and Council. Members were advised that the Council had 53 policies in this category and it took a significant amount of time to update the policies. In light of shared services arrangements, primarily with Bromsgrove District Council, Members agreed that it would be helpful to streamline the process for finalising these policies to ensure that there was consistency and equality in approach. However, Members agreed that there should continue to be Member involvement in this process. The Council is therefore asked to agree that the power to determine all employment policies is delegated to the Head of Transformation and Organisational Development, following consultation with the Corporate Management Team, the Joint Corporate Health Safety and Welfare

Committee (where applicable), the Leader of the Council and the relevant Portfolio Holder.

- 3.12 At the meeting of the CRWP in July Members also considered membership arrangements for the Grants Panel. To ensure that planned meetings of the Panel can proceed, the CRWP agreed that substitutes should be permitted to serve on the Grants Panel. The CRWP clarified that substitutes should only be allowed to serve at meetings of the Grants Panel if they have received appropriate training. The Council is asked to approve this proposal.
- 3.13 Finally, at the meeting of the CRWP held in August Members considered suggested amendments to the Members' Role Descriptors. The election of seven new Members in May 2018 and the nomination of seven new Portfolio Holders resulted in significant change at the Council. A number of these Members approached Officers for further information about their roles and responsibilities but unfortunately the existing Members' Role Descriptors had not been updated since 2010. The updates to the Members' Role Descriptors in this report are designed to provide greater clarification with regard to the purpose and duties associated with each role, whilst removing reference to roles that are no longer in place and prescriptive requirements in respect of skills and knowledge. The CRWP did note that the Members' Role Descriptors are only an indicative guide to various positions that can be held by Councillors, though Members agreed that an updated guide would be useful. Council is asked to approve these changes.
- 3.14 The CRWP was informed that Officers would be reviewing the delegations for anti-social behaviour separately in a report to the Executive Committee and Council in September. Should the proposals in that report be approved the Scheme of Delegations will be amended accordingly.
- 3.15 The CRWP continues to meet on a regular basis and agreed, at their last meeting, to hold a further meeting in October. At future meetings of the CRWP updates to the Licensing Code of Practice will be considered as well as the Council's arrangements for considering employment appeals.

#### **Customer / Equalities and Diversity Implications**

- 3.16 There are no specific customer or equalities implications arising from this report.

#### **4. RISK MANAGEMENT**

- 4.1 The main risks associated with the details included in this report are failure to comply with governance requirements which may expose the Council to the risk of challenge by way of judicial review or appeal which may result in awards of damages and costs against the Council and loss of reputation.

**5. APPENDICES**

- Appendix 1 - Scheme of Delegations to Officers revised September 2018.
- Appendix 2 – Additional delegations requested for Community, Environmental and Leisure and Cultural Services, revised September 2018.
- Appendix 3 - Amendments to housing delegations, revised September 2018.
- Appendix 4 - Amendments to HR delegations, proposed September 2018.
- Appendix 5 - Appointments Committee – Terms of Reference, revised September 2018.
- Appendix 6 – Planning Code of Conduct revised September 2018
- Appendix 7 - Members’ Role Descriptors, revised September 2018.

**6. BACKGROUND PAPERS**

None

**7. KEY**

None

**AUTHOR OF REPORT**

Name: Claire Felton

email: [c.felton@bromsgroveandredditch.gov.uk](mailto:c.felton@bromsgroveandredditch.gov.uk)