

## **BROMSGROVE DISTRICT COUNCIL**

**Council**

**19th June 2012**

### **CONSTITUTION CHANGES AND SCHEME OF DELEGATIONS**

Relevant Portfolio Holder	Councillor M. A. Bullivant, Portfolio Holder for Policy, Performance, Communications, Customer Services, Legal, Equalities, Democratic Services and Human Resources
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services
Wards Affected	All
Ward Councillor Consulted	
Non-Key Decision	

#### **1. SUMMARY OF PROPOSALS**

- 1.1 Council is asked to approve the amendments to the Constitution outlined in this report and to approve the Officer Scheme of Delegations which forms part of the Constitution.

#### **2. RECOMMENDATIONS**

**It is recommended:**

- 2.1 **That Council considers and approves the proposed amendments of the Constitution:**
- (a) **That section 9.8 of the Council Procedure Rules be removed with the result that it will not now be possible to ask a supplementary question.**
- (b) **That paragraph 5 of part 9 (Audit Board Procedure Rules) of the Council's Constitution be amended so as to remove the current requirement that the Chairman shall not be a member of the controlling group.**
- 2.2 **That the current version of the Officer Scheme of Delegations as set out at Appendix 1 be agreed by Members.**

#### **3. KEY ISSUES**

##### **Financial Implications**

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

**Legal Implications**

- 3.2 Review and revision of the Constitution is governed by Article 15 of the Constitution.
- 3.3 The Local Government Act 1972 (as amended) gives a general power to local authorities to discharge functions through officers (s101). Local authorities are required by s100G of the Local Government Act 1972 (as amended) to maintain a list (ie the Scheme of Delegation) specifying those powers of the Council which for the time being, are exercisable from time to time by officers of the Council.

**Service / Operational Implications**

- 3.3 The Constitution is a working document which is regularly amended and updated to reflect changes to the way in which the Council operates and carries out its functions.
- 3.4 The Monitoring Officer has been asked to report two proposed changes to the Council's Constitution by the Leader of the Council.
- 3.5 It is being proposed that where the current drafting allows for a member who has submitted a question to another member under section 9 of the Council's Procedure Rules to ask a supplementary question under 9.8, that this be removed so as to make it possible for only a single direct question to be made.
- 3.6 It is also being proposed that whereas historically it has been a requirement of the Council's Constitution that the Chairman of the Audit Board be not a member of the controlling group that this be removed as a requirement. This will result in the decision as to Chairman being a matter for the Board to decide in the same way that currently operates for other Constituted Boards and Committees.
- 3.7 The Council's Constitution requires that the Officer Scheme of Delegations be approved by Members at the Annual Meeting of the Council. Accordingly, this report presents for approval the current version of the Officer Scheme of Delegations.
- 3.8 The Officer Scheme of Delegations is the part of the Constitution that gives authority for certain decisions to be delegated from Council, the executive 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/ Leader to officers. In relation to certain regulatory decisions, the delegation is from Council to the relevant committee, namely Planning Committee or Licensing Committee.

- 3.9 The Scheme of Delegations is regularly altered and updated to reflect changes in the operation of the Council and changes to legislation. The only new changes introduced in Appendix 1 relate to the delegations for Tree Preservation Orders as highlighted on the document. The changes give greater clarity around the issues of non-confirmation and variation.

**Customer / Equalities and Diversity Implications**

- 3.10 The recommendations will have minimal impact on internal/external customers. No Equality and Diversity implications have been identified.

**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 – Officer Scheme of Delegations

**6. BACKGROUND PAPERS**

Council's Constitution

**AUTHOR OF REPORT**

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