

REVISION TO DELEGATIONS

Council	6 November 2018
Report Author	Director of Corporate Governance and Monitoring Officer
Status	For Decision
Classification:	Unrestricted
Ward:	All

Executive Summary:

In line with the practice followed in other authorities, Council is being recommended to amend the scheme of delegations to authorise the Chief Executive to declare vacancies in office under Section 86 of the Local Government Act 1972.

This will avoid the artificial situation where Council is asked to consider and debate an administrative provision whereas the law requires that the matter be agreed.

Recommendation(s):

Council amends its scheme of delegations by delegating to the Chief Executive (and in her absence the Director of Corporate Governance) the authority to declare vacancies in office under section 86 of the Local Government Act 1972.

CORPORATE IMPLICATIONS

Financial and Value for Money	There are no additional costs resulting from this recommendation.
Legal	A continued failure to declare a vacancy may lead to the publication of a report under section 5 of the Local Government and Housing Act 1989 and potential judicial review proceedings
Corporate	The failure to declare vacancies forthwith has the effect of disenfranchising the electorate when elections are halted or delayed.
Equality Act 2010 & Public Sector Equality Duty	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p>

	Please indicate which aim is relevant to the report.	
	Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	
	Advance equality of opportunity between people who share a protected characteristic and people who do not share it	
	Foster good relations between people who share a protected characteristic and people who do not share it.	
	There are no equality implications in respect of this report.	

CORPORATE PRIORITIES (tick those relevant) ✓	
A clean and welcoming Environment	
Promoting inward investment and job creation	
Supporting neighbourhoods	✓

CORPORATE VALUES (tick those relevant) ✓	
Delivering value for money	
Supporting the Workforce	
Promoting open communications	✓

1.0 Introduction and Background

1.1 The law requires the Council to declare a vacancy in office forthwith, where a councillor, ceases to be qualified as a member, becomes disqualified for being a member or ceases to be a member by reason of failure to attend meetings. This responsibility is currently reserved to Council in the scheme of delegations.

1.2 Recent events have shown that seeking a Council decision to carry out this statutory requirement where there is no discretion, has caused confusion and a delay in declaring a vacancy.

2.0 The Proposed Way Forward

2.1 In order to avoid any potential confusion, it is recommended that the responsibility for declaring vacancies in office under section 86 of the Local Government Act 1972 is delegated to the Chief Executive and in her absence, the Director of Corporate Governance. This then avoids the Council going through the fallacy of a debate when the law requires the Council to make an administrative decision with no choice or discretion.

Contact Officer:	Tim Howes, Director of Corporate Governance and Monitoring Officer
Reporting to:	Madeline Homer, Chief Executive

Corporate Consultation

Finance	Matthew Sanham Financial Services Manager
Legal	Tim Howes, Director of Corporate Governance