

AGENDA ITEM C3

**DELEGATIONS TO THE CHIEF EXECUTIVE DURING THE INTERIM ELECTION PERIOD**

**Purpose of Report**

The purpose of this report is to request Council delegation to the Chief Executive during the interim election period (approximately 18 days) the responsibilities, duties and powers of the Council, except for certain powers.

**Recommendations**

Officers recommend that the Council:

1. *Receive the report "Delegations to the Chief Executive during the Interim Election Period".*
2. *That subject to the limitations set out in clause 32(1) of the Seventh Schedule to the Local Government Act 2002, the Council delegates all of its responsibilities, duties, and powers to the Chief Executive for the period from the day after the declaration of the election results until the swearing in of the new Council, subject to a requirement that the Chief Executive may only exercise this delegation after the following:*
  - (a) *consultation with the person elected to the position of Mayor,*
  - (b) *may only attend to those matters that cannot reasonably await the first meeting of the new Council and;*
  - (c) *shall be reported to the first meeting of the new Council; and*
3. *That if any urgent decisions arise in this period, requiring significant political input, then an Extraordinary Council meeting will be called.*

**1.0 BACKGROUND**

The Council will need to consider arrangements to ensure the effective and efficient conduct of the Council's business during the period from the day after the declaration of the electoral result until the new Council is sworn in at the Inaugural meeting of the Council. This is likely to be for the period from 12-30 October 2019.

Clause 14 of Schedule 7 of the Local Government Act 2002 provides that a person newly elected to Council may not act until they have made the necessary declaration at the inaugural Council meeting. This provision combines with sections 115 and 116 of the Local Electoral Act 2001 (as set out below) to the effect that, from the day after the declaration of election results (which is by way of public notice in a local newspaper), until the new members declaration is taken at the inaugural Council meeting, neither the outgoing nor the incoming elected members can act in their capacity as members of the Council. The previous members go out of office at the same time as the new members come into office (the day after the public notice in the newspaper).

### ***Section 115 When members come into office***

*Candidates at a triennial general election who are declared to be elected come into office on the day after the day on which the official result of the election is declared by public notice under section 86.*

### ***Section 116 When members leave office***

- (1) *Every member of a local authority or community board, unless vacating office sooner, vacates office,—*
  - (a) *in a case where the member's office is the subject of an election, when the members elected at the next election come into office:*
  - (b) *in a case where provision is made by any enactment to fill a vacancy by appointment, when the member's successor comes into office.*
- (2) *Despite subsection (1)(a), if a member's office is the subject of an election, and neither the member nor any other person is elected at the election to that office, the member vacates office at the same time as any other member of the local authority who is not re-elected at the election.]*

It is recommended that the Council make a delegation to the Chief Executive of all of its responsibilities, duties, and powers for the period in question except those set out in paragraphs (a) to (h) of clause 32(1) of Schedule 7 of the Local Government Act 2002. This clause provides:-

*“Unless expressly provided otherwise in this Act, or in any other Act, for the purposes of efficiency and effectiveness in the conduct of a local authority's business, a local authority may delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority any of its responsibilities, duties, or powers except—*

- (a) *the power to make a rate; or*
- (b) *the power to make a bylaw; or*
- (c) *the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan; or*
- (d) *the power to adopt a long-term plan, annual plan, or annual report; or*
- (e) *the power to appoint a chief executive; or*

- (f) *the power to adopt policies required to be adopted and consulted on under this Act in association with the long-term plan or developed for the purpose of the local governance statement.*
- (g) *Repealed*
- (h) *the power to adopt a remuneration and employment policy.”*

This delegation is for the limited time period between the declaration of the election result and the first meeting of the new Council. This is anticipated to be eighteen days as the declaration is expected on 12 October 2019 and the inaugural Council meeting is expected to be held on 30 October 2019. However, these dates may be subject to change. The delegation is also subject to a requirement that the Chief Executive may only act after consultation with the person elected to the position of Mayor, and may only attend to those matters that cannot reasonably await the first meeting of the new Council. The Chief Executive is required to report any decisions to the first meeting of the new Council.

## **2.0 RISK**

The risks involved in delegating to the Chief Executive include the Council not agreeing with the decisions made and overturning decisions at a later date. The risks of not delegating would be the risk of the Council not being able to undertake its business during the period from the declaration of the election result until the first meeting of the new Council.

The limited time period and the fact that any decision by the Chief Executive is required to be made in consultation with the Mayor elect and that it would only be pressing matters that must be attended to does provide a degree of comfort to elected members that decisions will not be made unless required for the smooth running of the Council.

## **3.0 CONCLUSION**

The Council will need to consider arrangements to ensure the effective and efficient conduct of the Council's business during the period from the day after the declaration of the electoral result until the new Council is sworn in at the first meeting of the Council. Until the new members' declaration is taken at the first Council meeting, neither the outgoing nor the incoming elected members can act in their capacity as members of the Council. It is recommended that the Council delegate its responsibilities, duties, and powers to the Chief Executive for the period from the day after the declaration until the swearing in of the new Council, except for those set out in Schedule 7, Clause 32(1).