

NORTH LINCOLNSHIRE COUNCIL

COUNCIL

TO RECEIVE THE RESIGNATION OF THE CURRENT DEPUTY MAYOR

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To receive with regret the resignation of the current Deputy Mayor, Cllr John Briggs and to appoint his successor for the remainder of the municipal year.
- 1.2 The key points in this report are as follows:
- (i) To acknowledge that the current Deputy Mayor, Cllr John Briggs has tendered his resignation in order to ensure that the Council does not act ultra vires;
 - (ii) Council, and more particularly Cllr John Briggs, receive the unreserved apology of the relevant officers for permitting the irregularity necessitating Cllr Briggs' resignation to occur;
 - (iii) To rectify such irregularity in the Council's constitution; and
 - (iv) To appoint a Deputy Mayor for the remainder of the municipal year.

2. BACKGROUND INFORMATION

- 2.1 Section 5 of the Local Government Act 1972 provides that 'a principal council shall appoint a member of the Council to be vice-chairman of the Council'. In the case of councils with borough status, as with North Lincolnshire, the vice-chairman is referred to as the 'Deputy Mayor'.
- 2.2 Section 11 (7) of the Local Government Act 2000 provides that 'a local authority executive may not include the chairman (mayor) or vice-chairman (deputy mayor) of the authority'.
- 2.3 Officers' attention has been drawn to the fact that the Deputy Mayor, Cllr John Briggs having been properly appointed by Council at its Annual General Meeting in May of this year was subsequently appointed as Deputy Leader and Cabinet Member for Asset & Estate Management and Sport, Leisure & Culture.
- 2.4 At that time officers considered both appointments to be proper however on investigation it transpires that this latter appointment constitutes an appointment to the Executive and consequently contravenes Section 11 (7) of the Local Government Act 2000.

- 2.5 On investigation it transpires that this irregularity has occurred before at this Council. It also transpires that this irregularity has occurred, and appears to continue to occur, at a number of other Councils and from preliminary investigations, appears relatively common.
- 2.6 Officers now understand that the principle behind these legislative provisions is to ensure the separation of powers between Council and the Executive and consequently the Mayor and Deputy Mayor should not hold executive office during their mayoralty year of office. Significantly, this principle has not been reflected in the model constitution produced by the Department for Environment, Transport and the Regions in 2000 which local authorities were encouraged to adopt, as did this Council, following the move to 'political executives' under the auspices of the Local Government Act 2000.
- 2.7 Consequently, it is proposed that this oversight in the model constitution be corrected in the Council's constitution by the addition of the words shown in italics below to rule D1.04 (a) (i) of the Council's Rules of Procedure so that this rule now provides as follows:
- D1.04 (a) (i) To elect a person to preside if the Mayor and Deputy Mayor are not present *save that such person shall not be a member of the executive either.*
- 2.8 More significantly the irregularity of the conflicting appointments could not have continued. Having been apprised of the same and following confirmatory external legal advice, Councillor John Briggs was placed in the invidious position of having to relinquish one of his appointments. Having properly considered matters, Cllr John Briggs, with considerable personal regret, chose to resign his deputy mayoralty to remedy the position with effect from the 4th November 2011.
- 2.9 For the avoidance of doubt, the relinquishment of the deputy mayoralty in such circumstances does not preclude the member concerned from being elected Mayor for the following municipal year.

3. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 3.1 There are no resource implications arising from the appointment of a Deputy Mayor as detailed in this report.

4. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

- 4.1 There are no such implications arising from this report save the legal requirement pursuant to Section 5 of the Local Government Act 1972 that Council appoints a Deputy Mayor.

5. OUTCOMES OF CONSULTATION

- 5.1 External legal advice has been sought on the remedial action required to regularise the position as detailed in this report and such advice confirms the appropriateness of such action.

6. RECOMMENDATIONS

- 6.1 That Council receives with regret the resignation of the current Deputy Mayor, Cllr John Briggs and acknowledges the valuable civic contribution made by him during his tenure as the Council's Deputy Mayor;
- 6.2 That Council, and more particularly Cllr John Briggs, receives the unreserved apology of the relevant officers for permitting the irregularity necessitating Cllr Briggs' resignation to occur;
- 6.3 That rule D1.04 (a) (i) of the Council's Rules of Procedure be amended to provide as follows:
- To elect a person to preside if the Mayor and Deputy Mayor are not present save that such person shall not be a member of the executive either;
- 6.4 That Council appoints a Deputy Mayor for the remainder of the municipal year; and
- 6.5 That Council informs the Local Government Association of this irregularity and the remedial measures taken by this Council so that other councils similarly affected may consider their own remedial measures.

DIRECTOR OF CORPORATE & COMMUNITY SERVICES

Pittwood House
Ashby Road
SCUNTHORPE
North Lincolnshire
DN16 1AB

Authors: Will Bell and Neil Laminman
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Background Papers used in the preparation of this report

None.