

# BIRMINGHAM CITY COUNCIL

## PUBLIC REPORT

<b>Report to:</b>	<b>COUNCIL BUSINESS MANAGEMENT COMMITTEE</b>
<b>Report of:</b>	<b>ACTING CITY SOLICITOR</b>
<b>Date of Meeting:</b>	<b>23 January 2017</b>
<b>Relevant Forward Plan Ref:</b>	<b>N/A</b>
<b>Subject:</b>	<b>ARTICLE 12.4(A) OF THE CONSTITUTION</b>

### 1. Purpose of Report

To advise the Committee of an in year minor change to the Constitution.

### 2. Decision(s) recommended:

To note the following addition to Article 12.4(a) as set out in the appendix annexed.

<b>Contact Officer:</b>	<b>Kate Charlton</b>
Telephone No: e-mail address:	0121 303 2151 <a href="mailto:kate.charlton@birmingham.gov.uk">kate.charlton@birmingham.gov.uk</a>

### Signatures of approval to submit the report to Committee:

11 January 2017

### **3. Consultation Internal/External:**

- 3.1 Officers in Legal and Finance, and in the People Directorate have been consulted in relation to the suggested changes.

### **4. Background with any Legal comments:**

- 4.1 Are the recommended decisions consistent with the Council's Policies Plan and Strategies - yes as this is a statutory requirement under the Academies Act 2010.
- 4.2 There are no financial implications.
- 4.3 There are no legal implications.
- 4.4 Public Sector Equality duties - there are no Public Sector Equality implications.

### **5. Background:**

- 5.1 For maintained schools to convert to academies under the Academies Act 2010 it is often necessary for the Council to grant a long lease of the school site to the Academy Trust and for the Council to enter into a Commercial Transfer Agreement with the outgoing governing body and the Academy Trust. The Commercial Transfer Agreement transfers assets and liabilities to the Academy Trust and sets out how any future liabilities will be dealt with. It also relates to the transfer of staff to the Academy Trust. These matters were previously decided by Cabinet until an amendment to the Constitution in July 2015 enabled some Chief Officers to make decisions under delegated authority, and in particular to approve the granting of long leases.
- 5.2 The Strategic Director – Finance and Legal currently makes decisions relating to academy conversions. However, an amendment to the Constitution is required to give the Strategic Director of People the authority to grant long leases, enter into Commercial Transfer Agreements and deal with associated matters. As academy conversions are an education function, it is appropriate that the Strategic Director of People is able to make these decisions.
- 5.3 The proposed amendment to the Constitution will provide clarity to the decision-making process. Those officers in the People Directorate who facilitate academy conversions have asked for the amendment to enable the Strategic Director of People, under delegated authority, to make all necessary decisions relevant to the conversion of maintained schools into academies, and to authorise the completion of legal documentation.
- 5.4 Cabinet will continue to receive quarterly update reports showing those schools which have converted in the previous quarter, and which schools will convert in the following quarter.

**6. Evaluation of Alternative Options:**

- 6.1 The alternative option is for the delegations to remain in their present form, however this option would continue the uncertainty and delay regarding documentation necessary to the changing status of schools.

**7. Reasons for Decisions:**

- 7.1 To assist and support officers in pursuing the most expedient way of authorising matters concerning the conversion of schools to academies, and the approval of legal documentation.

### **APPENDIX 1 – Delegation 12.4(a)**

Subject to the delegations set out in this Clause 12.4

- (viii) the Strategic Director of People (and in their absence the Strategic Director Finance and Legal) has the authority to authorise and approve the completion of (but not limited to) the grant of long term leases, commercial transfer agreements and any other ancillary documentation relating to the changing status of schools pursuant to the Academies Act 2010 or any associated legislation relating to the changing status of schools, subject to the agreement of the City Solicitor