

TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

26 September 2006

Report of the Monitoring Officer

Part 1- Public

Matters For Decision

1 CHANGES TO THE CONSTITUTION

1.1 Introduction

1.1.1 Article 15 in Part 2 of the Constitution sets out the procedure for review and revision of the constitution. Changes to the Constitution may only be approved by the full Council after consideration of a report on the proposal from the Council's Monitoring Officer. In preparing the report, the Monitoring Officer is required, amongst other things, to compare practices in this authority with those in other comparable authorities and national examples of best practice (where appropriate). He is also required to consult the Council's other statutory officers, the Head of Paid Service and the Chief Financial Officer, which I have done in respect of the proposals contained in this report.

1.2 Proposed changes: Leisure Services

1.2.1 On this agenda is a recommendation from General Purposes Committee held on 22 August 2006 in connection with the restructuring of Leisure Services. If the Council approves this recommendation, it will be necessary to make changes to the Council's constitution, as follows:

- to delete the post of "Director of Leisure" from the lists of Chief Officers and members of the Corporate Management Team;
- to re-name the post of "Director of Planning and Transportation" as "Director of Planning, Transportation and Leisure";
- to create the new Chief Officer post "Chief Leisure Officer"; and
- to transfer the delegations in Part 3 of the Constitution from the "Director of Leisure" to the "Chief Leisure Officer".

These changes, if approved, will have effect from 1 January 2007.

1.3 Proposed changes to Council and Committee Procedure Rules

1.3.1 In the Course of my recent review of the Constitution I have also identified to other issues, where I recommend that changes be made to the Constitution.

1.3.2 At the last meeting of Council, difficulties arose in relation to the reception of a petition which related to the functions of another authority. This necessitated the suspension of standing orders to be able to deal with the matter appropriately. To avoid this situation happening again, I am recommending that the following additional rule be added as rule 5.17.6:

5.17.6 Where a matter raised in the address or any petition relates to a matter for which some other public authority has a responsibility (whether or not that responsibility is shared with the Council) any member may move that the matter be referred to that other authority and, as part of that motion, the Council may attach a rider setting out the Council's position on the matter.

1.3.3 I have also identified an inconsistency in rule 11.2, which I recommend be addressed. It is a requirement of the Council's Constitution (underpinned by legal requirements) that there should be no changes made to the Council's constitution unless the Council has first received a report from the Monitoring Officer confirming that the proposed amendment is lawful. Rule 11.2 attempted to deal with this by requiring that any proposal to amend the constitution be deferred for this to happen, but could be construed as requiring this to happen on every occasion. The existing wording is as follows:

11.2 Any motion to add to, vary or revoke any of the rules set out in Part 1 and Part 2 of these Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

1.3.4 This does not accord with current good practice, nor the Council's actual practice, and I am recommending that it be changed to read as follows:

11.2 Any motion to add to, vary or revoke any of the rules set out in Part 1 and Part 2 of these Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council, unless there has been prior consideration of the proposal by the Monitoring Officer in accordance with Article 15.02 of the Constitution and he/she has concluded that there is no objection to the adoption of the proposal.

1.4 Recommendation

- 1.4.1 It is **recommended** that the Monitoring Officer be authorised to make the changes to the Constitution referred to in this report.

Background papers:

contact: Duncan Robinson

Constitution of the
Tonbridge and Malling Borough Council

01732 876033

Duncan Robinson
Monitoring Officer