

TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

22 February 2007

Report of the Monitoring Officer

Part 1- Public

Matters For Decision

1 UPDATE 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 Kent Joint Waste Management Partnership

1.2.1 At its meeting on 17 January 2007, the Cabinet decided to recommend to Council (Decision notice D070032CAE).that the recommendations of the Environmental Health, Refuse and Recycling Advisory Board be approved as follows:

- the formation of the Kent Waste Partnership, as detailed in the constitution set out in Annex 1 of the report, be agreed;
- in exercise of its powers under Section 101 of the Local Government Act 1972, the Cabinet delegates to the Joint Waste Management Committee the functions specified in the Joint Committee's terms of reference set out in the report;
- the Council be requested to approve the necessary amendments to the Council's Constitution.

1.2.2 It was also noted that the Cabinet Member for Environmental Services, or her deputy as appointed under the terms of the Council's Constitution, will represent the Council on the Joint Waste Management Committee. This is the only amendment required to the Council's Constitution.

- 1.2.3 Subject to the adoption of these recommendations by the Council, it is recommended that the appropriate amendments to the Council's constitution as set out in **[Annex 1]** be approved.

1.3 Concessionary fares

- 1.3.1 At its meeting on 6 February 2007, the Cabinet resolved that authority be delegated to the Central Services Director, in consultation with the Director of Finance, to agree detailed amendments to the Kent Countywide Concessionary Travel Scheme documents for 2007/08 and this be added to the scheme of delegations to officers in the Constitution (Decision notice D070037CAE).

- 1.3.2 Subject to the agreement of the Council, it is recommended that the appropriate amendments to the Council's constitution as set out in **[Annex 1]** be approved. Under the terms of the Council's constitution, before exercising their delegated powers, Chief Officers are required to consult with any other Chief Officers who may be affected by the decision and, in particular where any decision is likely to have financial or legal consequences for the Council, Chief Officers are required to consult the Director of Finance and the Chief Solicitor and Monitoring Officer before taking any decision. As a result, there is no specific reference to the Director of Finance in this proposed delegation.

1.4 Delegations to Chief Officers

- 1.4.1 It may sometime happen that a Chief Officer can have a conflict of interest in respect of a particular matter, arising from a professional or personal capacity, which means that he/she should not take part in the decision making process in respect of that matter. Under the existing conditions relating to delegated decision-making, whilst a Chief Officer can delegate responsibility for a matter to another officer, he/she still remains responsible for the decision, which is not acceptable.
- 1.4.2 I have therefore included in **[Annex 1]** a proposed condition 3 to the general conditions relating to delegated decision-making, which I commend to the Council for adoption.

1.5 Recommendation

- 1.5.1 It is **recommended** that alternations to the Council's Constitution set out in **[Annex 1]** to this report be adopted by the Council.

Background papers:

contact: Duncan Robinson
01732 876033

Constitution of the
Tonbridge and Malling Borough Council

Duncan Robinson
Monitoring Officer