

TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

10 July 2007

Report of the Monitoring Officer

Part 1- Public

Matters For Decision

1 AMENDMENTS TO THE COUNCIL'S 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 Severance of motions

1.2.1 Earlier this year, an issue arose when considering a motion on notice from members where it would have been helpful had it been possible for the motion to be considered as two separate motions. Unfortunately, the Council and Committee Procedure Rules do not allow for this and I was asked to consider what changes could be made to the rules to make this possible.

1.2.2 I have set out in **Annex 1** a form of words to give effect to this proposal.

1.2.3 The proposed changes are set out in Part 1 of **Annex 1** to this report.

1.3 Appointment of second Vice-Chairman

1.3.1 Consequent upon the discussion at Annual Council, I have prepared rule changes, which are set out in Part 2 of **Annex 1** to this report. These provisions are flexible, as to create rule changes for a single committee would be excessively cumbersome.

1.4 Functions relating to smoke-free premises, etc

- 1.4.1 The Local Authorities (Functions and Responsibilities) (England) (Amendment) (No.2) Regulations 2007 were made on 30 May 2007 and came into effect on 1 July 2007. These regulations provide that the Council's functions relating to smoke-free premises are **not** to be the responsibility of an authority's executive. As a health and safety function, they will fall within the purview of the Licensing and Appeals Committee.
- 1.4.2 Functions relating to the Council's role as an employer fall within the existing delegations.
- 1.4.3 The proposed changes are set out in Part 3 of **Annex 1** to this report. These include the power for authorised officers to issue fixed penalty notices.

1.5 Legal Implications

- 1.5.1 None.

1.6 Financial and Value for Money Considerations

- 1.6.1 None.

1.7 Risk Assessment

- 1.7.1 None.

1.8 Recommendations

- 1.8.1 That the amendments set out in the report be adopted and that the Monitoring Officer be authorised to make any consequential amendments.

Background papers:

contact: Duncan Robinson

Constitution of Tonbridge and Malling Borough Council
(2007 edition)

Health Act 2006

The Local Authorities (Functions and Responsibilities)
(England) (Amendment) (No.2) Regulations 2007

Duncan Robinson
Monitoring Officer