

TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

09 December 2008

Report of the Monitoring Officer

Part 1- Public

Matters For Decision

1 CHANGES TO THE CONSTITUTION

1.1 Introduction

- 1.1.1 In recent months there have been changes in personnel which require consequential amendments to the Constitution. In addition, Richard Jefferys will be retiring at the end of the year and consequential changes to the Council's Management Team have previously been agreed by Members. These changes need to be reflected in the Constitution and the Constitution itself requires that any changes are to be approved by Council following a proposal of the Monitoring Officer.
- 1.1.2 In addition, Article 15 says that it is a key role for the monitoring officer to be aware of the strengths and weaknesses of the Constitution and to make recommendations for ways in which it could be amended in order better to achieve its purposes.

1.2 Changes to Designated Officers

- 1.2.1 In part 3 of the Constitution, on page 88 of the September 2008 version of the document, the list of persons designated under the Regulation of Investigatory Powers Act 2000 is set out. This list includes reference to Barry Olding and Philip Beddoes as Chief Environmental Health Officers. Members will be aware that Barry recently retired and was replaced by Jane Heeley and Phil's post was redesignated as Head of Waste and Street Scene Services. I propose, therefore, that the list of designated officers of page 88 of part 3 of the Constitution be amended accordingly.

1.3 Changes to Management Team

- 1.3.1 With Richard Jefferys' retirement at the end of the year Julie Beilby will become the new Central Services Director. A new Senior Management Team Structure was recommended to Council by General Purposes Committee at its meeting of 3 April 2008 and this was adopted by Council at its meeting on 22 April 2008. The new structure will take effect from 1 January 2009.

- 1.3.2 In light of these decisions I propose that as of 1 January 2009 the Constitution be amended to show Julie Beilby as the Council's Central Services Director, to substitute her name for Richard Jefferys' name throughout the document and to reflect the new management structure as approved by Council.

1.4 Changes to Designated Deputies

- 1.4.1 Part 7 of the Constitution contains a list of Designated Deputies. Rule 2.6 of Part 3 under Functions Delegated to Officers makes it a requirement for all Chief Officers to delegate a deputy to act in their absence and allows them to appoint additional officers to exercise powers on their behalf.
- 1.4.2 The current version of the Constitution makes reference to three officers who have retired during the current calendar year and the document needs to be amended accordingly. Barry Olding is currently designated as a deputy to John Batty, the Director of Health and Housing, and John has asked that he be replaced by Jane Heeley as Chief Environmental Health Officer. In addition, Lawrence Dey is named as another of John's deputies and it is proposed that his name be removed from the list (Lawrence's replacement has not yet taken up her post). For the sake of completeness it should be noted that Phil Beddoes will remain as one of John's deputies, but under his new job title of Head of Waste and Street Scene Services. A further change follows on from the retirement of Duncan Robinson as Chief Solicitor and Monitoring Officer. The amendments which are necessary as a consequence are that Duncan's name should be deleted as deputy to Richard Jefferys the Central Services Director and in the capacity of Chief Solicitor where he appoints his own deputies. At both points in the list Wendi Batteson's name should be substituted.
- 1.4.3 With effect from 1 January 2009 Julie Beilby will be Central Services Director and the post of Customer Services Manager will be deleted. Currently, in that latter capacity, Julie is named as a designated deputy to David Hughes in respect of Executive Services only. From 1 January 2009 I propose that that designation be removed.
- 1.4.4 If the proposal in section 1.5 below is not accepted then I recommend that all the above amendments be made to the list of Designated Deputies in Part 7 of the Constitution.

1.5 Proposed Revision to Part 7 of the Constitution

- 1.5.1 In reviewing the way in which the Constitution works one of the weaknesses I have identified is illustrated by the changes set out in section 1.4 of this report. Strictly speaking each time a chief officer wishes to make a change to any designated deputy, which could be for purely administrative reasons or temporary necessity, I would have to be approached to make a formal proposal to amend the Constitution. As rule 2.6 of Part 3 also states that each Chief Officer has to maintain a written record of the officers they have authorised to exercise powers on their behalf, it appears to me that the list in Part 7 of the Constitution is an

unnecessary duplication. I propose, therefore, that the list of Designated Deputies be removed from the Constitution and an addition be made to rule 2.6 requiring all Chief Officers to provide a copy of all authorisations under this rule to the Chief Executive, the Director of Finance and the Monitoring Officer.

1.6 Legal Implications

1.6.1 None beyond those previously identified in this report

1.7 Financial and Value for Money Considerations

1.7.1 None

1.8 Risk Assessment

1.8.1 Not applicable

1.9 Recommendations

1.9.1 I make the following recommendations:-

- a) that the list of designated officers for the purposes of the Regulation of Investigatory Powers Act 2000 in Part 3 of the Constitution be amended as set out in section 1.2 of this report
- b) that with effect with 1 January 2009 the Constitution be amended to reflect the new Senior Management Structure approved by Council at its meeting on 22 April 2008
- c) that the list of Designated Deputies be deleted from Part 7 of the Constitution; **or in the alternative**
- d) that the list of Designated Deputies in Part 7 of the Constitution be amended as set out in section 1.4 of this report and rule 2.6 of Part 3 be extended to require all Chief Officers to notify the Chief Executive, the Director of Finance and the Monitoring Officer of all authorisations they give to other officers to exercise powers on their behalf.

Background papers:

contact: Ian Henderson

Nil

Wendi Batteson

Chief Solicitor and Monitoring Officer