

# TONBRIDGE & MALLING BOROUGH COUNCIL

## COUNCIL

17 February 2011

### Report of the Monitoring Officer

#### Part 1- Public

#### Matters For Decision

### 1 REPORT ON 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, I am required, amongst other things, to compare practices in this authority with those in other comparable authorities and national examples of best practice (where appropriate). I am also required to consult the Council's other statutory officers, the Head of Paid Service and the Chief Financial Officer, which has been done in respect of the proposals contained in this report.

1.1.2 Since the last meeting of Council the General Purposes Committee has recommended changes to the Constitution arising out of shared working arrangements with Gravesham Borough Council. In addition, recent discussions with Gravesham relating to the provision of licensing support will require Council authority in order for the relevant officers to be authorised for the discharge of licensing functions under the Constitution.

#### 1.2 Licensing

1.2.1 Members may be aware that the licensing service is currently facing significant challenges in relation to capacity. The team comprises 4 posts with a total FTE of 2.62 posts. Of these, one post is vacant (0.54 FTE) and the post holder for another (1.0 FTE) is presently on long term sick leave. The 2 remaining post holders have both been working additional hours in order to ensure the ongoing delivery of the licensing service.

1.2.2 In order to provide sufficient capacity to meet the increasing demands of the service, it is considered that additional support is required immediately. Discussions have therefore taken place with Gravesham Borough Council to establish whether short term support could be provided to the licensing team. These discussions have been very positive, and Gravesham have indicated that

they are in a position to provide immediate licensing cover to Tonbridge & Malling. This support will take the form of managerial support, and additional capacity to undertake enforcement activities across the range of licensing functions carried out by the Council.

- 1.2.3 Section 113 of the Local Government Act 1972 allows an employee of one authority to be placed at the disposal of another authority to carry out work.
- 1.2.4 Staff who are to be made available under the proposed arrangement will then be treated as officers of this authority for the purposes of exercising licensing functions, although they will remain employees of Gravesham Borough Council for employment and superannuation purposes.
- 1.2.5 In order to give effect to the proposed arrangement, changes to Part 3 of the Constitution are required to authorise Gravesham Officers to carry out licensing work on behalf of Tonbridge & Malling Borough Council.
- 1.2.6 This arrangement will provide the immediate resources required to fulfil the regulatory requirements of the licensing function. Options for a permanent solution to provide the best value and a quality service are being evaluated and will be brought forward for Members' consideration.

### **1.3 Use of Gravesham Borough Council Intelligence Officer**

- 1.3.1 On 31 January 2011 the General Purposes Committee received a report on a proposal to use the Intelligence Officer from Gravesham Borough Council to carry out enquiries under the Social Security Administration (Fraud) Act 1992. Tonbridge & Malling have historically used the National Anti-Fraud Network (NAFN) to carry out such enquiries, but Gravesham Borough Council (with whom we share a Fraud Manager) have indicated that it would be possible to share their officer for this purpose. This will achieve direct savings of approximately £3000 per year.
- 1.3.2 The duties undertaken by the Intelligence Officer require specific authorisation under s110A of the 1992 Act.
- 1.3.3 A recommendation was made to Council (minute GP11/004 refers) as a change to the Constitution is required in order for the Director of Finance to authorise an officer from Gravesham Borough Council to provide the appropriate function on behalf on this authority.

### **1.4 Legal Implications**

- 1.4.1 None other than those set out in this report.

### **1.5 Financial and Value for Money Considerations**

- 1.5.1 None

## **1.6 Risk Assessment**

1.6.1 The review of the Constitution in a timely fashion reduces the risk of the Council being challenged on the basis that its decision making processes may be flawed.

## **1.7 Recommendations**

1.7.1 The Council is recommended to agree the following amendments to the Constitution:-

- a) That licensing officers from Gravesham are authorised officers for the purposes of exercising licensing functions on behalf of the Council;
- b) the changes arising out of the shared Intelligence Officer set out in paragraph 1.3.2.

1.9.2 The Council is further recommended to authorise the Monitoring Officer to make the necessary consequential changes to the Constitution.

Background papers:

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Nil

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