

# TONBRIDGE & MALLING BOROUGH COUNCIL

## COUNCIL

19 April 2011

### Report of Leader of the Council and Chief Executive and Monitoring Officer

#### Part 1- Public

#### Matters For Decision

## 1 ADJUSTMENTS TO THE CONSTITUTION

### 1.1 Introduction

1.1.1. As we approach the end of the current Council's period of office, we considered it would be appropriate to review the structure of the Council's decision making processes to ensure it remains fit for purpose in the light of changes being introduced by the Coalition Government and in order that any changes considered appropriate can be made at this meeting so that appointments can be made to the revised structure at the Annual Council meeting.

1.1.2. Whilst the review has been primarily undertaken by us, we have taken soundings from a number of Members and Officers to ensure we have arrived at balanced conclusions.

### 1.2 General Conclusions

1.2.1 Our general conclusion is that the Council's decision making processes have worked well over the past few years and this view is supported by the soundings we have taken.

1.2.2 The system of advisory boards has achieved the objective of securing an inclusive approach to decision making and we propose that it should be continued but with some modifications that we will come to later.

1.2.3 The Area Planning Committee system continues to afford all Members involvement in planning decisions and we would propose no changes to this approach.

1.2.4 The Licensing and Appeals Committee has operated well and is necessary to discharge the Council's statutory responsibilities.

1.2.5 The Scrutiny Committee has examined a wide variety of issues and made useful recommendations that have been taken forward. One area of slight concern is the Policy Overview Committee, which has struggled to find a clearly defined role since the introduction of advisory boards. We believe the time is right to merge

this Committee with the Scrutiny Committee to form an Overview and Scrutiny Committee. We believe such a Committee would play a useful role in scrutinising the manner in which the Council and other bodies discharge their functions and scrutinising decisions of the executive under the call-in procedure as necessary. We would also envisage the Committee adopting a work programme centred on keeping the Council's key policy documents under review. There is a need for such reviews given the changes in the national policy framework that the Coalition Government is proposing.

- 1.2.6 The Standards Committee will need to continue in its present form until the legislative changes in the Localism Bill are enacted. It is our view that residents will expect their elected representatives to adopt and abide by a Local Code of Conduct and a reshaped Standards Committee in due course could oversee the development of a Local Code for recommendation to the Council for adoption and then play a role in overseeing compliance should the need arrive. The Committee should play no role in relation to Parish Councils other than perhaps an advisory one and the provision of training on a cost recovery basis. The reshaped Committee should be renamed Standards and Training Committee to reflect its new role at the point the Localism Bill's provisions become law.
- 1.2.7 The General Purposes Committee has operated satisfactorily and we propose no changes.
- 1.2.8 The Audit Committee now plays a key role in the Council's governance structure. This will not diminish and may well increase given the Government's stated intentions for reforms to the external audit arrangements for local authorities. However, we believe its membership should be increased from five to seven Members to address instances where it has been difficult to ensure meetings are quorate.
- 1.2.9 The existing Cabinet portfolios remain relevant although the Government's reforms to health and statements by Ministers and officials about the key role district councils should play in respect of the public health agenda suggest to us that a new Health portfolio should be created, supported by a Health and Wellbeing Advisory Board as recommended by the Community Development Advisory Board. We think also that Community Development should be renamed "Communities" both in respect of the Cabinet Portfolio and the Advisory Board.
- 1.2.10 We also believe that the reforms to policing in Kent and the forthcoming creation of a Directly Elected Police Commissioner justify the creation of a Community Safety Advisory Board to support the Portfolio holder. One further minor change is the proposed renaming of the Customer Service Improvement Advisory Board to Innovation and Improvement to better reflect the support it provides to the Cabinet portfolio holder.

- 1.2.11 We also feel that the Innovation and Improvement Portfolio should include matters pertaining to skills, education and training and the Portfolio Holder act as the Cabinet's lead Member in this area.
- 1.2.12 To compensate for the increase created by the creation of the Health and Wellbeing and Community Safety Advisory Boards, we propose that the Older Persons Issues Advisory Board and the Rural Affairs Advisory Board are subsumed into the Communities Advisory Board. We envisage a thematic approach by this Advisory Board either by grouping of agenda items or by themed meetings on occasions.
- 1.2.13 We are not convinced that the Public Transport Panel is completely viable and accordingly propose it is subsumed into the Planning and Transportation Advisory Board.
- 1.2.14 We are conscious of two important planning issues that the Coalition Government has indicated it will be progressing. The first of these is the Community Infrastructure Levy which will necessitate the development of an Infrastructure Plan in liaison with other agencies. Members may recall that we established an LDF Panel to oversee the development of our LDF Core Strategy and it would be sensible to adopt a similar approach and establish a Community Infrastructure Levy Panel to oversee the development of the now required Infrastructure Plan. This would be very much a task and finish Panel and would only meet as required; a principle that should apply generally to Committees, Advisory Boards and Panels, even where programmed. Meetings should only take place where there is substantive business to be considered.
- 1.2.15 The second issue is the Government's stated intention to issue new guidance in relation to Gypsy and Travellers issues, including the requirement for suitable sites to be identified to meet established need. It would be helpful to have in place a Gypsy and Travellers Issues Panel that can take forward the Government's requirements when these are made clear. Again we see this as a task and finish Panel that will only meet as required.
- 1.2.16 The Kent Resilience Forum, chaired by the Chief Constable, is legally responsible for the co-ordination of all planning for responding to civil contingencies and the Council is represented by the Chief Executive and other officers on this body and its specialist sub groupings. We do not consider there is now any added value in maintaining an Emergency Planning Group.

### **1.3 Summary of Proposals**

- 1.3.1 The changes we are proposing are comparatively modest; as is to be expected given that one overall conclusion is that the present arrangements are generally working well. They can be summarised as follows:-

Cabinet	<ul style="list-style-type: none"> <li>- Create a new portfolio for Health</li> <li>- Rename the current portfolio for Community Development as “Communities”</li> <li>- Include matters relating to skills, education and training within the Cabinet Portfolio of Innovation and Improvement</li> </ul>
Policy Overview and Scrutiny Committees	<ul style="list-style-type: none"> <li>- Merge these Committees into a single Overview and Scrutiny Committee.</li> </ul>
Audit Committee	<ul style="list-style-type: none"> <li>- Increase membership from five to seven Members</li> </ul>
Standards Committee	<ul style="list-style-type: none"> <li>- When the national framework for ethical standards is abolished the Committee should be renamed Standards and Training Committee and assume responsibility for recommending to Council a Local Code of Conduct and oversee the precise compliance with the Code. The Committee should also oversee the provision of guidance and training to Borough Councillors and, on a cost recovery basis, to parish councils that seek such provision.</li> </ul>
Advisory Boards	<ul style="list-style-type: none"> <li>- Abolish the Older Persons Issues and the Rural Affairs Advisory Boards and subsume their responsibilities within the Communities Advisory Board.</li> <li>- Establish a new Health and Wellbeing Advisory Board.</li> <li>- Establish a new Community Safety Advisory Board.</li> <li>- Rename the Customer Service Improvement Advisory Board “Innovation and Improvement Advisory Board”.</li> </ul>
Panels	<ul style="list-style-type: none"> <li>- Establish a Gypsy and Travellers Issues Panel</li> <li>- Establish a Community Infrastructure Panel</li> </ul>
Groups	<ul style="list-style-type: none"> <li>- Abolish the Emergency Planning Group</li> </ul>

1.3.2 These changes, we believe, will ensure the Council’s decision making process remain open, inclusive and are structured to meet the various duties, powers and influencing roles the Council needs to undertake.

1.3.3 We have supplied at Annexes 1 and 2 proposed updated parts of the Council's Constitution to give effect to our proposals, where such changes are needed at this stage. For example, the changes in respect of the Standards Committee cannot be made until the Localism Bill is enacted. There are other minor consequential amendments to the Constitution that will be required to reflect the changes if approved. We have also taken the opportunity to amend outdated elements within the various terms of reference such as mention of the Kent Agreement.

## 1.4 Recommendations

1.4.1 The Council is invited to **APPROVE** the proposals set out in Section 1.3 to this report and **AUTHORISE** the Monitoring Officer to make the appropriate consequential amendments to the Council's Constitution where these are needed at this time to give effect to the proposals.

Background papers:

Nil

contact:

Councillor Mark Worrall or  
David Hughes

Leader of the Council  
Councillor Mark Worrall

Chief Executive  
David Hughes

Julie Beilby  
Monitoring Officer

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		Not applicable

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*