

# TONBRIDGE & MALLING BOROUGH COUNCIL

## COUNCIL

03 November 2015

### Report of the Director of Central Services & Monitoring Officer

#### Part 1- Public

#### Matters For Decision

#### 1 CHANGES TO CONSTITUTION

The report recommends that changes are made to the Constitution to ensure that officers are able to effectively discharge the duties and powers of the Council

#### 1.1 Introduction

1.1.1 Part 2 of the Constitution provides that the Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

1.1.2 As part of this ongoing review, I have noted that there are a small number of areas where changes need to be made to ensure the Constitution remains up to date. This report sets out the areas in question, and recommends appropriate amendments to the constitution.

1.1.3 The report also requests that an amendment is made to the constitution in respect of one specific authorised officer appointment, namely that of the Proper Officer for the purposes of various public health functions.

#### 1.2 Proposed amendments

1.2.1 It is proposed that the following specific amendments are made to the Constitution

(a) Amendment of Part 4, Rule 15.21 (Council and Committee Procedure Rules) to replace references to the Town and Parish Councils Standards Sub-Committee with 'Standards Hearing Panel' (Proposed new wording at **Annex 1**);

(b) Removal of Part 5, Protocol A (Further provisions relating to the making of declarations under paragraph 13 of the Code). These are now obsolete;

(c) Amendment of Part 5, Protocol C to ensure consistency with the Members' Code of Conduct (Proposed new wording at **Annex 2**).

(d) Removal of Part 5, Protocol H (Political restrictions applying to Independent Members of the Council's Standards Committee). These are now obsolete as the Council does not have Independent Members on the Joint Standards Committee;

(e) Re-ordering of remaining Protocols in Part 5 to take account of the removal of Protocols A & H.

### **1.3 Authorised Officer for public health functions**

1.3.1 Part 3 of the Constitution currently designates Dr James Sedgwick (Interim Director for the Kent Health Protection Unit as the appropriate 'Authorised Officer' for the purposes of exercising various public health functions under the Health Protection (Notification) Regulations 2010 and the Public Health (Control of Disease) Act 1984.

1.3.2 In light of recent organisational changes, Public Health England has suggested that we no longer have a specific individual named as Proper Officer. Instead, they suggest that we designate any person for the time being employed as a Consultant in Communicable Disease Control/ Consultant in Health Protection at Public Health England, as the Proper Officer for the following purposes

Legislation	Section or Regulations	Effect
The Health Protection (Notification) Regulations 2010	Regulations 2, 3, 6	Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons.
Public Health (Control of Disease) Act 1984	Section 48 as amended by Health and Social Care Act 2008	Preparation of certificate to Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately.

### **1.4 Legal Implications**

1.4.1 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 full Council after consideration of a report on the proposal from the Council's Monitoring Officer.

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

1.5.1 None.

### **1.6 Risk Assessment**

- 1.6.1 If the changes are not made to the Constitution to deal with new legislation then officers will not be able to enforce our statutory duties and powers effectively and efficiently.

## **1.7 Equality Impact Assessment**

- 1.7.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## **1.8 Recommendations**

- 1.8.1 It is **RECOMMENDED** that the Monitoring Officer be authorised to amend the Constitution to give effect to the changes outlined in this report.

Background papers:

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