

TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

28 June 2017

Report of the Director of Central Services & Monitoring Officer

Part 1- Public

Executive Non-Key Decision

1 DELEGATED AUTHORITY - COMPLAINTS

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 A comprehensive review of the Council's Constitution is currently being undertaken, with a view to reporting to the Overview and Scrutiny Committee over the next 2-3 months. As part of this ongoing review, I have noted that there are a number of areas where changes need to be made to ensure the Constitution remains up to date. This report deals with one of the areas in question, and recommends appropriate amendments to the constitution.

1.1.3 The report requests that an amendment is made to the constitution in respect of one specific area, namely that relating to the authorisation of compensation payments or other measures recommended by the Local Government Ombudsman in connection with complaints made about the Borough Council. This has arisen in connection with a recent audit review of the complaints process and therefore is brought to Members for approval separately to any recommendations arising out of the wider review.

1.2 Proposed amendments

1.2.1 As Members will be aware, the Council operates a complaints procedure to deal with any complaints from members of the public or businesses regarding the way in which a Council service has been delivered or how a decision has been made. If a complainant remains dissatisfied after taking their complaint through all 3 stages of the adopted procedure, they may then refer the matter to the Local Government Ombudsman (LGO).

1.2.2 The LGO may ask an authority to take various steps to put things right, including

- Providing an apology;
- Providing a service it should have done before;
- Making a decision it should have done before;
- Reconsider a decision it did not take properly in the first place;
- Improve its procedures so similar problems do not happen again; and
- Make a payment

1.2.3 The LGO does not have legal powers to force an authority to follow its recommendations, although in practice authorities almost always do.

1.2.4 Presently, the Constitution does not allow officers to accept a recommendation from the LGO to make payment to a complainant. Whilst there are no existing complaints where this is in issue, it would be sensible for allow for this possibility within the constitution, so that the Chief Executive, in consultation with the Cabinet Member for Finance, Innovation and Property is able to authorise a compensation payment in appropriate circumstances.

1.3 Legal Implications

1.3.1 Article 15 in part 2 of the Constitution sets out the procedure for review and revision of the Constitution.

1.4 Financial and Value for Money Considerations

1.4.1 None arising out of this report.

1.5 Risk Assessment

1.5.1 If the changes are not made to the Constitution to deal with the matters set out in this report then officers will not be able to respond promptly to any recommendations of the Local Government Ombudsman.

1.6 Equality Impact Assessment

1.6.1 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.

1.7 Recommendations

1.7.1 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:

contact: Adrian Stanfield

Adrian Stanfield
Director of Central Services &
Monitoring Officer