

TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

19 February 2019

Report of the Director of Central Services & Monitoring Officer

Part 1- Public

Matters for decision

1 CHANGES TO CONSTITUTION

Summary

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 Background

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 I have noted that there is one area where changes need to be made to ensure the Constitution remains up to date. This report sets out the area in question, and recommends appropriate amendments to the constitution.

1.2 Proposed amendment

1.2.1 Part 3 of the Constitution currently delegates authority to the Director of Central Services to manage the Council's functions in respect of public rights of way, including the Countryside and Rights of Way Act 2000. This delegation includes the power to provide advice, deal with consultations and make orders in respect of public rights of way.

1.2.2 However, the delegation does not extend to functions relating to village green applications, which would ordinarily sit alongside functions relating to public rights of way. Whilst the Council is not a registration authority for village greens (this function instead resting with the County Council) we may on occasion need to respond to third party applications to register land within our ownership as a village green.

1.2.3 The issue has been highlighted by a current application to register Borough Council owned land within Tonbridge Town Centre as a village green (land at River Lawn Road). The Council is required to submit its response to the consultation (which commenced on 25 January 2019) by 15 March 2019, which

does not allow sufficient time for the necessary work to be undertaken and a report prepared for full Council. Ordinarily the response to such consultations would be carried out at officer level in any event, given that any response will be informed by technical and legal considerations.

- 1.2.4 In order that the Borough Council is able to respond to this application, and to any future applications to register land as a village green, it is therefore proposed that the existing delegation in relation to public rights of way is extended to cover any Council functions relating to village greens.

1.3 Legal Implications

- 1.3.1 Article 10 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.

1.4 Financial and Value for Money Considerations

- 1.4.1 None.

1.5 Risk Assessment

- 1.5.1 If the changes are not made to the Constitution then officers will not be able to discharge our statutory duties and powers effectively and efficiently.

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 Policy Considerations

- 1.7.1 Asset Management
1.7.2 Community

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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Nil

Adrian Stanfield
Director of Central Services & Monitoring Officer