

By: Alex King; Deputy Leader
Geoff Wild, Director of Law and Governance

To: Selection and Member Services Committee – 4 December 2009
County Council – 10 December 2009

Subject: Changes to the Constitution

Summary: This report sets out amendments and additions to the Constitution for the Selection and Member Services Committee's consideration and recommendation to the County Council on 10 December 2009

Consequential Amendments to the Constitution

1. (1) Following the decision taken by the County Council on 15 October 2009 to refocus and restructure the Overview and Scrutiny function, various consequential changes to the County Councils constitution have been made, which are submitted to the Selection and Member Services Committee and the Council for approval. . An amended copy of the Constitution showing tracked changes is attached as **Appendix 1** (page 11 - 184).

(2) In addition, Members' attention is drawn to the consequential amendments to the budget process (set out in **Appendix 2**, page 185), which recognises the role of the new Scrutiny Board in this process. Cabinet Scrutiny Committee of course retains the power to "call in "the decision of the Cabinet to endorse the Leader's budget proposals prior to their submission to County Council. (Appendix 4 Part 8, page 113, paragraph 8.3)

Additional Amendments to the Constitution

2. (1) In addition to these consequential amendments Members are requested to consider recommending approval of the following suggested amendments:

(a) Cabinet Scrutiny Committee – in a spirit of openness and transparency it is suggested that when recommendations are formulated by the Cabinet Scrutiny Committee having completed the process of hearing evidence and asking questions, any Cabinet Members, Deputy Cabinet Members and officers should be able to remain in the meeting and therefore it is suggested that the Constitution should be amended as follows:

"After answering questions, the Cabinet Member, Deputy Cabinet Member and Officers **may remain** but should not normally speak during debate unless it seems likely the Committee will be proposing an action on which they have not commented and on which advice is either sought or should be given in order to protect the Council's interests." See

Appendix 4 Part 4, page 94 paragraph 4.9 of the attached amended draft.

(b) *Health Overview and Scrutiny Committee* - endorsement is sought for the following representatives - 4 District Councillors (voting), who represent all Kent Districts and 2 LINKs representatives (non-voting) on the Health Overview and Scrutiny Committee. This amendment takes account of changes in Primary Care Trust boundaries and the establishment of LINKs. See Appendix 2 Part 2 - page 41, paragraph 13 of the attached amended draft.

Additional documents for inclusion in the Constitution

3. (1) In addition, the Committee's agreement is sought to refer to County Council other documents for inclusion in the Constitution:

Councillor Call for Action

(2) Attached as **Appendix 3** (page 189) is a report on the Councillor Call for Action and a proposed Protocol which, if, approved, will require incorporation into the Constitution.

(3) The Councillor Call for Action is a mechanism whereby a Member can ask for an issue to be reviewed by an Overview and Scrutiny Committee if they have not achieved a satisfactory resolution and can demonstrate that they have exhausted every alternative resolution process. It is a mechanism which can only be used as a "last resort".

(4) The Policy Overview Co-ordinating Committee at its meeting on 16 October 2009 endorsed the Protocol.

Scrutiny of the Crime and Disorder Reduction Partnership (CDRP)

(5) The County Council at its meeting on 30 April 2009 designated the Communities Policy Overview Committee as the Crime and Disorder Committee to carry out Crime and Disorder Reduction Partnership scrutiny. It is proposed that the Crime and Disorder Committee meets twice a year. The Selection and Members Services Committee is asked to recommend to the County Council approval of a Protocol for the operation and interrelationship with the responsible authorities, i.e. the Police, Police Authority, Kent Fire and Rescue, Primary Care Trusts and Kent Probation (who will be a responsible authority from 2010). A draft of the Protocol was shared with all partners and their comments have been incorporated into the attached version. The Communities Policy Overview and Scrutiny Committee endorsed the protocol at its meeting on 11 November 2009. A copy of the protocol and background information is attached as **Appendix 4** (page 199).

Policy Framework

(6) The Policy Framework, which contains documents that must be approved by the County Council rather than the Executive, has been updated and a revised version (which was considered by Selection and Member

Services at its meeting on 13 October 2009) is attached at **Appendix 5** (page 205). The Committee recommended that, subject to any amendments suggested by the Policy Overview Co-ordinating Committee, it be submitted to the County Council for approval to replace the existing version in the Constitution. The Policy Framework was endorsed by the Policy Overview Co-ordinating Committee on 16 October 2009 without amendment.

Health Overview and Scrutiny Committee (HOSC)

4. The HOSC is working with its partners to refresh the protocols for the operation of Overview and Scrutiny of Health across Kent and the arrangement to establish a Joint Committee with Medway Council to ensure they are fit for purpose.

Protocol on the Inter Authority Co-Operation with Scrutiny

5. Work is taking place with partners to refresh the Protocol for Overview and Scrutiny Inter Authority Co-operation in the Constitution, which will be submitted to a future meeting of the Selection & Member Services Committee and the County Council for approval.

Recommendations: that:

- (a) the consequential amendments to the Constitution as set out in Appendix 1 be recommended to the County Council for approval;
- (b) the amendments to the Constitution and the endorsements requested in paragraph 2 be recommended to the County Council for approval;
- (c) the Protocol for the Councillor Call for Action as set out in Appendix 3 be recommended to the County Council for approval;
- (d) the Protocol for the operation of the Crime and Disorder Committee as set out in Appendix 4 be recommended to the County Council for approval;
- (e) it be noted that the Policy Overview and Co-ordinating Committee had endorsed the Policy Framework and the attached revised version of the Policy Framework at Appendix 5 be recommended to the County Council for approval;
- (f) the work being undertaken to refresh the protocols on the Overview and Scrutiny of Health across Kent and the Overview and Scrutiny Inter Authority Co-operation be noted.

Geoff Wild
Head of Law and Governance
Tel No: 01622 694302
e-mail: geoff.wild@kent.gov.uk

Background Information: *None*