

From: Ben Watts, General Counsel

To: **County Council – 12th July 2018**

Subject: Amendments to the Constitution

Classification: **Unrestricted**

Summary:

The purpose of this report to seek authority to adopt the CIPFA/SOLACE “Delivering Good Governance in Local Government: Framework 2016 Edition” and to make the necessary consequential changes to the constitution. The report also provides an update on progress on the complete rewrite of the constitution.

Recommendation:

That the County Council

- (1) AGREE the adoption of the CIPFA/SOLACE 2016 Framework**
- (2) AGREE the changes to the Constitution as detailed in the report and recommend their adoption**

- 1.1 The Constitution has served the Council well since it was first written in 2001. It has gone through a significant number of iterative versions driven by ad-hoc legislative, regulatory changes required of all local authorities and the changes that have been consequential from decisions that are taken by the Council.
- 1.2 The Constitution is the high-level set of arrangements for governing the council’s activity, model of governance and decision-making. It sets out how the organisation operates from a Member perspective and establishes how the policy and budgetary framework is set and decided upon by Members. It also sets out the expectations of Members in relation to the accountabilities, responsibilities and Member scrutiny of Officers in delivering the activity following from decisions formally taken by the executive or by the full Council.
- 1.3 The process for making changes to the Constitution is set out in Article 14.2:

“Changes to the Articles of the Constitution must be approved by the full Council after consideration of the proposal by the Selection & Member Services Committee and appropriate public consultation. Changes to factual references or changes required by a change in the law will be made by the Monitoring Officer. Changes to the Appendices of the Constitution will be published by the Monitoring Officer to reflect decisions duly taken by the Council, Leader, Cabinet, a Committee or Senior Officer.”
- 1.4 This process rightly reserves to Members any changes to the Articles of the Constitution which are the basic rules governing the Council’s business. It requires any amendment to the Articles to be approved by the full Council after consideration of the proposal by Selection and Member Services Committee.

- 1.5 At the County Council meeting on 16 March 2017, the County Council agreed to ask the Monitoring Officer to review the entire Constitution. It was recognised that, whilst legally sound, the document is long and could benefit from a review to consider what improvements could be made to benefit those who might read it, including elected members, our partners, residents and staff.
- 1.6 That review has taken longer than anticipated given the pace and scale of change within the Council during that period. It had been hoped that it would be possible to bring the new constitution to this meeting but given a need to reflect learning from the report into Northamptonshire County Council and imminent recommendations anticipated in relation to local government scrutiny arrangements, this will now come forward in the autumn.
- 1.7 Ahead of that paper, the Monitoring Officer and Head of Internal Audit are of the view that the Council should move to adopt the CIPFA/SOLACE “Delivering Good Governance in Local Government: Framework 2016 Edition” and make the necessary consequential changes to the Code of Corporate Governance and the Constitution.
- 1.8 The previous version of the framework represents the foundations of the Council's existing corporate governance arrangements. The Monitoring Officer has already implemented a range of elements of the new code in operational arrangements for the council including some of the Annual Governance Statement process.
- 1.9 It is recognised that the adoption of such a framework is a matter for Members and a copy of the framework is attached at Appendix 1.
- 1.10 In order to achieve compliance with the framework and to reflect the Member-Led nature of Kent County Council, amendments are proposed to the constitution and these are tracked on the document attached at Appendix 2.
- 1.11 Explicit reference to the Member-Led nature of the council appears in the constitution for the first time in response to the strong views expressed by Members and to reflect the reality of the organisation. For a number of years the council has clearly asserted the Member Led/Officer Managed demarcation and this is now clearly provided for in our key piece of governance.
- 1.12 The opportunity has also been taken to modernise Appendix 3 of the Constitution regarding the policy framework and make amendments to accountabilities and responsibilities of senior officers as a result of previous decisions taken by the County Council.
- 1.13 The draft changes were discussed with Cabinet Members and the Corporate Management Team. They were also discussed at Selection and Member Services Committee on 2nd July 2018 with some further small consequential amendments made.
- 1.14 Selection and Member Services Committee recommended that the County Council should
- Agree the adoption of the CIPFA/SOLACE 2016 Framework
 - Endorse the changes to the Constitution
- 1.15 Given the current constitution runs to more than 240 pages, the attached pages only include those with substantive amendments in an effort to reduce the cost of printing and for Member's ease of reading.

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