

From: Ben Watts, General Counsel

To: **Selection and Member Services Committee – 20 June 2019**

Subject: Structural Revision of the Constitution

Classification: **Unrestricted**

Summary:

The purpose of this report is to seek authority to adopt and re-issue the Constitution in a restructured format, with the associated changes

Recommendation:

That the Selection and Member Services Committee endorse the revised version of the Constitution and agree to recommend its adoption by County Council.

1. Introduction

- 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 Importantly, the Constitution has not been significantly reviewed and updated since KCC began the process of becoming a Strategic Commissioning Authority. Whilst the move to an operating model that focusses on commissioning does not fundamentally change the formal decision-making process, committee procedures or wider statutory requirements set out in the Constitution, it has changed KCC business model in important ways. Similarly, the Member role in commissioning has matured significantly. The roles of bodies like the Commissioning Advisory Board have been important in driving forward the Member role in commissioning.
- 1.3 The operating environment for the Council has changed significantly in recent years. That environment and reducing budgets has led to an increased focus on new operating models and different types of service delivery.
- 1.4 One of the clearest lessons of the experiences of the local government sector in recent years has been that a well-run Council has clear governance. Reviewing the Constitution is necessary to reflect the reality of the operating model of the Council, but also to protect the interests of the Council, its Members and Officers.
- 1.5 Members have expressed a strong view that they would like to have a Constitution that is dynamic and capable of moving better with the organisation's changing needs. Members have also recognised that whilst legally sound, the Constitution document is currently long and could benefit

from a review to consider what improvements could be made to benefit those who might read and use it, including elected Members, our partners, residents and staff.

- 1.6 The General Counsel and staff in Governance, Law and Democracy have been undertaking a review process that has responded to these concerns with a draft revised Constitution which is fit for purpose and more able to be updated as and when necessary while remaining easy to use.
- 1.7 The draft revised Constitution accompanies this report.

2. The Draft Revised Constitution

- 2.1 There is a both a legal requirement for Kent County Council to have a Constitution and for it to contain specific sections, such as the Members' Allowance Scheme and procedural rules. Within these parameters, there is flexibility around style and content.
- 2.2 The draft revision does not contain any significant change to the substantive content of the Constitution. As explained above, the legal framework around Committees and decision-making has remained largely the same since 2001 and this is reflected in the draft revision. In effect, the current substantive content has been revised and rearranged. Duplication has been reduced and content that could be made available elsewhere has been. Overall the result has been the production of a smaller document that is easier to use without losing any key content.
- 2.3 With this preamble, the specific changes are:
 - (a) A streamlined set of Articles. The Articles currently set out the basic rules governing the Council's business along with the core principles that underpin the culture and operation of the Council. These basic rules were then duplicated and expanded upon in the body of the Constitution. The revised Articles concentrate on setting out the core principles. That the Council is a Member-led authority is set out clearly in Section 4(a), for example.
 - (b) The procedures for changing and amending the Constitution is set out more clearly than currently (Section 6). It makes clear that any substantive change to the Constitution, not just to the Articles, is the responsibility of full Council, with the exception of the Sections dealing with the business of the Executive.
 - (c) There is a single, standardised, referencing system with internal and external cross-referencing and links built in. This makes locating the relevant part of the Constitution and related policies or legislation easier.
 - (d) Key sections, like those on decision-making and meeting procedures, have been reworked to make them easier to follow.
 - (e) The long tables setting out the Council Delegations and Statutory and Proper Officers have been placed in a separate Appendix. This is in part to allow users to access the information in different formats, such as

Excel, and so locate a specific delegation more easily. These have not been included in the report today as the content remains identical to that set out in Appendix 2 Part 3 and Appendix 2 Part 7 of the current Constitution.

- 2.4 The content of Part Four of the revised draft, which includes the Kent Code of Members Conduct, has not been altered or reworked, except to make it fit the new referencing system. The same applies to Section 13, Financial Regulations.
- 2.5 Following the adoption of the revised Constitution by full Council, the intention is to deliver a set of accompanying tools to improve wider understanding of the Constitution. For example, a Constitution Handbook will be produced setting out the key elements of the Council's governance and referencing the main parts of the Constitution. This will be an introductory guide for members of the public and anyone needed to gain a better understanding of this area.

3. Authority for Revising the Constitution

- 3.1 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.”

4. Financial Implications

- 4.1 There are no financial implications to the constitutional changes as outlined in this report.

5. Recommendation:

That the Selection and Member Services Committee endorse the revised version of the Constitution and agree to recommend its adoption by County Council.

6. Contact details

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