

DEMOCRACY COMMITTEE

8 March 2017

Is the final decision on the recommendations in this report to be made at this meeting?

No

Amendments to the Constitution

Final Decision-Maker	Council
Lead Head of Service	Estelle Culligan, Interim Head of Legal Partnership and Monitoring Officer
Lead Officer and Report Author	Donna Price, Interim Deputy Head of Legal Partnership
Classification	Public
Wards affected	All

This report makes the following recommendations to this Committee:

1. To consider and agree the additional delegations to the Head of Regeneration and Economic Development and the Head of Housing and Community Services as set out in paragraph 2.4 of the report.
2. To consider and agree the additional functions set out at paragraph 2.5 and Appendix I of the report to be added to the Strategic Planning and Performance Management of Heritage Culture and Leisure Committee.
3. To consider and agree the reinstatement of the six month rule with regards to motions as set out in paragraph 2.6 of the report.
4. To recommend to Council that it adopts all changes to the Constitution to take effect from the date of the annual meeting of Council.

This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all -
 - Securing a successful economy for Maidstone Borough -
- This report relates to both priorities as the Constitution underpins the good governance of the Council.

Timetable

Meeting	Date
Democracy Committee	8 March 2017
Council	12 April 2017

Report of the Head of Mid Kent Legal Partnership - Amendments to the Constitution

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The Council adopted the committee style of governance on 23 May 2015. It also adopted a new Constitution to support the committee system.
 - 1.2 As the Constitution is a living document it is necessary to keep it under continuing review so that amendments can be made as and when necessary to ensure the document is kept up to date.
 - 1.3 This report sets out the amendments proposed following the review.
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2. INTRODUCTION AND BACKGROUND

- 2.1 A full review of the effectiveness of the Constitution was carried out in January/February 2016 and the recommended amendments were agreed in April 2016. Following this review the Constitution has worked well and as such it has not been necessary to carry out a full review this year.
- 2.2 Under the Monitoring Officer's delegation minor amendments have been made to the Constitution to reflect the new management structure with the majority of the amendments relating to Part 2 of the Constitution, specifically the sections on 'Responsibility for Functions Relating to Officers' and 'The "Proper Officer" Functions' to ensure the right delegation sits with the correct member of the management team.
- 2.3 In addition, the Constitution has been amended in year to reflect the decisions made by Council with regards to the introduction of electronic voting and the changes in the process for the selection of the Mayor.
- 2.4 Whilst the transference of delegated functions from one officer to another to reflect structural changes can be carried out under the Monitoring Officer's delegation any new delegated function can only be agreed by Council. The following delegations have been requested by the respective Heads of Service as being necessary for them to carry out their role effectively:
 - 2.4.1 Head of Regeneration and Economic Development:
 - Responsibility for the implementation of the Councils Public Realm Design Guide and Public Arts Policy.
 - 2.4.2 Head of Housing and Community Services:
 - To liaise and negotiate with government bodies and their appointees, third parties and housing providers in order to promote the priorities identified in the Council's Housing Strategy.

- 2.5 The review of officer delegations highlighted omissions in the functions and responsibilities of Heritage, Culture and Leisure Committee as there is no reference to Bereavement Services or to the Public Realm Design Guide and Public Arts Policy. As such it is recommended that Bereavement Services, the Public Realm Design Guide and Public Arts Policy be listed as part of the Performance Management functions of the committee as shown at Appendix I.
- 2.6 Whilst the Constitution as a whole has been effective, over time discrepancies will be found. Following the redraft in 2015 it appears that the six month rule with regards to motions was omitted from the Council Procedure Rules. As this was an oversight in the drafting process which has been picked up during the year it is recommended that these sections are added back into the Constitution in the Council procedure rules section as set out below:

“Previous Decisions and Motions

- **Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of Motion is signed by at least one third of the whole number of the Council.

- **Motion similar to one previously rejected**

A Motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of Motion or amendment is signed by at least one third of the whole number of the Council Members. Once the Motion or amendment is dealt with, no one can propose a similar Motion or amendment for six months.”

3. AVAILABLE OPTIONS

- 3.1 The first option is to “do nothing”. The Committee could decide not to accept the proposed amendments at this time. The Constitution has worked quite well for the last year. However the proposed amendments will facilitate the Council and its Officers to effectively carry out their duties.
- 3.2 The second option – which this report recommends – is to consider and accept the proposed amendments and recommend that Council adopts them. The Constitution should be reviewed and amended regularly to reflect the changing demands of the Council and the public.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 It is recommended that the Committee accepts the recommendations and proposes the amendments to Council at its meeting on 12 April. The

amendments to the Constitution can then be made in time to take effect from the annual Council meeting on 20 May 2017.

5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 5.1 If approved, the amendments to the Constitution will be presented to Council on 12 April with the recommendation that it adopts the revisions to take effect from 20 May 2017.

6. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	A clear and effective Constitution supports both corporate priorities. Reviewing the Constitution regularly ensures that it most effectively meets the needs of the Council and the public.	Interim Deputy Head of the Legal Partnership
Risk Management	The changes proposed are to ensure the effective running of the council, when deciding whether to approve the changes the committee will need to consider the risk of not making amendments.	Interim Deputy Head of the Legal Partnership
Financial	None	
Staffing	The changes proposed will have implications for the Heads of Service roles as set out in this report	Interim Deputy Head of the Legal Partnership
Legal	The legal implications are set out in the body of the report.	Interim Deputy Head of the Legal Partnership
Equality Impact Needs Assessment	None	Interim Deputy Head of the Legal Partnership
Environmental/Sustainable Development	The changes proposed formalise the performance management of services that are related to the environment	Interim Deputy Head of the Legal Partnership

Community Safety	None	Interim Deputy Head of the Legal Partnership
Human Rights Act	None	Interim Deputy Head of the Legal Partnership
Procurement	None	Interim Deputy Head of the Legal Partnership
Asset Management	None	Interim Deputy Head of the Legal Partnership

7. REPORT APPENDICES

- Appendix I – Extract from Constitution showing tracked changes for functions of Heritage Culture and Leisure Committee