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CONSTITUTIONAL REVIEW WORKING PARTY

17 JUNE 2010

A meeting of the Constitutional Review Working Party will be held at **10.30 am on Thursday, 17 June 2010** in the Council Chamber, Cecil Street, Margate, Kent.

Membership:

Independent Members: Mr Robin Hills (Chairman) and B Hinchley (Vice-Chairman);

Councillors: Councillor D Green, Gregory, Harrison, Latchford and Mrs Roberts

A G E N D A

Item
No

Subject

5. **ADOPTION OF REVISED POLITICAL MANAGEMENT ARRANGEMENTS** (Pages 1 - 4)

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Adoption of Revised Political Management Arrangements

To: **Constitution Review Working Party – 17 June 2010**

By: **Harvey Patterson, Monitoring Officer**

Classification: **Unrestricted**

Summary: To consider the available options and steps to be taken in order to adopt new political management arrangements

For Decision

1.0 Background

1.1 By virtue of Part 3 and Section 64 of the Local Government & Public Involvement in Health Act 2007 ('the 2007 Act') the Council is required to consult on and adopt one of the two political governance models prescribed by the Act, namely the 'Leader and Cabinet Executive' model and the 'Mayor and Cabinet Executive' model. Although the new government is committed to the allowing local authorities to return to the pre Local Government Act 2000 committee system, this will require primary legislation and does not affect the timetable for the implementation of the 2007 Act reforms.

1.2 The Leader and Cabinet Executive model under the 2007 Act differs slightly from what that Act calls the "old style" Leader and Cabinet model (under the LGA 2000). The main differences are:

- (i) Under the "old style" arrangements a Leader could be "strong" or "weak". With a "strong" Leader the Cabinet is appointed by the Leader. With a "weak" Leader the Cabinet is appointed by the full Council. Under the 2007 Act the Cabinet must be appointed by the Leader. TDC currently appoints the Leader and Deputy Leader and the Cabinet Leader then elects the Cabinet
- (ii) Under the "old style" arrangements it was possible for the Constitution to make provision with respect to the allocation of executive functions amongst the Cabinet – that is to say the Constitution could specify the terms of reference and portfolios of the Leader, the Cabinet collectively and individual Cabinet Members. Under the 2007 Act the Cabinet Leader will decide these matters, i.e. the position will be the same for a Leader as for a directly elected Mayor. In practice this means that in future the Leader will determine the portfolio allocation of executive functions without the input of full Council.
- (iii) Under the "old style" arrangements the Constitution "may include provision with respect to...the election and term of office of the executive leader" – that is to say, the Leader's term of office is for the full Council to decide when approving the Constitution. Under the 2007 Act the Leader's term of office (in the case of a Council operating whole-council elections) will be four years.

1.3 In the Mayor and Cabinet Executive model the Mayor is directly elected for four years, appoints the Cabinet and determines their portfolios. He or she cannot be removed from office by the Council.

- 1.4 In fact, the TDC constitution is already very close to the 'strong' Leader and Cabinet Executive model in that the Leader determines the size of the Cabinet within the prescribed legal limits, appoints members to the Cabinet (other than the Deputy Leader), determines the allocation of portfolio responsibilities between members of the Cabinet and determines which executive functions may be discharge by individual Cabinet members.

Implementation Time Scale and Requirements

- 2.1 The Council must consult the public and other interested person for a minimum 12 week period before drawing up proposals for a change in its political governance arrangements. In drawing up its proposals the Council will have regard to the responses to the public consultation as well as the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way in which the Councils functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 2.2 The Council must then resolve by not later than **31 December 2010** which of the two available governance models it proposes to adopt and the Council must pass this resolution at an Extraordinary General Meeting specifically convened for this purpose. The new governance arrangements will then come into force on the third day following 'a relevant election' - in the case of Thanet the whole Council elections in May 2011 will be a relevant election.
- 2.3 Give that there must first be a minimum three months consultation period before the Council publishes a proposal, that the proposal must include an adoption timetable (and may include a proposal to hold a referendum) and given also the requirement to complete the process and adopt the preferred model by 31 December 2010, it is recommended that the Working Party begins the process by expressing a 'pre consultation preference' for one of the two available models which, subject to Council approval, would then form the basis of public/interested person consultation exercise. Given the high degree of alignment between the Thanet Constitution and the Leader and Cabinet Executive model, this is the obvious choice. However, the Head of Legal & Democratic Services will be present at the meeting to answer questions on the advantages and disadvantages of each model.
- 2.4 Finally, although the recommendations of the Working Party will be considered by the Standards Committee and full Council, it may also be appropriate to consult the party groups via the Group Leaders on their pre- consultation preference. If so, the views of the party Group Leader will be sought as a matter of urgency and reported to the Standards Committee.

3.0 Corporate Implications

3.1 Financial

- 3.1.1 There will be a consultation cost for which no discrete budget exists. Accordingly, Corporate Management Team will be asked to identify the necessary resources.

3.2 Legal

- 3.2.1 As set out in the report

3.3 Corporate

- 3.3.1 Research indicates that Councils with strong Leader and Cabinet Executive arrangements tend to be higher performing than Councils with weak Leader and Cabinet Executive arrangements. As both the proposed models are "strong

leader' models, either has the capacity to support the 'Modern Council' Corporate Plan theme.

3.4 Equity and Equalities

3.4.1 None Specific

4.0 Recommendation(s)

4.1 That the report be received and noted

4.2 That the Working Party recommends to Council a pre consultation preference for one of the two available models for the purposes of beginning an interested party/public consultation exercise.

4.3 That the Working Party consider whether to consult the Party Group Leaders as part of the process of determining a pre consultation preferred option.

5.0 Decision Making Process

5.1.1 The recommendations of the Constitution Review Committee are considered by the Standards Committee who make final recommendations to Council. Council must first consult the public before drawing up proposals and adopting them at and Extraordinary General Meeting.

Contact Officer: *Harvey Patterson, Head of Legal & Democratic Services*
Reporting to: *Richard Samuel, Chief Executive*

Annex List

None

Background Papers

Title

No background papers

Details of where to access copy

