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## REVIEW OF THE CONSTITUTION

To: **Constitutional Review Working Party – 4 August 2015**

By: **Monitoring Officer**

Classification: **Unrestricted**

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**Summary:** **This report outlines the first tranche of proposed amendments to the Councils constitution.**

### For Decision

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#### **1.0 Introduction and Background**

1.1 Alex Hallam, Assistant Director for Essex Legal Services has been commissioned to assist with the revision of the Thanet Constitution and has already met with the Monitoring Officer, Committee Services Manager and with the Chief Officer group to discuss some of the issues with the current constitution.

#### **2.0 The Current Situation**

2.1 The documents Alex has prepared for the first meeting are the Member/officer protocol and Parts 1 and 2 of the Constitution. It is anticipated that they will require significant further amendment following discussion in this Constitution Review Working Party (CRWP) meeting and she will prepare a further draft for the next meeting after that input. Her aim is to simplify the constitution and to put it in a more logical order. Some sections that have been removed from the documents before the meeting will be transferred to other parts of the constitution in the interests of clarity and consistency and will therefore re-appear in later material for the working group.

2.2 In preparation for the meeting there are some comments that she would want to make against the drafts that she has prepared:-

##### 2.2.1 Member/officer protocol

This document has been significantly re-drafted calling upon similar protocols in other authorities. Alex has tried to make it simple and direct; emphasising the different roles members and officers play and the importance of good communication.

##### 2.2.2 Parts 1 and 2

Part 1 is an introductory statement about the constitution, its structure and the roles that are undertaken as part of a local authority's governance. It has been edited and simplified and Alex's thinking in doing so has been to try to reduce the need to modify it again in the future and to take it back to the model document that was produced by the DCLG when the Local Government Act 2000 was brought into effect.

2.2.2.1 Part 2 of the Constitution is a statement of the articles that underpin the document.

Once again I have drawn on the model constitution and simplified the text. The roles

and functions of councillors that currently appear in article 2 have been excised and will be reinstated in a later part of the completed document.

2.2.2.2 Throughout Part 2 there are numerous instances of where the terms that would be preferred for use need to be settled and there is discussion to be undertaken to settle the means of expressing the arrangements that are in place. There are also numerous examples of cross referencing that will be corrected as the draft nears completion.

### **3.0 Next Steps**

3.1 If there are any major amendments to be made to the draft documents considered at this meeting then they would be brought back to the next meeting of the CRWP, if there are only minor changes then the documents should be recommended onwards for consideration by the Standards Committee.

3.2 It is proposed that further tranches of amendments to the Council's constitution will be brought to the CRWP throughout the rest of this year, until the whole of the constitution has been reviewed.

### **4.0 Corporate Implications**

#### **4.1 Financial and VAT**

4.1.1 There are no Financial Implications to the report.

#### **4.2 Legal**

4.2.1 Under section 37 of the Localism Act 2011, the Council must prepare and keep up to date a constitution, which contains:

- (a) such information as the Secretary of State may direct,
- (b) a copy of the authority's standing orders for the time being,
- (c) a copy of the authority's code of conduct for the time being under section 51, and
- (d) such other information (if any) as the authority consider appropriate.

4.2.2 The Council's constitution says that a key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for ways it could be amended in order to better achieve the purposes of the Constitution (set out in Article 1).

#### **4.3 Corporate**

4.3.1 Reviewing the Council's constitution is a key strand of the Council's Improvement Plan.

#### **4.4 Equity and Equalities**

4.4.1 There are no equity or equalities issues arising from the report.

## 5.0 Recommendation(s)

5.1 The Constitutional Review Working Party can either:

a) Recommend the Officer/Member Protocol and Parts 1 and 2 of the constitution to the Standards Committee.

Or

b) Ask that the Officer/Member Protocol and Parts 1 and 2 of the constitution be re-worked for re-consideration by the Constitutional Review Working Party at a future meeting.

## 6.0 Decision Making Process

6.1 Any recommendation of the Constitutional Review Working Party will be referred to the Standards Committee which, in turn, will make recommendations to Council for final adoption.

Future Meeting if applicable: Constitutional Review Working Party	Date: 11 August 2015
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Contact Officer:	<i>Tim Howes, Head of Legal and Democratic Services and Monitoring Officer</i>
Reporting to:	Madeline Homer, Chief Executive

### Annex List

Annex 1	Draft Officer/Member Protocol.
Annex 2	Parts 1 and 2 of the constitution with changes showing.
Annex 3	Parts 1 and 2 of the constitution with changes accepted.

### Background Papers

Title	Details of where to access copy
<i>None</i>	

### Corporate Consultation Undertaken

Finance	<i>N/A</i>
Legal	<i>Tim Howes, Head of Legal and Democratic Services and Monitoring Officer</i>