

# REMOVAL OF THE CONSTITUTIONAL REVIEW WORKING PARTY FROM THE CONSTITUTIONAL CHANGE PROCESS

**Constitutional Review Working Party – 24 August 2016**

Report Author                      **Nicholas Hughes –Committee Services Manager**

Portfolio Holder                      **Cllr Derek Crow-Brown**

Status                                  **Recommendation**

Classification:                      **Unrestricted**

Key Decision                          **No**

## **Executive Summary:**

This report contains a proposal from Democratic Services to remove the Constitutional Review Working Party (CRWP) from the constitutional change process, and therefore to dissolve the Working Party. This is in order to make the process more efficient, by avoiding duplication and freeing up both Member and Officer time. Therefore instead of constitutional changes being considered by CRWP, then Standards Committee and then being agreed by Full Council, the process will only be consideration by Standards Committee and then agreed by Council.

The proposal to remove CRWP from the constitutional change process has been benchmarked against other Council's in Kent and this has shown that the Council's current three stage process is the only three stage process used by Council's in Kent. The recommended way forward is set out below.

## **Recommendation(s):**

That the CRWP recommend to the Standards Committee that the CRWP are removed from the constitutional change process and as a result to dissolve the CRWP.

## **CORPORATE IMPLICATIONS**

<b>Financial and Value for Money</b>	There are no financial implications to the report; however the proposed way forward would result in less officer and member time being taken up preparing reports and attending meetings.
<b>Legal</b>	Under section 37 of the Localism Act 2011, the Council must prepare and keep up to date a constitution. The proposed arrangements would not compromise this requirement.
<b>Corporate</b>	The proposed way forward would make the process more efficient, therefore displaying the "Delivering Value for Money" corporate value. The proposed way forward would not significantly reduce the quality of the changes made as other Council's within East Kent utilise a similar process and do not report any major issues.
<b>Equalities Act 2010 &amp; Public Sector Equality Duty</b>	Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people

	<p>who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy &amp; maternity. Only aim (i) of the Duty applies to Marriage &amp; civil partnership.</p> <p>Having assessed the proposed changes, Democratic Services do not feel that anyone with a protected characteristic will be unfairly affected by the proposed way forward. Proposed changes to the constitution would still be debated in a public forum, agendas would still be published in advance of meetings and the public would still be entitled to attend the Standards Committee.</p>
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<b>CORPORATE PRIORITIES (tick those relevant)✓</b>	
A clean and welcoming Environment	
Promoting inward investment and job creation	
Supporting neighbourhoods	

<b>CORPORATE VALUES (tick those relevant)✓</b>	
Delivering value for money	✓
Supporting the Workforce	
Promoting open communications	✓

## **1.0 Introduction and Background**

- 1.1 This report will give Members the chance to recommend changes to the way that changes are made to the Council's constitution.

## **2.0 The Current Situation**

- 2.1 Currently if a change is needed to the Council's constitution a report is drafted and then firstly considered by the Constitutional Review Working Party, who may suggest changes before referring it on to the Standards Committee. The Standards Committee then consider the report, may make changes before referring it on to Council. Once at Council, although unlikely, Council may wish to discuss the changes again and then Council will agree the changes to the Constitution. Democratic Services then published a revised constitution on the Council's website.
- 2.2 As you will see from the process outlined above the process to make changes to the Constitution is quite long and quite repetitive. With two separate reviews by committees before reaching the stage where those changes can be signed off. Democratic Services are proposing that the Constitutional Review Working Party is removed from this process to streamline this process and so any constitutional changes would in future only be considered by the Standards Committee and Council.
- 2.3 By removing the Constitutional Review Working Party from the constitutional changes process this will speed up the process, as only two meetings will be needed instead of three, this will also free up Councillors time as there will be less committee meetings to attend. In addition, it will free up Officer time as the reports on items under consideration would only have to be produced twice produce instead of three times and only two agendas would be needed instead of three.
- 2.4 Under the proposed new arrangements there would be less scrutiny of changes to the constitution. This should however be seen in the context that currently Democratic

Services believe that there is too much scrutiny of changes to the constitution, so by reducing the current level, it is simply bringing the Council in to line with other Council's in Kent and making the whole process more efficient.

- 2.5 Democratic Services have undertaken a desktop benchmarking exercise among the other Council's in Kent to ascertain what procedures they have regarding changing their constitution. This has shown that Thanet has the only three stage process within Kent. Slightly less than half of those Council's benchmarked used a two stage process and the remainder only had a one stage process (e.g. only Council). It is not proposed to utilise a one stage process as Officers value the contribution of Members in to the constitutional change process. Solely using Council would restrict the ability of members to effectively debate proposed changes, as Council is not the most appropriate forum for detailed debates on constitutional processes.

### **3.0 Implications of removing the Constitutional Review Working Party from the Constitutional Change Process**

- 3.1 If CRWP is removed from the constitutional change process, then it leaves the working party with no other role and as such makes the working party redundant. With no formal role, the most logical next step would be to dissolve the CRWP.
- 3.2 The CRWP is currently a formal meeting constituted by Full Council and forms part of the suite of meetings that form part of the overall political proportionality calculation, as such if the CRWP was dissolved then this would affect the political proportionality of the Council. Therefore if this change was approved at Full Council it would necessitate a report to the same meeting to amend the overall proportionality of the Council.

### **4.0 Options**

- 4.1 The Constitutional Review Working Party can recommend to the Standards Committee either:
- a) That CRWP is removed from the constitutional changes process and as a result to dissolve the CRWP.
  - b) That CRWP are not removed from the constitutional changes process.
  - c) That CRWP's role in the constitutional changes process is amended in some other way, which may or may result in the dissolution of the CRWP.

### **5.0 Next Steps**

- 5.1 Any recommendations from the Constitutional Review Working Party will be considered by the Standards Committee, who would then consider those recommendations and in turn make recommendations on to be considered and adopted by Full Council.

Contact Officer:	Nicholas Hughes, Committee Services Manager
Reporting to:	Tim Howes, Director of Corporate Governance

### **Annex List**

Annex 1	<i>Customer Impact Assessment</i>
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### **Background Papers**

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

### **Corporate Consultation**

<b>Finance</b>	Matthew Sanham, Corporate Finance Manager (Service Support)
<b>Legal</b>	Tim Howes, Director of Corporate Governance

Ref:

Called in Yes/No

**THE THANET DISTRICT COUNCIL**

**RECORD OF DECISION OF CABINET**

Name of Cabinet Member:

Relevant Portfolio:

Date of Decision:

Subject:

Key Decision 

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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 In Forward Plan 

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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Brief summary of matter:

Decision made:

Reasons for decision:

Alternatives considered and why rejected:

Details of any conflict of interest declared by any executive Member who has been consulted and of any dispensation granted by the Standards Committee:

Author and date of officer report:

Background papers:

Statement if decision is an urgent one and therefore not subject to call-in:

Signature: *(Only needed if an individual Cabinet Member Decision)*