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## Constitution Review: Proposed Amendments to the Constitution of the Governance of Thanet District Council

To: **Constitution Review Working Party - 1 April 2010  
Standards Committee - 13 April 2010**

By: **Harvey Patterson, Monitoring Officer**

Classification: **Unrestricted**

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**Summary:** To consider various drafting amendments to the Council's Constitution in relation to Planning Matters, Councillor Calls for Action and the Terms of Reference of the Standards Committee, Standards (Referrals and Review) Sub Committee, Standards (Hearings) Sub Committee and the Governance & Audit Committee.

### For Decision

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#### 1.0 Introduction

1.1 The last meeting of the Constitution Review Working party considered a number of reports where it approved the principle of reviewing the Constitution in a number of key areas including a review of the Protocol for the Guidance of Planning Committee Members and Officers in the light of the publication of revised guidance from central government titled 'Probity in Planning' and the introduction of the Councillor Call for Action (CCfA). In addition, the Monitoring Officer has conducted a review of the Terms of Reference of the Standards Committee and its two Sub Committees and the Section 151 Officer in conjunction with the Governance & Audit Committee has completed the annual review of the Terms of Reference of the Governance & Audit Committee.

#### 2.0 Details

##### **Planning Protocol**

2.1 A revised Planning Protocol is attached **as Annexe 1**. Given the numerous amendments proposed to the Protocol, the existing Protocol for the Guidance of the Planning Committee Members and Officers is also included at Annexe 1 for comparison purposes. The key changes proposed are:

- An improved explanation of the requirements of the Members Code of Conduct;
- The power for the Planning Committee to determine all Planning Applications including departure applications - without prejudice to the right of the Planning Committee to refer any application to full Council for determination;
- The power for the Director of Regeneration Services to determine planning applications from officers not involved in the Planning process (other than the Chief Executive and Directors);
- The re-introduction of public speaking at site visits - but under carefully controlled conditions;

- An explanation of public speaking rights at Planning Committee, including the limited speaking rights of a member who has declared a prejudicial interest;
- A revised procedure for dealing with decision making by the Planning Committee when it is minded to make a decision contrary to the advice of the Planning Officer to ensure that proper reasons are given and to reduce the risk of an award of costs on appeal.

2.2 The proposed changes to the Planning Protocol also required officers to revisit the statutory functions of the Planning Committee as set out in the Constitution as well as the Scheme of Delegations to Officers (in so far as planning matters were concerned). In relation to the statutory functions of the Planning Committee, it was found that these were not completely up to date so revised statutory functions for the Committee are set out in Part A of **Annexe 2** attached. Suggested consequential amendments to the Scheme of Delegations to Officers in relation to planning matters are set out in Part B of **Annexe 2**.

### **Councillor Call for Action (CCfA)**

2.3 As previously reported to the Working Party, the Council is required to introduce the right for all councillors to have a 'local government matter' included on the agenda of the Overview and Scrutiny Panel. This is to enable ward councillors to raise the profile of issues in their ward or service failures that have not been resolved through the normal channels. Accordingly, Rule 8 of the **Overview and Scrutiny Procedure Rules** has been amended to record this right and this is set out at **Annexe 3**. However, it is intended as a remedy of last resort and there also are certain 'excluded matters' that by law may not be raised by a CCfA. Consequently, the draft Protocol attached at **Annexe 4** provides advice and guidance to members on accessing the process as well as describing its limitations. It also includes a form for members to use and a flow chart depicting the intended process from inception to final conclusion.

### **Standards Committee Terms of Reference**

2.4 The Terms of Reference of the Standards Committee as described in the Constitution are out of date and do not fully reflect the functions delegated to the Committee in respect of the local assessment and determination framework by the Standards Committee (England) Regulations 2008. Accordingly revised Terms of Reference for the Standard Committee and its two Sub Committees are attached for approval at **Annexe 5**.

### **Governance & Audit Committee Terms of Reference**

2.5 These are the subject of a separate report

## **3.0 Corporate Implications**

### **3.1 Financial**

3.1.1 None apparent

### **3.2 Legal**

3.2.1 As set out in the report

### **3.3 Corporate**

3.3.1 The Constitution is the Council's principal governance document and is required to be kept under regular review

### **3.4 Equity and Equalities**

3.4.1 None Specific

### **4.0 Recommendation(s)**

- 4.1 That the amendments to the Council's Constitution set out in the Annexe's 1 to 4 inclusive of the Officer report be considered.
- 4.2 That the Standards Committee recommends the protocol in Annex 1 to Council, with or without amendments.

### **5.0 Decision Making Process**

- 5.1.1 The recommendations of the Constitution Review Committee are considered by the Standards Committee who will make final recommendations to Council. Council will determine the date by which any constitutional reform is to take effect.

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### **Annexe List**

*Annexe 1 Draft Planning Protocol and current Planning Protocol*  
*Annexe 2 Revised functions of Planning Committee and proposed amendments to the Scheme of Delegations to Officers*  
*Annexe 3 Amended Rule 8 Overview & Scrutiny Procedure Rules*  
*Annexe 4 Draft Protocol on Councillor Calls for Action*  
*Annexe 5 Revised Terms of Reference for the Standards Committee etc.*

### **Background Papers**

*None*