

REVISED CONSTITUTIONAL CHANGE PROCESS

Full Council	28 March 2024
Previously considered by:	Constitutional Review Working Party Standards Committee
Report Author	Committee Service Manager
Portfolio Holder	Councillor Yates, Portfolio Holder for Corporate Services
Status	For Recommendation
Classification:	Unrestricted

Executive Summary:

This report asks Full Council to consider the recommendations from the Standards Committee recommending that the Council's current constitutional change process is changed from a three stage process (CRWP>Standards>Council) to a two stage process (CRWP>Council)

Recommendation(s):

Members are asked to agree the recommendations from the Standards Committee regarding the Council's constitutional change process, namely:

1. the Council's constitutional change process changes from a three stage process (CRWP>Standards>Council) to a two stage process (CRWP>Council)
2. That the CRWP membership be expanded in line with other Committees
3. That the CRWP have an annual meeting to consider the future years work programme.
4. That the CRWP changes its name to Constitutional Review Committee.
5. Democratic Services to schedule (4) regular meetings in line with the appropriate council meeting

Corporate Implications

Financial and Value for Money

There are no financial implications to the report.

Legal

The Local Government Act 2000 requires the Council to periodically review and update its written Constitution.

Risk Management

There are no risks associated with this report.

Corporate

It is important for the Council to regularly review elements of its constitution to ensure that it remains up to date.

Equality Act 2010 & Public Sector Equality Duty

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 who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aim of the equality duty: -

- To eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act.
- To advance equality of opportunity between people who share a protected characteristic and people who do not share it
- To foster good relations between people who share a protected characteristic and people who do not share it.

CORPORATE PRIORITIES

This report relates to the following corporate priorities: -

- To work efficiently for you

1.0 Introduction and Background

1.1 Whilst not detailed within the Council's constitution, the process of amending the Council's constitution has been driven by custom and practise for many years. The process being:

1. Proposed changes being subject to consideration via a report at the Constitutional Review Working Party and the CRWP making recommendations to the Standards Committee.
2. The Standards Committee then considers any recommendations from CRWP via a report and then in turn makes recommendations to the Full Council.
3. Full Council considers the recommendations from the Standards Committee and then if they are approved they are then implemented from the date of the meeting.

1.2 The report seeks to amend this somewhat lengthy three stage process to a two stage process.

2.0 The Current Situation

2.1 The current process is outlined above in paragraph 1.1. The current process is lengthy and on average takes a great deal of planning to factor in CRWP meetings around Standards Meetings that then lead into Full Council meetings. This can often lead to lead in times for reports that can be as much as two months. There are a large number of changes to the Council's constitution that are due to be considered over the coming year as a result of the review asked for by the Independent Monitoring Officer and a refined process will aid us moving forward.

2.2 When compared with other Kent Council's only Swale and partially Tunbridge Wells (major rewrites only) have a three stage process like TDC's. The vast majority of them only have a two stage process - that being consideration of changes at some form of constitutional change group and then referral on to Full Council.

Council	Number of stages
Thanet	3
Dover	2
Maidstone	2
Swale	3
Ashford	2
Canterbury	TBC
Dartford	TBC
Gravesham	1/2
Sevenoaks	2
F&H DC	2
Tonbridge	2
Tunbridge Wells	2/3

2.3 The proposal put before Councillors is that potential constitutional changes are considered by the Constitutional Review Working Party which would then make recommendations straight to Full Council, who would approve them.

2.4 This change would allow for a streamlined process allowing Democratic Services to organise CRWP meetings nearer to Full Council meetings, thereby freeing up officer and Member time by not having additional meetings or overly lengthy lead in times.

- 2.5 It is also important to remember that the CRWP is a fully constituted Committee of Council, in the same way as the Standards Committee, or even Planning or Licensing are. It holds the same weight as the Standards Committee and should not be seen as a sub-group of the Standards Committee or as a lesser Committee.
- 2.6 If Standards were removed from the current three stage process any of the members of that committee, indeed any member of the Council may attend a meeting of the CRWP to speak under Council Procedure 20.1 to put forward their point of view.

3.0 Recommendations from the Standards Committee

- 3.1 The Standards Committee considered the following recommendations from the CRWP:
1. the Council's constitutional change process changes from a three stage process (CRWP>Standards>Council) to a two stage process (CRWP>Council)
 2. That the CRWP membership be expanded in line with other Committees
 3. That the CRWP have an annual meeting to consider the future years work programme.
 4. That the CRWP changes its name to Constitutional Review Committee.
- 3.2 After considering them they agreed with the recommendations from the CRWP and added another recommendation of their own. These being outlined below:
1. the Council's constitutional change process changes from a three stage process (CRWP>Standards>Council) to a two stage process (CRWP>Council)
 2. That the CRWP membership be expanded in line with other Committees
 3. That the CRWP have an annual meeting to consider the future years work programme.
 4. That the CRWP changes its name to Constitutional Review Committee.
 5. Democratic Services to schedule (4) regular meetings in line with the appropriate council meeting
- 3.3 Officers have no objections to any of the recommendations from the Standards Committee and believe that an annual meeting setting out the work programme is a strong idea. Officers will arrange for an annual meeting of the CRWP irrespective of whether the recommendation is agreed and will once a decision on whether the Council stays with a three stage process or moves to a two stage process, schedule in CRWP meetings.
- 3.3 Strengthening the membership of the CRWP compliments the proposals to move to a two stage process and together with changing the name of the committee would give the CRWP a higher profile and increased standing. These changes, if agreed, can easily be made as part of the Committees, Panels and Boards report that is agreed by the Annual Council.

4.0 Options

- 4.1 Members could agree one of the following options:

- a) To accept the recommendations from the Standards Committee.
- b) To amend the recommendations from the Standards Committee.
- c) To keep the current constitutional change process as it is.

Contact Officer: Nick Hughes, Committee Services Manager

Reporting to: Ingrid Brown, Head of Legal and Democracy & Monitoring Officer

Annex List

None

Background Papers

None

Corporate Consultation

Finance: Matthew Sanham (Head of Finance and Procurement)

Legal: Ingrid Brown (Head of Legal and Democracy & Monitoring Officer)