

30 JUNE 2022

REPORT TO SELECTION & CONSTITUTIONAL REVIEW COMMITTEE

REPORT OF MONITORING OFFICER – FOR INFORMATION

NOTICE OF FORTHCOMING UPDATES AND RE-PRESENTATION OF THE
CONSTITUTION

1. Under s.9E of the Local Government Act 2000 (as introduced by the Localism Act 2011) the Leader of the Council ('the senior executive member') is empowered to personally discharge any functions which are the responsibility of a Leader and Cabinet executive or to arrange for the discharge of any of those functions by any other "branch" of the executive (Cabinet, another member of the Cabinet, a committee of the Cabinet, an area committee or an officer).
2. In practice the pre-Localism Act arrangements at Ashford under which the Cabinet normally discharges the executive functions (alongside the scheme of officer delegations) has continued. There has been no wish by the Leader to change this method of discharging the functions. Nonetheless it is good practice to update the Constitution to reflect the statutory position.
This can be done under Article 15.02 of the Constitution which gives the Monitoring Officer the ability to update references to legislation and also gives Cabinet (now the Leader under s.9E) the power to amend or update the executive arrangements in the Constitution.
3. Accordingly I am currently finalising the updating needed to ensure the Constitution more accurately reflects the current legislation and the Leader is finalising the updating of the executive arrangements. Members will be informed when the process is complete and will be provided with a link to the updated Constitution.
4. In addition to the updating of the executive arrangements, I have instructed specialist external solicitors (Bevan Brittan) to undertake a "healthcheck" of the Council's Constitution. The aim of this is to identify opportunities, whilst keeping within statutory requirements, for rationalising and presenting the Constitution in a more modern format with reduced internal duplication and use of links to information and documents (rather than their inclusion within the Constitution), this will significantly reduce the length and bulk of the current Constitution and make it much easier to use and navigate. I envisage this exercise would be largely a re- presentation rather than the creation of new material and procedures.
5. I intend to consult Group Leaders in the Autumn when re-formatted sections of the Constitution are ready to be presented. A final version of the Constitution can then be presented to this Committee in time for adoption prior to election of the new Council in May 2023.
6. IT IS RECOMMENDED

that the Monitoring Officer's report be noted and it also be noted that (a) Members will be informed when updated provisions on the executive arrangements are finalised and (b) Group Leaders will be consulted on proposals for rationalisation and re-presentation of the Constitution following the proposed "healthcheck" exercise and

a further report will be presented to this Committee in the new year in time for adoption of the Constitution by the Council prior to the elections in May 2023.

T W Mortimer
Solicitor to the Council and Monitoring Officer
June 2022