

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Cabinet
Full Council

Date: 4 January 2021
23 February 2021

Reporting officer: Perry Holmes, Monitoring Officer

Subject: Proposed amendments to the Constitution

Purpose and summary of report:

To seek agreement to amend the Constitution to provide a delegation to the Monitoring Officer to authorise employees to appear on behalf of the Council in the County Court and/or Magistrates' Court and to add a Council side urgency provision to enable decisions reserved to Council to be made in urgent circumstances when it is not possible to wait for the next Council meeting.

Recommendations:

1. That a delegation be made to the Monitoring Officer to authorise employees to appear on behalf of the Council in the County Court and/or Magistrates' Court pursuant to S60 of the County Courts Act 1984 and S223 of the Local Government Act 1972, and
2. That a delegation be made to the Chief Executive and Directors to make urgent decisions on matters reserved to Council only where the urgent matter is of such a nature that it may be against the Council's interest to delay and where it is not practicable to obtain the approval of the Council.

1. Current provisions in the Constitution

- 1.1 There is currently no specific power delegated to any officer to authorise employees to appear in court on behalf of the Council. There are several posts across the Council that have the need to appear before the court such as licensing officers, environmental health officers and housing officers in order to fulfil their roles. It is therefore recommended that a delegation to the Monitoring Officer would enable such authorisations to be issued in a timely manner when required.
- 1.2 There is an urgency provision Cabinet side at Rule 18, Annex 2.2, of the Constitution that enables the Leader or another decision-taker, in certain circumstances, to take an urgent Cabinet decision when it is not practicable to convene a Cabinet meeting in time. The Covid-19 pandemic has highlighted a need to have a similar urgency provision for Council reserved matters. This would be in consultation with the Leaders of all groups and would be exercised only

where the urgent matter is of such a nature that it may be against the Council's interest to delay and where it is not practicable to obtain the approval of the Council.

- 1.3 It is therefore recommended that the amendments are made to the Constitution at Annex 1.13. The wording of the proposed amendments is set out in the summary attached as Appendix 2 and as track changes to the Constitution as Appendix 3.

2. Background papers

- 2.1 None

Anyone wishing to inspect background papers should, in the first place, be directed to Committee & Electoral Services who will make the necessary arrangements.

| IMPLICATIONS | APPENDIX 1 |
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| Legal | Local Authorities have a duty to regularly review and update their Constitution. |
| Finance and Value for Money | There are no financial implications. |
| Risk Assessment | The risk of not providing the delegation is low but to proceed would bring expediency, clarity and efficiencies. |
| Data Protection Impact Assessment | <p data-bbox="416 557 1473 654"><i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i></p> <p data-bbox="416 678 1485 824">a. Does the project/change being recommended through this paper involve the processing of personal data or special category data or criminal offence data? A definition of each type of data can be found on the Information Commissioner’s Office website via the above links.</p> <p data-bbox="416 846 1473 958">b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? N/A</p> <p data-bbox="416 981 1485 1093">c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at gdpr@medway.gov.uk. N/A</p> |
| Equality Impact Assessment | <p data-bbox="416 1115 1505 1261">a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No</p> <p data-bbox="416 1283 1449 1395">b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. No</p> <p data-bbox="416 1417 1505 1518"><i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i></p> |
| Corporate Plan | People, Place and Progress |
| Climate Change | There is no impact on climate change. |
| Crime and Disorder | No impact. |
| Digital and website implications | No impact. |
| Safeguarding children and vulnerable adults | No impact. |