

# Public Document Pack



Date: 14 March 2011  
Our ref:  
Ask For: Anona Somasundaram  
Direct Dial: (01843) 577046  
Email: anona.somasundaram@thanet.gov.uk

## CONSTITUTIONAL REVIEW WORKING PARTY

23 MARCH 2011

A meeting of the Constitutional Review Working Party will be held at **10.00 am on Wednesday, 23 March 2011** in the Austen Room, Council Offices, Cecil Street, Margate, Kent.

### Membership:

Independent Members: Mr R Hills (Chairman) and Mr B Hinchley (Vice-Chairman);

Councillors: Councillor D Green, Gregory, Harrison, Latchford and Mrs Roberts

## A G E N D A

Item  
No

Subject

1. **APOLOGIES FOR ABSENCE**

2. **DECLARATIONS OF INTEREST**

To receive any declarations of interest. Members are advised to consider the extract from the Standard Board Code of Conduct for Members, which forms part of the Declaration of Interest Form at the back of this Agenda. If a Member declares an interest, they should complete that Form and hand it to the Officer clerking the meeting.

3. **MINUTES OF PREVIOUS MEETING** (Pages 1 - 2)

To approve the Minutes of the Constitutional Review Working Party meeting held on 26 January 2011, copy attached.

4. **GOVERNANCE & AUDIT COMMITTEE - REVIEW OF TERMS OF REFERENCE** (Pages 3 - 6)

**Declaration of Interest form - back of agenda**

This page is intentionally left blank

## CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 26 January 2011 at 10.00 am in Rossetti Room, Council Offices, Cecil Street, Margate, Kent.

**Present:** Mr Robin Hills (Chairman); Councillors Gregory, Harrison, Latchford and Mrs Roberts

### 48. APOLOGIES FOR ABSENCE

An apology for absence was received from Mr Brian Hinchley, Vice-Chairman.

### 49. DECLARATIONS OF INTEREST

There were no declarations of interest.

### 50. MINUTES OF PREVIOUS MEETING

On the proposal of Councillor Harrison, seconded by Councillor Mrs Roberts, the minutes of the meeting of the Working Party held on 11 November 2010 were approved and signed by the Chairman.

### 51. PROPOSED AMENDMENTS TO FINANCIAL PROCEDURE RULES - WRITING OFF OF DEBTS

It was AGREED TO RECOMMEND to Standards Committee that the changes to the Financial Procedure Rules, as set out at Annex 1 to the report, be approved.

The point was made that all Members used to receive regular reports on debt write offs, although it was noted that information on debts exceeding £30K which were written off were currently included in Cabinet reports and thereby circulated to all Members.

The Working Party FURTHER RECOMMENDED that Members be notified of debt write offs below £30K.

### 52. PROPOSED AMENDMENTS TO SCHEME OF OFFICER DELEGATIONS - DIRECTOR OF COMMUNITY SERVICES

On the proposal of Councillor Gregory, seconded by Councillor Harrison, it was AGREED TO RECOMMEND to the Standards Committee that the changes to the delegations of the Director of Community Services, as set out in Annex 1 to the report, be adopted.

### 53. REVIEW OF CALL-IN PROCESS

The Democratic Services & Scrutiny Manager suggested three further amendments to Annex 2, as follows:

- i. remove the word, "all" at Paragraph (e)
- ii. substitute words, "does not meet", at Paragraph (g) with, "hold a valid meeting";
- iii. at Paragraph (h), change, "shall take effect on the date of the scheduled Overview and Scrutiny meeting at which it is considered", to, "shall take effect on the date of the scheduled Overview and Scrutiny meeting at which it was due to be considered".

On the proposal of Councillor Harrison, seconded by Councillor Latchford, it was AGREED TO RECOMMEND to Standards Committee that the Call-in Procedure be

amended in accordance with Annex 2 to the report, subject to further amendments listed at (i) to (iii) above.

**54. LEADER'S REPORT**

It was AGREED TO RECOMMEND to the Standards Committee that a new Council Procedure Rule 2.2 be inserted in the Constitution, as set out in Annex 2 to the Report.

Members of the Working Party felt that any changes in relation to the Chief Executive's Report should be deferred until after the May 2011 district elections.

**55. ADOPTION OF REVISED POLITICAL MANAGEMENT ARRANGEMENTS**

It was noted from the Head of Legal & Democratic Services that under the new Leader with a Cabinet Executive Model adopted by the Council, the Deputy Leader would be appointed by the Leader for the whole term of office, ending on the date of the Annual Meeting of Council in the year of the next ordinary election of Councillors, rather than for just the ensuing council year.

On the proposal of Councillor Gregory, seconded by Councillor Mrs Roberts, it was AGREED TO RECOMMEND to Standards Committee:

1. that the changes to the Constitution, as set out at Annexes 1 - 3 to the report be adopted;
2. that further changes which the Head of Legal & Democratic Services deemed necessary to reflect the appointment of the Deputy Leader for the whole term of office (4 years), as opposed to one year, be also adopted.

**56. MEMBER ROLE DESCRIPTIONS**

On the proposal of Councillor Mrs Roberts, seconded by Councillor Latchford, it was AGREED that a more detailed report on the introduction of Member Role Descriptions be brought back to the Working Party.

Meeting concluded : 11.05 am

---

## GOVERNANCE AND AUDIT COMMITTEE – REVIEW OF TERMS OF REFERENCE

To: **CONSTITUTIONAL REVIEW WORKING PARTY – 23 MARCH 2011**

Main Portfolio Area: **FINANCE AND CORPORATE SERVICES**

By: **CORPORATE GOVERNANCE AND RISK OFFICER**

Classification: **Unrestricted**

---

**Summary:** **To bring before Constitutional Review Working Party the Terms of Reference for the Governance and Audit Committee which have undergone their regular review.**

---

### **1.0 Introduction and Background**

1.1 The formation of a Governance and Audit Committee was agreed by Cabinet on the 23 March 2006 and adopted by Council on the 11 May 2006, and then re-constituted by Council in May 2007, May 2008, May 2009 and May 2010.

### **2.0 The Current Situation**

2.1 The Council needs to demonstrate that it is effectively delivering the core functions of an Audit Committee, as identified in the Chartered Institute of Public Finance and Accountancy (CIPFA) guidance.

2.2 The current Terms of Reference are in line with the CIPFA guidance document but need to be reviewed regularly to ensure that they are fit for purpose. This process has been undertaken and attached at Annex I are the revised Terms of Reference, with track changes to show Members where the changes have taken place.

2.3 The reviewed Terms of Reference will go before Governance and Audit Committee on the 15 March 2011 and it is anticipated that they will agree the changes. As the Governance and Audit Committee meeting is after the deadline date for submission of this report, if any further changes are requested by Governance and Audit Committee these will be provided at the Constitutional Review Working Party meeting on the 23 March.

### **3.0 Options**

3.1 The Working Party recommend to the Standards Committee that the revised Terms of Reference be approved and referred to Council for ratification.

3.2 The Working Party not accept the revised Terms of Reference. This is not recommended as the Governance and Audit Committee Terms of Reference would not reflect the processes that the Governance and Audit Committee need to undertake.

### **4.0 Corporate Implications**

#### **4.1 Financial Implications**

4.1.1 There are no financial implications arising directly from this report.

## **4.2 Legal**

4.2.1 There are no legal implications arising directly from this report.

## **4.3 Corporate**

4.3.1 The Council decided to place additional emphasis on governance by the establishment of this committee. These reviewed Terms of Reference are a key part of providing assurance that the authority is effectively delivering the core functions of an audit committee.

## **4.4 Equity and Equality**

4.4.1 None

## **5.0 Recommendation**

**5.1 The Working Party recommend to the Standards Committee that the revised Terms of Reference be approved and referred to Council for ratification.**

## **6.0 Decision Making Process**

6.1 The recommendation will be considered by the Standards Committee at its meeting to be held on 5 April followed by Council on 21 April 2011.

Contact Officer:	Nikki Morris, Corporate Governance and Risk Officer, DDI 01843 577625
Reporting to:	Sarah Carroll, Corporate Resources Manager, DDI 01843 577188

### ***Annex List***

Annex 1	Terms of Reference – Version 5
---------	--------------------------------

### ***Background Papers***

<b>Title</b>	<b>Details of where to access copy</b>
Governance and Audit Committee Terms of Reference – previous versions	Through Corporate Resources

## Terms of Reference

### Audit Activity

- To consider the annual report and opinion of the East Kent Audit Partnership, and a summary of audit activity (actual and proposed) and the level of assurance it can give over the council's governance arrangements;
- To approve (but not direct) internal audit's strategy, plan and monitor performance;
- To consider summaries of specific internal audit reports;
- To consider reports dealing with the management and performance of the providers of internal audit services;
- To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale;
- To consider the external auditor's annual letter, relevant reports and the report to those charged with governance;
- To consider specific reports as agreed with the external auditor;
- To consider the annual programme of work and associated fees for the external auditors and provide challenge as appropriate
- To commission work from internal and external audit as agreed by the Committee.

Deleted: as requested

Deleted: receive and note

### Regulatory Framework

- To review any governance / financial issue referred to it by the Chief Executive or a Director, or any council body;
- To monitor the effective development and operation of risk management and governance in the council;
- To oversee the application of the council's governance arrangements for partnership activities where the council is the accountable body and/or employee;
- To approve the council policies on Whistleblowing and Anti-fraud and Corruption;
- To approve the authority's Annual Governance Statement ;
- To consider the council's compliance with its approved Treasury Management Strategy
- To consider the council's arrangements for governance and agreeing necessary actions to ensure compliance with best practice;
- To consider the council's arrangements for ensuring adequate data quality;
- To consider the council's compliance with its own and other published standards and controls.

Deleted: overview

Deleted: oversee the production of

Deleted: and to recommend its adoption

Deleted: review

### Accounts

- To approve the annual Statement of Accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statement or from the audit that need to be brought to the attention of the council;
- To consider the external auditor's report on issues from the audit of the accounts and recommend approval to those charged with governance.

Deleted: to those charged with governance

This page is intentionally left blank



## THANET DISTRICT COUNCIL DECLARATION OF INTEREST FORM

### Do I have a personal interest?

You have a **personal interest** in any business of your authority where it relates to or is likely to affect:

- a) An interest you must **register**.
- b) An interest that is not on your register, but where the well-being or financial position or you, members of your family (spouse; partner; parents; in laws; step/children; nieces and nephews), or people with whom you have a close association (friends; colleagues; business associates and social contacts that can be friendly and unfriendly) is likely to be affected by the business of your authority more than it would affect the majority of:
  - Inhabitants of the ward or electoral division affected by the decision (in the case of the authorities with electoral divisions or wards.)
  - Inhabitants of the authority's area (in all other cases)

These two categories of personal interests are explained in this section. If you declare a personal interest you can remain in the meeting, speak and vote on the matter, unless your personal interest is also a prejudicial interest.

### Effect of having a personal interest in a matter

You must declare that you have a personal interest, **and the nature of that interest**, before the matter is discussed or as soon as it becomes apparent to you except in limited circumstances. Even if your interest is on the register of interests, you must declare it in the meetings where matters relating to that interest are discussed, unless an exemption applies.

### When an exemption may be applied

An exemption applies where your interest arises solely from your Membership of, or position of control or management on:

1. Any other body to which you were appointed or nominated by the authority.
2. Any other body exercising functions of a public nature (e.g. another local authority)

### Is my personal interest also a prejudicial interest?

Your personal interest will also be a **prejudicial interest** in a matter if all of the following conditions are met:

- a) The matter does not fall within one of the **exempt categories** of decisions
- b) The matter affects **your financial interests** or relates to a **licensing or regulatory matter**.
- c) A member of public, who knows the relevant facts, would **reasonably think your personal interest is so significant** that it is likely to prejudice your judgement of the public interest.

### What action do I take if I have a prejudicial interest?

- a) If you have a **prejudicial interest** in a matter being discussed at a meeting, you must declare that you have a prejudicial interest as the nature of that interest becomes apparent to you.
- b) You should then leave the room, **unless members of the public are allowed to make representations, give evidence or answer questions about the matter**, by statutory right or otherwise. If that is case, you can also attend the meeting for that purpose.
- c) However, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe the vote on the matter.

d) In addition you must not seek to **improperly influence** a decision in which you have a prejudicial interest.

**This rule is similar to your general obligation not to use your position as a Member improperly to your or someone else's advantage or disadvantage.**

**What if I am unsure?**

If you are in any doubt, Members are strongly advised to seek advice from the Monitoring Officer or the Democratic Services Manager well in advance of the meeting.

**DECLARATION OF PERSONAL AND, PERSONAL AND PREJUDICIAL INTERESTS**

**MEETING** .....

**DATE**..... **AGENDA ITEM** .....

**IS YOUR INTEREST:**

**PERSONAL**

**PERSONAL AND PREJUDICIAL**

**NATURE OF INTEREST:**

.....  
.....  
.....

**NAME (PRINT):** .....

**SIGNATURE:** .....

Please detach and hand this form to the Committee Clerk when you are asked to declare any interests.