

Public Document Pack



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

CONSTITUTIONAL REVIEW WORKING PARTY

20 OCTOBER 2011

A meeting of the Constitutional Review Working Party will be held at **9.30 am on Thursday, 20 October 2011** in the Pugin & Rossetti Rooms, First Floor, Council Offices, Cecil Street, Margate.

Membership:

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

Councillors: K Gregory, Hayton, Nicholson, Watkins and Wright

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 17 August 2011, copy attached.

4. **TERMS OF REFERENCE OF THE ELECTORAL MATTERS WORKING PARTY** (Pages 3 - 12)

Declaration of Interest form - back of agenda

This page is intentionally left blank

CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 17 August 2011 at 9.30 am in Rossetti Room, Council Offices, Cecil Street, Margate, Kent.

Present: Mr Robin Hills (Chairman); Councillors K Gregory, Hayton, Nicholson, Watkins and Wright

In Attendance Harvey Patterson and Nicholas Hughes

8. APOLOGIES FOR ABSENCE

Apologies were received from Mr Hinchley.

9. DECLARATIONS OF INTEREST

There were no declarations of interest.

10. MINUTES OF PREVIOUS MEETING

Councillor Hayton moved, Councillor Nicholson seconded and Members agreed the minutes.

The Chairman then signed the minutes.

11. MEMBER ROLE DESCRIPTIONS

The Chairman said that once Members of the Constitutional Review Working Party had agreed on a set of recommendations regarding the Member role description, those recommendations would have to be considered by the Standards Committee.

Mr Harvey Patterson, Corporate & Regulatory Services Manager said that the Chairman of the Constitutional Review Working Party had always been the Chairman of Standards Committee. He said that the role of the Leader of the main opposition was to offer constructive challenge. Mr Patterson said that the Leader of Council was of the view that currently there was no majority as there was no written down agreement for a coalition between the Conservative Group and the Independent Group. The reality was that there was a hung Council. He said that this situation required less opposition challenge and more cooperation. Mr Patterson said that it was up to the Members to reduce opposition challenge and upgrade consensus.

Some Members said that such an arrangement would prevent difficulties that were likely to be encountered at budget setting time. Other Members disagreed with the proposal to amend the Council Constitution to reflect more cooperation was needed. They said that consensus could still be reached by Parties agreeing the budget before the formal Council budget meeting. To avoid such difficulties members proposed that the Leader of Council and Leader of the Main Opposition would need to meet to discuss the budget before it was considered by Council. Members also suggested that under the Leader of Council's and the Main Opposition Leader's roles include the following description:

1. In the event of a hung Council, the Leader of Council and Opposition Leader should work together in a constructive manner.

Mr Patterson explained that the reality as regards political balance was that there was no clear majority and because of this it would be advisable for Members to consider including the issue of consensus in the job roles of Members for the key posts

concerned. Members said that the job title for the Leader of the Main Opposition should reflect the special responsibilities associated with the role.

Councillor Gregory moved, Councillor Watkins seconded and Members agreed the following:

1. That the following be added to the Chairman of Constitutional Review Working Party role description:
 - a) As an independent, non-elected member of the Council to be conversant with the protocols and practices of the Council insofar as they affect the conduct of elected District or Parish councillors who may be required to appear before the Committee or its Sub-Committees;
 - b) To liaise with the appropriate officers on reports;
2. That the title of the Leader of the Main Opposition should be Shadow Leader of Council;
3. Consequential changes to the document;
4. Subject to the agreed amendments, recommend the Member role descriptions to Standards Committee

Members expressed the view that it was imperative for all Councillors to work constructively for the good of the District.

Meeting concluded : 11.10 am

TERMS OF REFERENCE OF THE ELECTORAL MATTERS WORKING PARTY

To: **Constitutional Review Working Party – 20 October 2011**

Main Portfolio Area: **Performance**

By: **Democratic Services and Scrutiny Manager**

Classification: **Unrestricted**

Ward: **Not applicable**

Summary: **To review the remit of the Electoral Matters Working Party at the request of the Members serving on the Working Party in 2011/12.**

For Decision

1.0 Introduction and Background

1.1 When the Electoral Matters Working Party met on 27 September 2011 it agreed the following; that:

“the Terms of Reference of the Electoral Matters Working Party to go to the Constitutional Review Working Party on 20 October 2011. The Terms of Reference are to include: - ‘all other Electoral Matters’

1.2 Following an earlier meeting with Councillor W Scobie, he had asked for the terms of reference to be expanded to include:

- Maintaining a complete and accurate register.
- Improving public awareness.

1.3 The terms of reference of the Electoral Matters Working Party established at Annual Council in May 2011 are attached at Annex 1.

2.0 Options

2.1 The key issues for the Constitutional Review Working Party to consider are whether a Council committee could have a wider remit than the current terms of reference of the Electoral Matters Working Party, and if so, which committee would do so.

2.2 Note that officers consider that it is not appropriate to expand the terms of reference of the Electoral Matters Working Party beyond issues relating to electoral arrangements and electoral boundaries. The Democratic Services and Scrutiny Manager contacted members of the Association of Electoral Administrators across Kent to enquire of their arrangements. Whilst relatively few replied, in all cases their equivalent to the Electoral Matters Working Party limited itself to consultation on polling districts and places, corporate governance (boundary) reviews, and so on.

2.3 Instead, it is suggested that matters such as registration rates could be considered by the Overview and Scrutiny Panel, given that it has wide terms of reference that would allow it to consider any function of the Council. Electoral registration would fall within those terms of reference, because although the responsibility of the Council’s Electoral Registration Officer, the work is funded by Council following Cabinet recommendations.

- 2.4 It is also not considered appropriate to confer upon a review body the ability to consider “all electoral matters”. The planning arrangements for holding elections are prescribed in great detail by statute. In addition, the Electoral Commission is increasingly producing statutory Directions or more general guidance which prescribe the processes and timescales to be adopted. Given the short timescales involved and the degree of regulation applied, is not considered feasible for the Members to become involved in such planning. The Council’s Returning Officer is required to review the conduct of all elections held and make a report upon them to the Electoral Commission.
- 2.5 Although it is considered possible for the Overview and Scrutiny Panel to review the overall process for conducting electoral registration, it is not considered appropriate for it to involve itself in matters relating to individual registrations. There are clearly prescribed statutory processes for objecting to individual registrations and conducting a review of an existing registration, and those processes should be relied upon. Any Members having a concern about a registration should supply the details to the Council’s Electoral Registration Officer, who would then take any necessary steps.
- 2.6 Thus Annex 2 includes options for expanding the terms of reference of the Electoral Matters Working Party as described above, and Annex 3 simply notes of the issues raised by Members, those that can already be considered by the Overview and Scrutiny Panel.

3.0 Corporate Implications

3.1 Financial and VAT

- 3.1.1 There are no direct financial implications to this report.

3.2 Legal

- 3.2.1 These are outlined in Annex 1 and include involvement in statutory reviews of polling districts and places.

3.3 Corporate

- 3.3.1 The level of electoral registration in Thanet can be seen as both a reflection upon participation in local political processes and the effectiveness of the steps undertaken by the Council’s Electoral Registration Officer to increase registration rates. It may therefore be considered appropriate for the Overview and Scrutiny Panel to discuss these issues, and make recommendations to Cabinet, but the Panel already has the ability to do so, and no constitutional changes would be needed to facilitate that.

3.4 Equity and Equalities

- 3.4.1 There are no direct implications to this report.

4.0 Recommendations

- 4.1 Any recommendations the Constitutional Review Working Party may wish to submit to the Standards Committee are sought.

5.0 Decision Making Process

- 5.1 If the Constitutional Review Working Party makes a recommendation to Standards Committee, that recommendation will be considered at the next Standards Committee and will be subsequently referred onto Council (subject to the decisions of Standards Committee).

Future Meeting if applicable:	Date:
Standards Committee	9 November 2011
Council	8 December 2011

Contact Officer:	Glenn Back, Democratic Services and Scrutiny Manager
Reporting to:	Harvey Patterson, Corporate and Regulatory Services Manager

Annex List

Annex 1	Terms of Reference of the Electoral Matters Working Party 2011
Annex 2	Possible Revised Terms of Reference for the Electoral Matters Working Party
Annex 3	Issues That Can Be Considered by the Overview and Scrutiny Panel

Background Papers

Title	Details of where to access copy
None	

Corporate Consultation Undertaken

Finance	Sarah Martin, Financial Services Manager & Deputy S.151 Officer, ext 7617
Legal	Harvey Patterson, Corporate & Regulatory Services & Monitoring Officer, ext 7005
Communications	Justine Wingate, Corporate Information Manager, ext 7908

This page is intentionally left blank

REVIEW OF POLLING DISTRICTS AND POLLING PLACES 2011

Summary

The Electoral Administration Act 2006 (EAA 2006) introduced a duty on all local authorities in Great Britain to review their UK Parliamentary polling districts and polling places at least once every four years. The first such review had to be completed by the end of 2007. This report outlines the steps the Council is taking to comply with this duty and the timetable for public consultation and consideration of representations by Council.

Background

Every relevant authority is responsible for dividing its area into polling districts for UK Parliamentary elections and for keeping polling districts under review. For local government elections, although there is no requirement to sub-divide county electoral divisions or district wards into polling districts, it is considered good practice to do so. Polling district schemes for local government elections, must, so far as possible, mirror the scheme in place for parliamentary elections.

The Council must have undertaken and completed the review by 31 December 2011. In reality, this review should be completed by 21 November 2011 to enable the Register of Electors to be published by 1 December 2011 to reflect any changes to the present scheme of polling places and polling districts.

Definitions

A polling district is a geographical sub-division of an electoral area such as a district council ward.

A polling place is a geographical area in which a polling station is located. There is no legal definition of what a polling place is. The polling place can either be designated as tightly as a building in the polling district used for polling (ie. a church hall) or as widely as the entire polling district.

A polling station is the area, normally a building, where voting takes place. One or more polling stations may be provided within a polling place.

The Rules

When designating polling districts and polling places, the Council must seek to ensure that all electors have such reasonable facilities for voting as are practicable in the circumstances.

Furthermore, unless there are special circumstances that lead the Council to determine otherwise, each parish must be in a separate polling district.

The Council must also seek to ensure that so far as is reasonable and practicable, the polling places it designates are accessible to all electors, including taking into account the accessibility needs of disabled persons.

The designation of polling districts and polling places are matters for which the Council is responsible. The Returning Officer is responsible for providing a sufficient number of polling stations within those polling places.

This page is intentionally left blank

POSSIBLE REVISED TERMS OF REFERENCE FOR THE ELECTORAL MATTERS WORKING PARTY

General

A Sub-Committee of Council established to review certain matters relating to electoral boundaries.

Membership, Chairmanship and Quorum

Number of Members	Seven
Substitute Members Permitted	No
Political Balance Rules apply	Yes
Appointments/Removals from Office	By Council
Restrictions on Membership	None
Restrictions on Chairmanship	None
Quorum	Four
Number of ordinary meetings per Council Year	Meetings will be called as required

Terms of Reference

1. To receive and comment upon the proposals of the Council's Returning Officer in relation to any review of polling districts and places (whether District-wide or relating to local areas).
2. To agree the Councils' response to consultation undertaken by the Boundary Commission or the Local Government Boundary Commission, relating to the review of electoral arrangements within the District.
3. To advise Council on proposals relating to any "community governance review" of local electoral arrangements

Delegations

None

This page is intentionally left blank

ISSUES THAT CAN BE CONSIDERED BY THE OVERVIEW AND SCRUTINY PANEL

1. To advise the Council's Electoral Registration Officer on options for improving the level of voter registration across the District as a whole.
2. To advise the Council's Electoral Registration Officer on options for improving the accuracy of the electoral register.
3. To advise the Council's Electoral Registration Officer on options for increasing public awareness of, and participation in, voter registration.

Notes

It is not within the Terms of Reference of the Panel to consider matters relating to the registration of an individual or a household. There are statutory processes for objecting to a new registration or reviewing an existing registration.

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.