

## CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 2 September 2014 at 10.00 am in Austen Room, Council Offices, Cecil Street, Margate, Kent.

**Present:** Dr Jonathan Sexton (Chairman); Councillors Hayton, Nicholson and Wright

### 35. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Watkins and Mrs Bacon.

### 36. DECLARATIONS OF INTEREST

There were no declarations of interest.

### 37. MINUTES OF PREVIOUS MEETING

Councillor Hayton proposed, Councillor Nicholson seconded, and the Working Party AGREED that the minutes of the Constitutional Review Working Party held on 1 May 2014 be approved and signed by the Chairman.

### 38. CHANGES TO THE FILMING PROTOCOL

Upon consideration of the report, Members of the Working Party made the following comments:

1. Members were concerned that some committees where members of the public gave evidence, such as Planning and Licensing committees, could be particularly affected by the change in filming regulations. It was possible that some of those speaking for or against an item would not wish to do so if they were to be filmed, particularly if they were unaccustomed to public speaking.
2. Additionally, it was noted that not all meetings were filmed by Thanet District Council (TDC), therefore if public filming took place at a committee meeting not filmed by TDC, this version, which could be edited in anyway, would be the only filmed record of what took place at the meeting.
3. A Member sought clarification regarding filming at private meetings. The Litigation Solicitor confirmed that rules on confidentiality would still apply, and filming would not be permitted on items where the press and public were excluded.
4. It was suggested that the regulations appear to have elevated the rights of those wishing to film above the rights of those wishing not to be filmed. This was highlighted in paragraph 3.4.2 of the report which advised that if members of the public do not wish to be filmed then they had the opportunity to leave the meeting.
5. As a general rule, it seemed unlikely that the public would wish to film each other, however members of the public were more likely to be filmed if public speaking. Additionally members of the public may wish to film the public in

attendance of a meeting, in order to demonstrate the level of support or opposition for a cause.

The Committee Services Manager added that the constitution could be amended to allow those members of the public wishing to speak, but who did not want to be filmed, to appoint a substitute to speak on their behalf.

6. A Member suggested that the front row of the public gallery could be allocated to those wishing to film proceedings, and those not wishing to be filmed could sit behind them out of shot. However, it was also suggested that those who were hard of hearing may need to sit at the front in order to hear, and could miss out if a front row seat was unavailable.
7. As many of those wishing to film probably had good editing skills, it was suggested that they could be asked to obscure the faces of the public, however this would be difficult to enforce.

The Committee Services Manager explained that the Chairman could request those filming not to film certain individuals, however the regulations did not give the Chairman powers to enforce that request, unless those filming acted in a manner that disrupted the meeting. He went on to suggest that if the Constitutional Review Working Party wished, they could review the filming protocol in a years time, at which point the Working Party would be in a more informed position to make changes to the filming protocol.

The Litigation Solicitor added that he would expect the regulations to be subject to judicial scrutiny over the coming months, this could also help to clarify interpretation of the regulations and assist in their implementation.

8. Concern was raised regarding the filming of children, it was noted that the amended protocol is worded in manner that requests children were not filmed, however the Litigation Solicitor confirmed that the regulations did not give us a right to stop the filming of minors. The Committee Services Manager advised that the regulations would be implemented by every council.
9. Members of the Working Party asked whether qualified privilege could be breached if proceedings were being filmed. In response, the Litigation Solicitor advised that sensitive comments that fell into this category, should not be repeated outside the meeting, thus filming could potentially breach this restriction.
10. It was suggested that the standards protocol needed to allow more severe penalties to be placed upon councillors who break the code of conduct. There was a suggestion that if found guilty of a breach of conduct, councillors could be made to publically apologise at full council. Although concern was raised that this would not necessarily make an offending Councillor repent, and could potentially give a Councillor a platform from which to cause further offence.
11. Members of the Working Party felt that the filming protocol should include a paragraph from page 6 of annex 1 of the report, regarding tweeting and blogging by councillors during meetings, and that a link to the guidance on the use of social media should also be added within the constitution.

Councillor Nicholson proposed, Councillor Wright seconded, and the Working Party AGREED to recommend to Standards Committee that:

1. The amended Filming and Recording of Council Meetings Media Protocol be approved subject to the addition of the information under the “if I am a Councillor, can I tweet and blog during Council meetings?” section of the “Open and Accountable Local Government – A guide for the press and public on attending and reporting meetings of local government” document.
2. Council Procedure Rules 30 and 35 are amended as follows:

**“30.00 Application to Committees and Sub-Committees**

Unless otherwise stated in these Rules, all of the Council Rules of Procedure apply to meetings of full Council and Rules 2.4, 4, 7–11, 14, 16–28 (but not 22.2 or 27.1) and Rules 30, ~~and 34 and 35~~ apply to meetings of Committees and Sub-Committees. None of the Rules apply to meetings of the Cabinet except for Rules 24, ~~27.3 - 27.5, 28, and 34 and 35~~”

**“35.0 Audio and Visual recordings of Council Meetings**

35.1 ~~No~~ Audio or visual recordings shall be ~~allowed~~ ~~made at meetings except for official recordings by the clerk or recordings agreed by the Chairman in advance~~ in accordance with the “Protocol for Filming and Recording of Council meetings” which is included in Part 5 of this constitution.”

3. A review of how the new filming protocol has worked should be undertaken a year after the protocol has come in to effect.
4. That any consequential changes to the Council’s constitution needed as a result of these recommendations are made.

It was NOTED that the Working Party had many reservations regarding the Openness of Local Government Bodies Regulations 2014 in their current form, at present it was felt they posed as many challenges as they offered opportunities.

**39. REVIEW OF THE COUNCIL'S PETITIONS SCHEME**

Upon consideration of the report, members of the Working Party made the following comments:

1. Members felt that the petition proforma as shown in annex 2 of the report was suitable and should be implemented.
2. A Member enquired whether it would be possible to have a threshold of 1 signature to constitute a valid petition. The Committee Services Manager advised that it was possible, however the current threshold was 25 signatures, in cases where this number was not reached the invalid petition was dealt with as correspondence and sent to the relevant department to respond.

3. It was suggested that the threshold for a valid petition could be determined by a percentage rather than a number of signatures. This would allow very small petitions on localised issues which may not impact on enough people to reach the current 25 signature threshold, to still be valid. However it was pointed out that in order to calculate a percentage, it would be necessary to know the total number of possible signatures, and this would be impossible as the current petition scheme did not require signatories to live in a particular area.

The Committee Services Manager elaborated on this to say that in 2010 when the current petition scheme was adopted, it was felt that there would be instances when people outside the Thanet area may have valid cause to contribute to a petition, therefore it was agreed that the scheme should not stop those living outside the area from participating.

4. Members enquired about how difficult it would be for officers to cross check signatures from an Epetition against a paper petition, the Committee Services Manager advised that currently this was not possible as Epetition and paper petitions required the submission of different information.

Councillor Hayton proposed, Councillor Nicholson seconded, and the Working Party AGREED to recommend to Standards Committee that:

1. Paper petitions and Epetitions may be run concurrently providing that the petition prayers of the paper and Epetition were identical, that the end date of the Epetition and the date of submission of the paper petition were the same date, and that the numbers signing the paper petition and Epetition were reported separately and not added together.
2. The existing deadlines for the submission of petitions should be retained as they are.
3. The minimum threshold for a petition to be valid did not need to be amended from its current level of 25 signatories.
4. That the Council introduces the petition proforma and places it on the Council's petition webpages.

**40. REPORTING BACK TO COUNCIL ON DECISIONS MADE IN RELATION TO PETITIONS AND MOTIONS ON NOTICE**

Upon consideration of the report, members of the Working Party made the following comments:

1. Some Members felt that all major planning applications should come before full Council for decision.
2. Members also specified a desire to continue to have reports on decisions relating to petitions and motions return to full Council for information, even if they had been debated previously. It was suggested that the Chairman of Council should be able to gauge Member appetite for debate when deciding whether to allow debate on an item that was for noting.

Councillor Hayton proposed, Councillor Nicholson seconded, and the Working Party

AGREED to recommend to Standards Committee that the current practices relating to reporting back on decisions relating to petitions and motions on notice continue, and no changes should be made.

**41. MEMBER ATTENDANCE AT GENERAL PURPOSES COMMITTEE WHEN IT SITS AS A HUMAN RESOURCES COMMITTEE**

Upon consideration of the report, members of the Working Party made the following comments:

1. That elected Members had a right to attend all Member meetings at the Council under local authority law. There was a consensus that restricting Members attendance of meetings could set a dangerous precedent.
2. Some Members felt that when Members spoke under rule 24.1, or on a planning or licensing item, the Member should be allowed to remain in the meeting even if the meeting was moved into private session to allow the committee to make its decision.

Councillor Nicholson proposed, Councillor Hayton seconded, and the Working Party AGREED to recommend to Standards Committee that no changes be made to the rules regarding attendance at General Purposes Committee meetings.

**42. GIFTS AND HOSPITALITY**

Upon consideration of the report, members of the Working Party made the following comments:

1. There was a general acknowledgement that the threshold after which the receipt of gifts and hospitalities should be declared must be kept as low as practically possible.

The Committee Services Manager advised that Members currently had the option to voluntarily declare the receipt of gifts and hospitalities with a value of less than £100 if they wished to do so.

2. That the current £100 threshold seemed reasonable, particularly as the scheme required Members to declare any series of gifts or hospitalities from the same donor that totalled £100 or more over a period of a year.

Councillor Hayton proposed, Councillor Wright seconded, and the Working Party AGREED to recommend to Standards Committee that there is no change to the current level at which Councillors should declare gifts and hospitality.

**43. PROPOSED REPORTS FROM THE CHAIRMAN OF THE OVERVIEW & SCRUTINY PANEL TO COUNCIL**

Upon consideration of the report, members of the Working Party made the following comments:

1. Members initially asked whether the Chairman of the Overview and Scrutiny committee had been consulted in the production of the report. The Committee Services Manager responded that he would find out whether the

Chairman of the Overview and Scrutiny committee had been consulted, but had no reason to believe that she had not.

2. That it was felt that the Overview and Scrutiny committee did a significant amount of work and that both Members and the public would benefit from updates at ordinary Council meetings.

Councillor Hayton proposed, Councillor Nicholson seconded, and the Working Party AGREED to recommend to Standards Committee that the amendments to the Council Procedure Rules as outlined at Annex 1 of the report be approved, namely:

***“16.0 Reports from the Overview and Scrutiny Panel***

- 16.1 At each of its ordinary meetings, Council will receive a written report introduced by the Chairman of the Overview and Scrutiny Panel on the work undertaken by the Overview and Scrutiny Panel since the last Council meeting. Such report will be for information only and may be introduced by the Chairman of the Overview & Scrutiny Panel, but otherwise not be subject to comment or debate.”*

Meeting concluded : 11.30 am