



Date: 12 February 2018
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CONSTITUTIONAL REVIEW WORKING PARTY

20 FEBRUARY 2018

A meeting of the Constitutional Review Working Party will be held at **3.00 pm on Tuesday, 20 February 2018** in the Council Chamber, Cecil Street, Margate, Kent.

Membership:

Independent Members: Dr Jonathan Sexton (Chairman) and Mrs Janet Bacon (Vice-Chairman);

Councillors: Campbell, Dennis, Dixon, Game and Tomlinson

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 3 - 4)

To approve the Minutes of the Constitutional Review Working Party meeting held on 24 August 2016, copy attached.

4. **CHANGES TO THE COUNCIL'S CONSTITUTION** (Pages 5 - 10)

Declaration of Interest form - back of agenda

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Public Document Pack Agenda Item 3

CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 24 August 2016 at 10.00 am in Austen Room, Cecil Street, Margate, Kent.

Present: Dr Jonathan Sexton (Chairman); Mrs Janet Bacon (Independent Member of the Standards Committee)

Councillors: Dixon, Jaye-Jones, Townend, Campbell and Elenor

88. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Savage.

89. DECLARATIONS OF INTEREST

There were no declarations of interest.

90. MINUTES OF PREVIOUS MEETING

The Working Party AGREED that the minutes of the Constitutional Review Working Party held on 8 June 2016 be approved and signed by the Chairman.

91. SEALING OF DOCUMENTS

Tim Howes, Director of Corporate Governance and Monitoring Officer outlined the proposed change to the arrangements for the sealing of documents to be reflected in the Council's constitution.

The Working Party was advised that the proposed changes would make the process more efficient and that there was no benefit in maintaining the current arrangements.

Further to discussion, Tim Howes agreed to make amendments to the report going forward to further clarify the process and purpose of the sealing of documents

The Working Party agreed changes proposed by Tim Howes to arrangements for sealing of documents and recommended them to the Standards Committee.

92. REMOVAL OF THE CONSTITUTIONAL REVIEW WORKING PARTY FROM CONSTITUTIONAL CHANGE PROCESS

Nick Hughes, Committee Service Manager outlined the proposal to change the constitutional change process from a 3 stage process to a 2 stage process in line with other councils in Kent.

The Working Party felt that it was valuable for detailed work on the consideration of changes to the constitution to be done prior to the Council meeting.

Members also considered that the expertise and focus of the Working Party was valuable to constitutional change the process and therefore, CRWP should be maintained.

Further to this debate, the Working Party agreed:

That the constitutional change process is amended but not in a way that would result in the dissolution of the CRWP and for new options with regard to this be created and brought back before this panel.

Meeting concluded : 12.30pm

CHANGES TO THE COUNCIL'S CONSTITUTION

Constitutional Review Working Party – 20 February 2018

| | |
|------------------|--|
| Report Author | Committee Services Manager |
| Portfolio Holder | Derek Crow-Brown, Portfolio Holder for Corporate Governance |
| Status | For Recommendation |
| Classification: | Unrestricted |

Executive Summary:

This report suggests a number of changes to the Council's constitution covering the following areas: -

- 1) Amending Article 16 of the constitution
- 2) Amending Council Procedure Rule 3.3 and the introduction of a new paragraph regarding non-attendance by Councillors due to present a motion on notice
- 3) Amending Council Procedure Rule 13.5
- 4) Amending Council Procedure Rule 14.6
- 5) Introduction of a new paragraph regarding non-attendance by Councillors due to ask a question at Council

The report goes on to explain the reasoning behind the proposed changes and give the Constitutional Review Working Party an opportunity to comment and make recommendations to the Standards Committee regarding the proposed changes.

Recommendation(s):

- a) To amend paragraph 16.03 a) to read: "The Committee Services Manager will give a copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council."
- b) To amend Council Procedure 3.3 to read: "The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received."
- c) To add a new Council Procedure Rule 3.4 to read "A member giving notice in writing prior to the start of the meeting at which their motion is to be considered, may defer their motion to a later meeting or withdraw it if they are unable to attend the said meeting. If no such notice is received and the member is not present to move the motion it will automatically fall and will not be able to be re-considered for six months as per CPR 3.8 xi)."
- d) To amend Council Procedure Rule 13.5 to read: "The Monitoring Officer will reject a question if it..."
- e) To amend Council Procedure Rule 14.6 to read: "The Monitoring Officer will reject a question if it is..."

- f) To add a new Council Procedure Rule 14.7 to read: “A member giving notice in writing prior to the start of the meeting at which their question is to be considered, may defer their question to a later meeting or withdraw it if they are unable to attend the said meeting.”

- g) f) To add a new Council Procedure Rule 14.8 to read: “If such notice is not received and the questioner is not present the question shall not be put and shall be answered in writing. There will be no ability to ask a supplementary question.”

- h) To give Democratic Services to authority to amend all subsequent numbering of the council procedure rules in order to accommodate the changes suggested above.

| CORPORATE IMPLICATIONS | | | | | | | | | |
|--|--|--|--|---|--|--|--|---|--|
| Financial and Value for Money | There are no financial implications to report aside from the proposal to stop providing a paper copy of the constitution on the election of Councillors which would result in a small operational saving. | | | | | | | | |
| Legal | Under section 37 of the Localism Act 2011, the Council must prepare and keep up to date a constitution. The proposed arrangements would not compromise this requirement. | | | | | | | | |
| Corporate Equality Act 2010 & Public Sector Equality Duty | <p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p> <p>There are no specific equalities implications from this report.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th colspan="2" style="text-align: left; padding: 5px;">Please indicate which aim is relevant to the report.</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;">Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,</td> <td style="width: 10%;"></td> </tr> <tr> <td style="padding: 5px;">Advance equality of opportunity between people who share a protected characteristic and people who do not share it</td> <td></td> </tr> <tr> <td style="padding: 5px;">Foster good relations between people who share a protected characteristic and people who do not share it.</td> <td></td> </tr> </tbody> </table> | Please indicate which aim is relevant to the report. | | Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, | | Advance equality of opportunity between people who share a protected characteristic and people who do not share it | | Foster good relations between people who share a protected characteristic and people who do not share it. | |
| Please indicate which aim is relevant to the report. | | | | | | | | | |
| Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, | | | | | | | | | |
| Advance equality of opportunity between people who share a protected characteristic and people who do not share it | | | | | | | | | |
| Foster good relations between people who share a protected characteristic and people who do not share it. | | | | | | | | | |

| CORPORATE PRIORITIES (tick those relevant)✓ | |
|--|--|
| A clean and welcoming Environment | |
| Promoting inward investment and job creation | |

| CORPORATE VALUES (tick those relevant)✓ | |
|--|---|
| Delivering value for money | |
| Supporting the Workforce | ✓ |

| | |
|---------------------------|--|
| Supporting neighbourhoods | |
|---------------------------|--|

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| Promoting open communications | ✓ |
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1.0 Introduction and Background

- 1.1 This report allows the Constitutional Review Working Party to consider a number of potential changes to the Council's constitution to address issues that have arisen over the past six months.
- 1.2 These proposed changes affect article 16 of the constitution, motions on notice and questions by Councillors at Full Council meetings.

2.0 Amending Article 16 of the constitution

- 2.1 Paragraph 16.03 a) states that "The Committee Services Manager will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council."
- 2.2 Democratic Services are proposing to remove the word "printed" from the above paragraph. Councillors only receive a paper copy of the constitution at the start of their term and do not receive a printed copy of changes to the constitution as they are made throughout the period of each 4 year Council.
- 2.3 There are a number of reasons why democratic services are proposing this change. Generally the constitution can find itself out of date as soon as it is printed due to the ongoing amendment process, as a paper copy costs £6.90; a print run for all 56 Councillors costs the Council £386.40, which is considerable for a document that has potentially a very short shelf life. Councillors have access via the Modern.gov app which contains an electronic copy of the constitution which arguably is easier to search, certainly lighter and more convenient to use.

3.0 Amending Council Procedure Rule 3.3 and the introduction of a new paragraph regarding non-attendance by Councillors due to present a motion on notice

- 3.1 Paragraph 3.3 of the Council Procedure Rules states: "The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it save that"
- 3.2 Democratic Services are proposing to delete the "save that" at the end of the sentence as this is erroneous and to amend the paragraph to reflect that Members can withdraw or defer a motion after the agenda has been published, say for example if a member is unwell. Therefore Democratic Services are proposing the following:
 - 3.3 The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received.
 - 3.4 A member giving notice in writing prior to the start of the meeting at which their motion is to be considered, may defer their motion to a later meeting or withdraw it if they are unable to attend the said meeting. If no such notice is received and the member is not present to move the motion it will automatically fall and will not be able to be re-considered for six months as per CPR 3.8 xi)."

3.3 This gives greater clarity for Members who have submitted a motion but cannot attend a meeting and allows them two options to retain the right to put that motion to a future meeting when they are available to attend.

4.0 Amending Council Procedure Rule 13.5

4.1 Council Procedure Rule 13.5 currently states: “The Chief Executive will reject a question if it...” Democratic Services propose to amend this to read: “The Monitoring Officer will reject a question if it...”

4.2 This amendment is to reflect that the Chief Executive takes advice from the Monitoring Officer when considering whether to reject a question in accordance with this CPR. By changing this to Monitoring Officer the process becomes more efficient whilst still retaining senior management team input. The disqualification criteria will remain unaffected.

5.0 Amending Council Procedure Rule 14.6

5.1 Council Procedure Rule 14.6 currently states:

“A question shall not be:

- defamatory, frivolous or offensive;
- substantially the same as a question which has been put at a meeting of the Council in the past six months;
- such as to require the disclosure of confidential or exempt information;
- related to an individual planning or licensing application; or
- related to the ethical conduct of individual Members of Council unless the conduct relates to the Member acting as a Member of the Council.”

5.2 This paragraph whilst clear in the sense that there are defined rules about what is and what is not acceptable when submitting questions it does not state who decides that. In practice this has been the Council’s monitoring officer. Democratic Services are proposing amending the wording of CPR 14.6 as follows:

“The Monitoring Officer will reject a question if it is:

- defamatory, frivolous or offensive;
- substantially the same as a question which has been put at a meeting of the Council in the past six months;
- such as to require the disclosure of confidential or exempt information;
- related to an individual planning or licensing application; or
- related to the ethical conduct of individual Members of Council unless the conduct relates to the Member acting as a Member of the Council.”

5.3 This amendment mirrors the same proposed rejection method as questions from the press and public as outlined at paragraph 4.0 above.

6.0 Introduction of a new paragraph regarding non-attendance by Councillors due to ask a question at Council

6.1 It has come to the attention of democratic services that there is no section with CPR 14 that covers what should happen to questions put by Councillors who subsequently do not attend the meeting at which the question is due to be put. This is unlike CPR 13.0 regarding questions from the press and public which has a detailed process for when the questioner is not present.

Agenda Item 4

6.2 It is proposed to include a new paragraph in CPR 14 which outlines the process and options for Councillors who have submitted a question, but then cannot attend to put the question. The suggested wording is:

“14.7 A member giving notice in writing prior to the start of the meeting at which their question is to be considered, may defer their question to a later meeting or withdraw it if they are unable to attend the said meeting.

14.8 If such notice is not received and the questioner is not present the question shall not be put and shall be answered in writing. There will be no ability to ask a supplementary question.”

6.3 This helps to bring clarity for members if they have submitted a question but cannot attend the meeting. The proposed wording allows members to withdraw or defer a question if they wish to retain the right to ask a supplementary question at future meeting or if an answer is needed rapidly for the question to remain on the agenda and for an answer to be given in writing.

7.0 Options

7.1 The Constitutional Review Working Party has an opportunity to comment and make recommendations to the Standards Committee regarding the proposed changes.

4.0 Next Steps

4.1 Any recommendations from the Constitutional Review Working Party will be considered when the report is considered by the Standards Committee, who would then consider those recommendations and in turn make recommendations on to be considered and adopted by Full Council.

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| Contact Officer: | Nicholas Hughes, Committee Services Manager |
| Reporting to: | Tim Howes, Director of Corporate Governance |

Annex List

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| None | |
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Background Papers

| Title | Details of where to access copy |
|-------|---------------------------------|
| None | |

Corporate Consultation

| | |
|----------------|---|
| Finance | Ramesh Prashar, Head of Financial Services |
| Legal | Tim Howes, Director of Corporate Governance |

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THANET DISTRICT COUNCIL DECLARATION OF INTEREST FORM

Do I have a Disclosable Pecuniary Interest and if so what action should I take?

Your Disclosable Pecuniary Interests (DPI) are those interests that are, or should be, listed on your Register of Interest Form.

If you are at a meeting and the subject relating to one of your DPIs is to be discussed, in so far as you are aware of the DPI, you **must** declare the existence **and** explain the nature of the DPI during the declarations of interest agenda item, at the commencement of the item under discussion, or when the interest has become apparent

Once you have declared that you have a DPI (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must:-**

1. Not speak or vote on the matter;
2. Withdraw from the meeting room during the consideration of the matter;
3. Not seek to improperly influence the decision on the matter.

Do I have a significant interest and if so what action should I take?

A significant interest is an interest (other than a DPI or an interest in an Authority Function) which:

1. Affects the financial position of yourself and/or an associated person; or Relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an associated person;
2. And which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

An associated person is defined as:

- A family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000;
- Any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- any body in respect of which you are in a position of general control or management and which:
 - exercises functions of a public nature; or
 - is directed to charitable purposes; or
 - has as its principal purpose or one of its principal purposes the influence of public opinion or policy (including any political party or trade union)

An Authority Function is defined as: -

- Housing - where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease; or
- Any allowance, payment or indemnity given to members of the Council;
- Any ceremonial honour given to members of the Council
- Setting the Council Tax or a precept under the Local Government Finance Act 1992

If you are at a meeting and you think that you have a significant interest then you **must** declare the existence **and** nature of the significant interest at the commencement of the

matter, or when the interest has become apparent, or the declarations of interest agenda item.

Once you have declared that you have a significant interest (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must**:-

1. Not speak or vote (unless the public have speaking rights, or you are present to make representations, answer questions or to give evidence relating to the business being discussed in which case you can speak only)
2. Withdraw from the meeting during consideration of the matter or immediately after speaking.
3. Not seek to improperly influence the decision.

Gifts, Benefits and Hospitality

Councillors must declare at meetings any gift, benefit or hospitality with an estimated value (or cumulative value if a series of gifts etc.) of £25 or more. You **must**, at the commencement of the meeting or when the interest becomes apparent, disclose the existence and nature of the gift, benefit or hospitality, the identity of the donor and how the business under consideration relates to that person or body. However you can stay in the meeting unless it constitutes a significant interest, in which case it should be declared as outlined above.

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 and Scrutiny Manager well in advance of the meeting.

DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS, SIGNIFICANT INTERESTS AND GIFTS, BENEFITS AND HOSPITALITY

MEETING.....

DATE..... AGENDA ITEM

DISCRETIONARY PECUNIARY INTEREST

SIGNIFICANT INTEREST

GIFTS, BENEFITS AND HOSPITALITY

THE NATURE OF THE INTEREST, GIFT, BENEFITS OR HOSPITALITY:

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

NAME (PRINT):

SIGNATURE:

Please detach and hand this form to the Democratic Services Officer when you are asked to declare any interests.