

CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 26 April 2012 at 9.30 am in Austen Room, Council Offices, Cecil Street, Margate, Kent.

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

In Attendance: Councillors Campbell and King

VARIATION OF AGENDA

It was agreed that Agenda Item No. 5, "Governance & Audit Committee – Terms of Reference" should be taken immediately before Item No. 4, "Future Code of Conduct Complaints System".

22. APOLOGIES FOR ABSENCE

An apology for absence was received from Mr Hinchley.

The Chairman informed Members that, owing to changed job circumstances, Mr Hinchley had indicated an intention to tender his resignation as an Independent Member of Council.

The Working Party paid tribute to Mr Hinchley on his valuable contribution to its work and wished him well for the future.

23. DECLARATIONS OF INTEREST

The Chairman declared a personal interest in Agenda Item No. 4, "Future Code of Conduct Complaints System" (Minute No. 26 refers).

24. MINUTES OF PREVIOUS MEETING

On the proposal of Councillor Watkins, seconded by Councillor Nicholson, the minutes of the meeting of the Working Party held on 15 February 2011 were approved and signed by the Chairman.

25. GOVERNANCE & AUDIT COMMITTEE - TERMS OF REFERENCE

Councillor Campbell, Vice-Chairman of Governance & Audit Committee, spoke under Council Procedure Rule 24.1.

Nikki Morris, Business Support & Compliance Manager, presented her report and, in so doing, stated that the Council's Senior Management Team was of the view that the following proposed change in the Terms of Reference (Annex 1);

"To recommend to Cabinet the Council's policy in Equalities (PSED)"

should be deleted.

In support of this view, Harvey Patterson, Monitoring Officer, pointed out that policy development was ultimately the responsibility of Cabinet.

Councillor Campbell stated that, as he understood it, the intended role of the Governance & Audit Committee in relation to the equalities policy would be one of assessing the robustness of the policy and its implementation and making recommendations to Cabinet, as the Committee deemed necessary.

On the proposal of Councillor Hayton, seconded by Councillor Wright, it was AGREED TO RECOMMEND to the Standards Committee that the revised Terms of Reference, as attached as Annex 1 to the Report, be approved and referred to Council for ratification.

26. FUTURE CODE OF CONDUCT COMPLAINTS SYSTEM

As an Independent Member serving on the Standards Committee, the Chairman declared a personal interest in this item (Minute No. 23 refers).

Councillor Campbell spoke under Council Procedure Rule 24.1.

The Chairman expressed disappointment that he had not been consulted on the report prior to publication and despatch.

Councillor Campbell stated that, in his view, the informal Standards Working Party should have had an opportunity to consider the report before the Constitutional Review Working Party.

The Monitoring Officer explained that it had not been possible to engage the Standards Working Party on the report, for reasons set out in paragraph 1.5. He also pointed out that it now seemed unlikely that Chapter 7 of the Localism Act 2011 would come into full force and effect by 1 July 2011.

All Members of the Working Party felt that, in view of the lateness of receipt of the report, they had not had time to properly consider its contents.

On the proposal of Councillor Nicholson, seconded by Councillor Hayton, it was AGREED TO RECOMMEND to Standards Committee:

1. that the current Standards committee, sub-committees, processes and Code of Conduct continue until Chapter 7 of the Localism Act 2011 comes into effect;
2. that the remainder of the report be deferred to enable the Standards Working Party to consider it first and submit its comments to the Constitutional Review Working Party, prior to onward referral to the Standards Committee and Council.

27. REVIEW OF THE CONSTITUTIONAL PROCESSES APPLYING TO URGENT DECISIONS

Councillor Campbell spoke under Council Procedure Rule 24.1.

In response to a Member's query, the Democratic Services & Scrutiny Manager pointed out that the "5 days" referred to at paragraphs 2.6.1 & 2.6.2 of the report and the "5 clear days" referred to at paragraph 2.7 should read, "5 clear working days".

Following consideration of the report, it was proposed by Councillor Nicholson, seconded by Councillor Watkins and AGREED TO RECOMMEND to Standards Committee:

"That Access to Information Procedure Rule 20.1 be amended to read:

'20.1 Reports intended to be taken into account

'When an individual Cabinet member is taking a key decision they must make that decision considering a report from the relevant officer and that decision must not be made until 5 clear working days after receipt of that report.

'When an officer is taking a key decision they must make that decision considering a report and that decision must not be made until 5 clear working days after the receipt of that report'".

28. LEADER'S REPORT

Councillors Campbell and King spoke under Council Procedure Rule 24.1.

Following discussion, it was AGREED TO RECOMMEND to Standards Committee, on the proposal of Councillor Hayton, seconded by Councillor Wright:

That Council Procedure Rule 2.2 be amended as follows:

"The Leader of the Council may make an oral report, not exceeding ten minutes, on key issues arising since the last meeting of Council.

~~"The Leaders of the Opposition and any other Political Group may comment on the Leader's Report. The comments of the Leaders of the Opposition and other Political Groups shall be limited each to five minutes. The other Group Leaders will comment in an order determined by the number of Councillors within those Political Groups, with the largest Group commenting first, and so on.~~

"The Leader has a right of reply, limited to ~~two~~ five minutes, to any comments made on his/her report.

~~"Other members may make comments and ask questions on the Leaders' Report, subject to the discretion of the Chairman and t~~ The total time (including time slots as mentioned above) ~~being~~ will be limited to 30 minutes.

"The Leader of the Council, ~~the Leader of the Opposition~~ and the Leader of any other Political Group may appoint substitutes to speak on their behalf.

"No motions may be moved nor resolutions passed under this item."

Meeting concluded : 10.45 am