

CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 23 February 2009 at 4.30 pm at Council Chamber, Cecil Street, Margate, Kent.

Present: Mrs Jennifer Sterndale (Chairman); Councillors Goodwin, D Green, Harrison, Mr R Hills (Independent Member) and Mrs Sheldrick

1. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Gregory and Councillor Peppiatt.

2. MINUTES OF PREVIOUS MEETING

The minutes of the meeting of the Constitutional Review Working Party held on 10 April 2008 were agreed subject to the inclusion of Mr Hills in the list of attendees, and signed by the Chairman.

Some Members were concerned that the new Planning Protocol regarding public speaking at site visits was in need of further consideration, as the procedure was not satisfactory. There was also concern about late amendments to planning applications.

It was agreed that these issues would be included in the forthcoming review of the Planning Protocols.

3. DECLARATIONS OF INTEREST

No Declarations of Interest were made.

4. CONTRACT STANDING ORDERS AND PURCHASING GUIDE

Members considered the report of the Procurement and Facilities Manager which set out the principles for the replacement of current Contract Procedure Rules with new Kent standardised Contract Standing Orders, to become part of the Constitution for Thanet District Council.

Moved by Councillor Harrison and seconded by Councillor Mrs Sheldrick that:

“Members agree the following recommendations:

that the Constitutional Review Working Party approve and recommend to Standards Committee and Council the adoption of the revised Contract Standing Orders and Purchasing Guide”

MOTION ADOPTED.

5. EXECUTIVE STRUCTURE - CABINET AND CABINET PORTFOLIOS

Members considered the report of the Interim Head of Legal and Democratic Services as Monitoring Officer which asks Members to note the changes to the Constitution following the Leader of the Council's decision to amend Cabinet portfolios and appoint an additional Cabinet Member. It was noted that the Leader had made these arrangements to align the portfolios with the new Directorate structure.

Moved by Councillor Mrs Sheldrick and seconded by Mr Hills that:

“Members agree the following recommendations:

that the report of the Monitoring Officer be received

and

the proposed amendments to the Members’ Allowances Scheme for 2008/09, set out in Annex 2 of the report, be recommended to Council for approval.”

MOTION ADOPTED.

6. EXECUTIVE STRUCTURE - LEAD MEMBERS

Members considered the report of the Interim Head of Legal and Democratic Services as Monitoring Officer with recommendations from the Leader and the Council that the Council’s Constitution should be amended by the inclusion of provisions for the appointment of Lead Members to support Cabinet Members.

Each of the five portfolio holders (but not the Leader or Deputy Leader) would be supported by two Lead members. Each Lead member would ‘work to’ their Cabinet member and, amongst other matters, would lead on specific areas of policy development and deputise for the Cabinet Member in their representative and community engagement roles.

Some Members had concerns that this would increase the ‘Special Responsibility Allowance’ budget and in addition, that it could see Members of the majority group receiving more information than the opposition group and receiving this information far earlier.

The budget figures for the additional Special Responsibility Allowance are included in the agenda for the annual meeting of Council in April 2009.

Moved by Councillor Mrs Sheldrick and seconded by Councillor Harrison that::

“Members agree the following recommendations:

to approve the amendment to the Constitution set out in Annex 1 of the report

and

to approve for recommendation to Council the proposed amendments to the Members’ Allowances Scheme for 2008/09”

MOTION ADOPTED.

7. ESSENTIAL TRAINING FOR MEMBERS OF THE STANDARDS COMMITTEE

Members considered the report of the Interim Head of Legal and Democratic Services as Monitoring Officer on the recommendation by the Standards Committee that only members trained in the local assessment of complaints should become full members of the Standards Committee. On 18 December 2008 Council referred the matter to this Working Party for consideration.

Some Members had concerns that training should be compulsory and suggested that ‘good conduct’ and understanding the ‘Code of Conduct’ was common-sense and

therefore training was unnecessary. In addition that there was a principle involved and although training was not an issue the fact that it was compulsory made it so.

The Chairman of the Working Party was concerned that some Members did not understand the 'Code of Conduct' and were unsure of when to declare a personal and prejudicial interest. The Chairman added that it was unacceptable to expect a Member of a Standards Committee to make important decisions about individuals unless they were trained.

The Chairman of the Working Party felt that Members who did not take part in the training in the Code of Conduct did not want the Council to receive an excellent category when the CPA takes place and that this was very sad.

The Interim Head of Legal and Democratic Services as Monitoring Officer informed the Working Party that this was the way forward and the view of the Standards Committee. In terms of Corporate Governance inspection regimes, this could be subject to scrutiny and the Council could be found wanting if Members Training and Development was not taken seriously.

Moved by Councillor Mrs Sheldrick and seconded by Councillor D Green that::

"Members agree the following recommendations with the amendment to the wording at 2.3 (d):

- a. That Members who have not completed training on the Code of Conduct that includes coverage of the local determination of complaints should not be able to serve on the Standards Committee after the Annual Council meeting on 21 May 2009.
- b. As far as any new Member of the Committee is concerned they will allow a three month grace period, from the first appointment to the Committee, so that a Member can undertake relevant training. Whilst undergoing such training, a Member may serve on the Standards Committee but not any Sub-Committee of the Standards Committee.
- c. If at the end of that three month period, a Member of the Standards Committee has not attended relevant training to the satisfaction of the Monitoring Officer, that Member will cease to be a member of the Committee and a replacement member of the Committee will be appointed by the Council.
- d. "relevant training" means adequate training on the standards regime which must include the local assessment and hearing processes.

MOTION ADOPTED.

8. **STANDARDS COMMITTEE - REVIEW OF ARRANGEMENTS**

Members considered the report of the Interim Head of Legal and Democratic Services as Monitoring Officer to review the Standards Committee's arrangements for determining allegations that members have failed to comply with the Council's Code of Conduct.

In addition to its responsibility for the promotion and development of the local ethical framework and oversight of the local determination arrangements, the Standards Committee now has very specific responsibilities in accordance with the statutory framework for the assessment, review of assessment,

consideration following investigation and hearing of complaints. To undertake these responsibilities it has to make some use of sub-committees.

As the Working Party will recall, the statutory process has four stages: -

Stage One. Assessment
(Is there a case to answer?)

Stage Two. Review of Assessment
(Appeal by complainant against Stage One decision to take no action)

Stage Three. Consideration of Investigation Report
(Accepts investigation finding of no failure, or refers for full hearing)

Stage Four. Hearing
(Where the investigation has found a failure to comply)

Moved by Councillor Harrison and seconded by Councillor Mrs Sheldrick that::

“Members agree the following Sub- Committee arrangements:

Stage One Assessment - Standards Assessment and Consideration Sub-Committee

Stage Two Review of Assessment -Standards Review Sub-Committee

Stage Three Consideration of Investigation Report - Standards Assessment and Review Sub-Committee (with a report after the conclusion of the matter to the Standards Committee)

StageFour Hearing - Standards Referral and Hearings Sub Committee

MOTION ADOPTED.

9. ESTABLISHMENT OF A GENERAL PURPOSES COMMITTEE

Members considered the report of the Interim Head of Legal and Democratic Services as Monitoring Officer to consider a recommendation to establish a non-executive Council Committee with delegated responsibility to deal with any non-executive matter not delegated to another committee or reserved to the Council.

The Interim Head of Legal and Democratic Services as Monitoring Officer added that the Council did not at this time have anywhere to deal with non-executive matters not delegated elsewhere and that a committee was needed to give the Chief Executive somewhere to report to on matters relating to senior officers. The committee would be politically proportional.

Moved by Councillor Green and seconded by Councillor Harrison that::

“the committee when established should elect a Chairman and Vice-Chairman from their number to serve for the length of the Council

and

approve the amendment to the Constitution set out in Annex 1 (below)

**Amendments to
Constitution for Governance of Thanet District Council**

**Part 2 Articles of the Constitution
Article 8 – Regulatory and other Committees**

8.01 Regulatory and other Committees

Add:

9. *General Purposes Committee – 8 Members*

Part 3 Responsibility for Functions

Section 2 Responsibility for Council Functions

(which cannot be the responsibility of the Cabinet)

Add:

*Decision Making Body: General Purposes Committee
Membership: 8 Members of the authority*

Functions:

To exercise any function of the Council, which by statute or regulation is a function not to be the responsibility of an authority's executive, and which is not delegated to another committee or reserved to the Council by statute, regulations or the Council's Constitution.

and

to approve an amendment to the Scheme of Allowances as set out in paragraph 3.3 of the report that:

the Committee would be convened as, and when required and not included in the calendar of meetings. A membership of eight would be appropriate and it is recommended that Special Responsibility Allowances should be paid to the Chairman and Vice Chairman at the lower level of those currently paid (i.e. £1216 and £279 respectively)”

MOTION ADOPTED.

Meeting concluded : 6.40 pm