

CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 26 June 2012 at 10.00 am in Chairman's Office, 1st Floor,
Council Offices.

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

29. APOLOGIES FOR ABSENCE

An apology for absence was received from Mrs Frampton.

30. DECLARATIONS OF INTEREST

There were no declarations of interest.

31. MINUTES OF PREVIOUS MEETING

On the proposal of Councillor Hayton, seconded by Councillor Watkins, the minutes of the meeting of the Working Party held on 26 April 2012 were approved and signed as a correct record.

SPEAKING UNDER COUNCIL PROCEDURE RULE 24.1

Councillor Hayton expressed the view that a limit should be imposed on the time allowed for Members of Council to speak at Working Party meetings under Council Procedure Rule 24.1.

32. LOCALISM ACT 2011 - REVISED MEMBERS CODE OF CONDUCT, ARRANGEMENTS FOR DEALING WITH COMPLAINTS AND CONSEQUENTIAL AND RELATED MATTERS

The Monitoring Officer pointed out that the fine referred to at paragraph 1.2 (xiv) of the report was a Level 5 fine and could therefore go up to £5,000 (not £2,500, as stated in the report).

Other amendments to the Report were agreed as follows:

- i. **Para 1.2 (xii)** – Registers of Interest - amended to read:

“The Monitoring Officer would have to continue to maintain a Register of Interests for ~~both~~ District and Town/Parish Councillors and co-opted Members ...”

- ii. **1.6** (last sentence) – amended to read:

“The Standards Committee could then make recommendations . . . in the knowledge of whether the pending regulations would, for example, permit an existing or former Independent Member of the Standards Committee to be eligible for appointment as an Independent Person under the new framework.”

The Monitoring Officer outlined the key elements and background to the four annexes, and the Working Party **AGREED TO RECOMMEND:**

CODE OF CONDUCT FOR MEMBERS – ANNEX 1

1. that, in accordance with the recommendation of the Standards Working Party, the Code need not contain a general conduct obligation to treat others with respect (para 3.1 of report refers);
2. that, in accordance with the recommendation of the Standards Working Party, the words, "claiming to act or giving the impression that you are acting" be added to para 1.2 (preamble) of the Code, to read:

"The Code applies to you as a Member or Co-opted Member of the Thanet District Council when acting, **claiming to act or giving the impression that you are acting** in that capacity". (para 3.1 of report refers);

3. that, in accordance with the recommendation of the Standards Working Party, where "Other Significant Interest" is referred to within the Code, these words should be substituted with, "Significant Interest".

Adoption of Code of Conduct

On the proposal of Councillor Hayton, seconded by Councillor Watkins, it was AGREED TO RECOMMEND that the Code of Conduct be adopted, subject to the amendments outlined at recommendations numbered 1 & 2 above.

ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT COMPLAINTS – ANNEX 3

Anonymity of complainant (Paras 4.20 & 6.1, Arrangements, Para 5 of Annex 2, Procedure)

4. that the words, "Independent Person" in the second sentence of Para 6.1 of the Arrangements and the first sentence of Para 5.4 (Annex 2 to Arrangements) should be substituted with "Standards (Assessment) Sub Committee".

Upon some Members expressing reservations about the possibility of the complainant's identity and/or the nature of complaint being withheld, the Monitoring Officer assured Members that anonymity would only occur in exceptional circumstances, as outlined at para 5.2, Annex 2 to the Arrangements, and only then if there was also supporting evidence of the circumstances. Furthermore, the identity and / or nature of complaint would be disclosed upon determination of the action to be taken in relation to the complaint.

Legal Jurisdiction Criteria Test / Local Assessment Criteria - Paras 1.2 & 1.4 of Annex 2 to Arrangements - Procedure on receipt of a complaint

5. that, in accordance with the recommendation of the Standards Working Party, the following tests be moved from "legal jurisdiction criteria" (para 1.2) to "Local Assessment Criteria (para 1.4):
 - (c) Was the person complained of acting in an official capacity at the time of the alleged conduct?
 - (d) Did the alleged conduct occur when the person complained of was acting as a member of another authority?

Decision Notice prepared by the Monitoring Officer (Para 9.4, Arrangements)

6. that the first sentence of paragraph 9.4 should be amended to read:

"Within five working days of the determination of action to be taken, the Monitoring Officer will prepare a written Decision Notice giving the reasons for his decision ..."

Investigating Officer's Opinion – “No Breach” (Para 12, Arrangements & Para 3.2 to Annex 3 to Arrangements – Procedure for Investigating)

7. that Para 12.1 of the Arrangements & Para 3.2 of Annex 2 to the Arrangements (Procedure for Investigating) be amended to include a requirement that the Monitoring Officer reports the outcome of the decision to the Standards Committee.

Standards (Hearings) Sub Committee – Hearings Procedure (Annex 4 to Arrangements)

8. that the Standards (Hearings) Sub Committee be an advisory committee which would make recommendations to the Monitoring Officer.
9. (On the proposal of Councillor Nicholson, seconded by Councillor Watkins) that the Standards (Hearings) Sub Committee be chaired by an Independent Member of the Standards Committee
10. that the wording of Annex 4 (Hearings Procedure) be changed to reflect the recommendations numbered 9 & 10 above.

Possible Sanctions (Para 4.1 of Annex 4 – Hearings Procedure)

11. that, in accordance with the recommendation of the Standards Working Party's recommendation, the following sanction should be added to the list at para 4.1:

“Recommending to Council that the Subject Member be removed from the office of Leader of the Council”.

Adoption of Arrangements (Annex 3)

On the proposal of Councillor Nicholson, seconded by Councillor Hayton, it was AGREED TO RECOMMEND that, subject to recommendations numbered 4 to 11 above, the Arrangements for dealing with the Code of Conduct Complaints under the Localism Act 2011 and Annexes 2 to 4 thereto, be adopted.

DRAFT TERMS OF REFERENCE FOR A VOLUNTARY STANDARDS COMMITTEE INCLUDING THE TERMS OF REFERENCE FOR A STANDARDS (ASSESSMENT) SUB COMMITTEE AND A STANDARDS (HEARINGS) SUB COMMITTEE – ANNEX 2

The (Voluntary) Standards Committee – Membership, Chairmanship and Quorum

12. that, in accordance with the recommendation of the Standards Working Party, “crude” or “approximate”, rather than strict, political balance be applied to the voluntary Standards Committee;
13. that, in accordance with the recommendation of the Standards Working Party, “Cabinet Leader ineligible” should read, “Leader of the Council and Political Group Whips ineligible”;
14. that, in accordance with the recommendation of the Standards Working Party, none of the three Town/Parish Representatives included in membership should also be a Thanet District Councillor;
15. that there be four meetings per year, to be included in the Calendar of Meetings;
16. that the Chair and Vice-Chair of the Standards Committee be Independent Members of the Standards Committee.

Standards (Assessment) Sub Committee – Membership, Chairmanship and Quorum

17. that the Chair of the Standards (Assessment) Sub Committee be an Independent Member of the Standards Committee.

Standards (Hearings) Sub Committee

18. that, in accordance with recommendations numbered 8 & 9 above, the Chair of the Standards (Hearings) Sub Committee be an Independent Member of the Standards Committee.

Adoption of Terms of Reference of Standards Committee & the Standards (Assessment) and (Hearings) Sub Committees

On the proposal of Councillor Hayton, seconded by Councillor Nicholson, it was AGREED TO RECOMMEND that, subject to recommendations numbered 12 to 18 above, the terms of reference as set out in Annex 2 be adopted.

PROPOSED AMENDMENTS TO THE COUNCIL PROCEDURE RULES AND SCHEME OF DELEGATIONS TO OFFICERS - ANNEX 4

It was AGREED TO RECOMMEND that the Constitutional changes as set out at Annex 4 be approved, subject to “Other Significant Interest” being changed to “Significant Interest”, in accordance with the recommendation numbered 3 above.

33. REVIEW OF THE CONSTITUTIONAL PROCESSES APPLYING TO URGENT DECISIONS

It was AGREED TO RECOMMEND, on the proposal of Councillor Hayton, seconded by Councillor Watkins:

1. that Options (a), (b) and (c) as set out at paragraph 2.2.4 of the report be adopted;
2. that the previous recommendation of the Working Party in relation to the amendment of Access to Information Procedure Rule 20.1, as set out at paragraph 2.3.1 of the report, be adopted.

34. LEADER'S REPORT

On the proposal of Councillor Watkins, seconded by the Chairman, it was AGREED TO RECOMMEND:

1. That CPR 2.2 is amended to reinstate the missing first paragraph 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”.
2. That CPR 2.2 be further amended to read, “... The total time (including time slots as mentioned above) ~~being~~ will be limited to 31 minutes”.

Meeting concluded : 12.23 pm