

## CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 21 August 2013 at 10.00 am in Pugin & Rossetti Rooms,  
First Floor, Council Offices, Cecil Street, Margate.

**Present:** Mr Robin Hills (Chairman); Councillors Mrs Frampton (Independent Member), K Gregory, Nicholson, Watkins and Wright

**In Attendance:** Councillor Driver

### 1. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Hayton, for whom Councillor K Gregory was present as substitute.

### 2. MINUTES OF PREVIOUS MEETING

On the proposal of Councillor Nicholson, seconded by Councillor Watkins, the minutes of the meeting of the Constitutional Working Party held on 7 March 2013 were approved and signed by the Chairman.

### 3. DECLARATIONS OF INTEREST

There were no declarations of interest.

### **REQUEST TO SPEAK UNDER COUNCIL PROCEDURE RULE 24.1**

Councillor Driver requested to speak under Council Procedure Rule 24.1 on the following agenda items:

Agenda No.	Item	Subject
5		Revision of Financial Procedure Rules re reporting of balance sheet debt
6		Review of Protocol for the guidance of Planning Committee members and Officers
7		Filming of Council meetings
15		To review Council Procedure Rule 3.1 – Calling Extraordinary Meetings

The request, upon being put to the vote, was refused.

Councillor Driver thereupon left the meeting.

### 4. CONTRACT STANDING ORDERS AND PURCHASING GUIDE

The Working Party was of the view that the following amendments should be made to the recommendations as set out at paragraph 6.1 of the officer's report:

- i. the words, "minor amendments", being changed to "non-material amendments"; and*

- ii. *the words, “provided that a report on the amendments be brought to the next available meeting of the Constitutional Review Working Party”, being added to the final recommendation*

It was proposed by Councillor K Gregory, seconded by Councillor Wright and AGREED TO RECOMMEND to Standards Committee:

“THAT the amendments to the Contract Standing Orders and Purchasing Guide as shown at Annexes 1 and 2 be approved, such amendments relating to the following areas:

- a) reinforcement of conflict of interest and confidentiality undertaking protocols including addition of “conflict of interest” contract clause as standard for contracts valued £10,000 and over;
- b) inclusion of obligations and requirements of the Council in respect of Public Services (Social Value) Act 2013;
- c) realignment of headings of Standard Contract Clauses to the Council's General Conditions of Contract;
- d) *Non-material* amendments to job titles and section headings to align with the current Council structure / establishment;
- e) authorisation to the Strategic Procurement Manager to undertake such *non-material* amendments as a result of restructures, as required from time to time, without the requirement to revert to the Constitutional Review Working Party, *provided that a report on amendments be brought to the next available meeting of the Constitutional Review Working Party.*

## 5. REVISION TO FINANCIAL PROCEDURE RULES RE REPORTING OF BALANCE SHEET DEBT

Concern was expressed that, under the proposed arrangements, as set out at paragraph 2.4 of the report, a debtor with payment terms of 90 days might pay off part of the debt at, say day 85, in order to bring it just below the £150,000 threshold level and thereby avoid the requirement to report to Council.

The Working Party was of the view that debts of over £150,000 as at day 60 or day 90 (whatever the case may be) should be reported to Council regardless of whether the debt had been paid in part or in full in the period between day 60 or day 90 and the next available ordinary Council meeting. It was recognised that the Council would be interested in the recovery plan that had put in place in relation to the debt.

It was proposed by Councillor Nicholson, seconded by Councillor K Gregory and AGREED TO RECOMMEND to Standards Committee:

1. THAT the Financial Procedure Rules be amended to require the reporting of all aged debts over £150,000 to the next available ordinary Council meeting;
2. THAT the timelines for reporting debts to Council be 60 days for those debts with standard payment terms of 30 days and 90 days for those debts with payment terms of 60 days regardless of whether or not the debt had been paid in full or in part between the expiry of the 60 or 90 day period (whatever the case may be) and the date of the next available ordinary Council meeting.

**6. REVIEW OF PROTOCOL FOR THE GUIDANCE OF PLANNING COMMITTEE MEMBERS AND OFFICERS**

It was proposed by Councillor K Gregory, seconded by Councillor Watkins and AGREED TO RECOMMEND to Standards Committee:

THAT the Standards Committee be requested to recommend to full Council approval of the revised Planning Protocol at Annex 1 to the officer's report.

**7. FILMING OF COUNCIL MEETINGS**

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

1. THAT Option Two, as outlined in the report, be adopted, subject to the decision as to whether or not to permit filming or recording remaining with the Chair of the meeting;
2. THAT the Media Protocol on Filming of Council Committee meetings, as set out at Annex 2 to the report, be approved and included in Part 5 of the Council's Constitution.

**8. REVIEW OF DECISIONS MADE IN PRIVATE SESSION**

The Working Party felt that not only should there be a review one year after an exempt decision was taken, but that a further review should take place three years later where the outcome of the first review was that the information should remain exempt.

The Working Party also felt that a report on decisions reviewed should be brought to full council on an annual basis, such report to include reasons wherever it is considered not possible to release the report/information to the public.

It was proposed by Councillor Nicholson, seconded by Councillor K Gregory and AGREED TO RECOMMEND to Standards Committee:

1. THAT a confidential / exempt report is reviewed a year after the ultimate decision-taking body has considered it;
2. THAT if, after the first year review, a report is still treated as exempt, that report should then be the subject of a further similar review on the third anniversary of the decision having been first reviewed;
3. THAT the reviews of the status of exempt information relate to all decisions other than those taken by the Standards Committee or its sub-committees;
4. THAT only exempt decisions taken after the constitution has been updated are affected by this process – in other words, it is not retrospective;
5. THAT the list of officer delegations in the constitution be amended to include a delegation to the Corporate and Regulatory Services Manager to conduct the reviews of exempt information and determine whether it should be published;
6. THAT the Corporate and Regulatory Services Manager publishes his decision on review, giving reasons for such decision;
7. THAT Democratic Services uses the modern.gov system to publish reports that are no longer deemed to be exempt.

8. THAT full Council receives a report on the decisions reviewed by the Corporate and Regulatory Services Manager on an annual basis; such report to include the reasons wherever it is considered not possible to release the report/information to the public.

9. **SUBSTITUTE MEMBERS OF THE GOVERNANCE & AUDIT COMMITTEE**

It was proposed by Councillor Watkins, seconded by Councillor Nicholson and AGREED TO RECOMMEND to Standards Committee:

1. THAT there should be named substitutes for the Governance & Audit Committee, the number of the pool of substitutes to replicate the number of members on the committee;
2. THAT political balance rules should apply to the appointment of substitutes in the same way as they apply in the case of substitute members of the Planning Committee;
3. THAT the terms of reference of the Governance Committee (as set out at Annex 1 to the report) be amended by the insertion of the following table:

Number of Members	Nine Members
Substitute Members Permitted	Yes –only from the list approved by Council, which matches the proportionality of the Committee itself.
Political Balance Rules Apply	Yes
Appointments/removals from Office	By resolution of Full Council
Restriction on Memberships	None – Membership decided upon by Full Council
Restrictions on Chairmanship/Vice-Chairmanship	None - Membership decided upon by Full Council
Number of ordinary meetings per year	4

10. **TO REVIEW CONSTITUTIONAL PROCEDURE RULE RELATING TO "PUTTING THE MOTION TO THE MEETING"**

It was proposed by Councillor Watkins, seconded by Councillor K Gregory, and AGREED TO RECOMMEND that CPR 16.3 be amended as follows:

*"16.3 Putting the Motion at the Meeting*

*The Member whose name appears first on the Notice will move the motion during his or her speech and call for a seconder. **If seconded and the mover of the motion is a member of a political group other than the ruling political group, the Chairman will call upon a member of the ruling political group to reply. If seconded and the mover of the motion is a member of the ruling political group, the Chairman will call upon a member of one of the other political groups to reply. In such circumstances the Chairman will call upon a member of the second largest political group unless, exceptionally and based upon the nature of the motion, the Chairman considers it appropriate to call upon a member of another political group (other than a member of the ruling political group) to reply.** The motion shall then stand referred without further discussion to the Cabinet or appropriate*

*Committee for determination or report unless the Council decides to debate the motion in accordance with Rule 19.”*

**11. REVIEW OF MEMBERS' CODE OF CONDUCT**

The report was NOTED.

**12. TO UPDATE THE CONSTITUTION WITH A VIEW TO REMOVING REFERENCES TO THE STANDARDS BOARD FOR ENGLAND**

It was AGREED TO RECOMMEND to Standards Committee that the following constitutional amendments be approved:

1. THAT the words, “Standards Board for England” be replaced with, “Standards Committee” at:

Para 8.0 Citizens' Rights – Summary and Explanation  
Para 3.01(d) – Complaints – Article 3 – Citizens and the Council.

2. THAT the following words be removed from Para 8.1 – When things go wrong – Procedure for Officers – Protocol on Member / Officer Relations:

*“unless a breach of the Code of Conduct for Members ins involved in which case the Chief Executive shall report the matter to the Standards Board for England”.*

3. THAT the following words be deleted from Article 2 – Members of the Council – Duties and Responsibilities of the Chairman (in addition to those of a Chairman of a committee):

*“the work of the Standard's Board for England in respect of the Code of Conduct”*

and

*“(iv) To attend the Kent and Medway Independent Standards Committee”*

It was NOTED that amendments to Paragraph 3.2 – Registration and Declarations of Interests – Protocol for the Guidance of Planning Committee Members and Officers - were being considered under agenda item 6 - “Review of Protocol for the Guidance of Planning Committee Members and Officers” (minute no. 6 refers).

**13. CHANGING THE PETITIONS SCHEME TO A PROTOCOL**

It was AGREED TO RECOMMEND to Standards Committee:

THAT paragraphs 12.0 to 12.9 of the Council Procedure Rules be moved to Part 5 of the Council's constitution and that the following new paragraph 12.0 be added:

**“12.0 Petitions from the Public**

The Council will receive, accept and deal with petitions from members of the public in accordance with the requirements of any Petitions (*singular in report rec*) Scheme from time to time adopted by the Council. The Council's current Petitions Scheme is included in Part 5 of the Council's constitution.”

It was NOTED that the Overview and Scrutiny Panel had, at its meeting on 20 August agreed:

“to refer the issue of the re-wording the Constitution in relation to debating of petitions at Council to the Constitutional Review Working Party”

and that a report on this matter would be brought to the next meeting of the Working Party.

**14. LEADER'S REPORT - REVIEW OF COUNCIL PROCEDURE RULE 2.2**

It was proposed by Councillor Nicholson, seconded by Councillor Watkins and AGREED TO RECOMMEND to Standards Committee:

THAT the following wording be removed from Council Procedure Rule 2.2:

*“The total time (including time slots as mentioned above) will be limited to 31 minutes”.*

**15. TO REVIEW COUNCIL PROCEDURE RULE 3.1 - CALLING EXTRAORDINARY MEETINGS**

The Working Party was of the view that increasing the number of Members required to sign a requisition to one-eighth of the total membership of Council would not compromise the ability of a relatively small number of Members to call an extraordinary meeting.

It was proposed by Councillor Watkins, seconded by Councillor Nicholson and AGREED TO RECOMMEND to Standards Committee:

THAT Council Procedure Rule 3.1 be amended to read:

Meeting concluded : 11.45 am