

## SUNDRY ISSUES

### A. SPECIFIC ISSUES

1. Councillor Call for Action
2. Recognition of General Purposes Committee
3. Standards Local Assessment and Determination Framework including TOR for Sub-Committees.
4. Questions from Members and the Public - specify cut off time and date? e.g. 2.00 p.m. on Thursday before Council
5. Time of meetings - 6.00, 6.30, 7.00 p.m. (What of day time meetings)
6. Delegation to Cabinet Leader to establish Cabinet Advisory Groups
7. Recognition of Lead Member Appointment
8. Scheme of Delegations to Officers/|Decision Making Guide/Report Template

### B. CONSEQUENTIAL DRAFTING AMENDMENTS - WORK LIST

#### Constitution Summary:

- Para 3 - Standards now has a disciplinary role;
- Para 4 - Cabinet - Fails to mention individual decision making powers, Key decisions, Forward Plan and the obligation to pre- publish dates of ordinary Cabinet Meetings
- Para 5 - Scrutiny **must** be consulted on (i) the Budget and (ii) when Policies within the Policy Framework are developed (but not amended) Also need to mention the Scrutiny role in relation to CRDP and CCFA?
- Para 6 - Needs to include Governance & Audit and General Purposes
- Para 8 - will need to include right to complain to Standards Committee, to submit a Petition, to make information requests and to be provided with information in accordance with the Councils Publication Scheme.

#### Articles

2.02 Office will begin on date of declaration of acceptance of office

Article 2.03 (b) (ii) - Councillors have a right to disclose confidential information in certain circumstances e.g. if you have the consent of a person authorised to give it or if required by law or to a third party for the purpose of obtaining professional advice provided third party agrees to maintain confidentiality, or if reasonable and in the public interest, in good faith and in accordance with the authorities reasonable requirements - see Para 4 of the Members Code of Conduct -

Article 3.01 - Add the rights to make information request, receive information in accordance with the Council's publication scheme and complain to the Standards Committee if a members is considered to have failed to comply with any of the requirements of the Members Code of Conduct..

Article 4.01 - Statutory - BVPP no longer exists. Local Transport Plan is a KCC document. Development Plan is now the LDF. Non Statutory - should exclude Food Law Enforcement Plan as not a key policy document (and Food Safety is not a Cabinet function so why the Cabinet should be responsible for developing the Food Law Enforcement Plan is beyond me) and should include the Council's Corporate Plan, Leisure Strategy etc

Article 4.02 (k) - Does Part 3 make the position on local choice functions clear?

Article 6 - Committee or Panel ?

Article 6.02 (ii) and (iii) - Statutory right to hold officers to account is **not** limited to chief officers

Article 6.02 (vi) surely '*their*' work programme?

Annex to Article 6 - TOR need to refer to holding CDRP to account and role in CCFA

Article 7 - Refer to Cabinet Leader throughout

Article 7.02 ...and portfolio responsibilities should be notified to Council at the annual meeting.

Article 7.03 - If 'Strong Leader' model is adopted Cabinet Leader elected by Council to the fourth day following the next ordinary day of election.

Article 7.04 (d) Should Chief Executive be the proper officer for this purpose?

#### **Note to Article 8.01**

- Add General Purposes Committee
- Remove JTB - it is a joint Committee so shouldn't be here
- JTB deals with Highways and Transport which are County level Cabinet functions - but as the Joint Committee is with a district Council, KCC Cabinet Leader is able to appoint any member who represents an electoral division on the area of the district - whether a Cabinet member or not. However, District Council appointments are made by the Cabinet and should consist of Cabinet Member only - See Article 11.02 (d) for an explanation of this)

Article 9.02 (d) An independent members must be appointed as Chairman. Add to prescribed Agenda for annual meeting.

Article 9.03 TOR need to include Local Assessment and Determination Frameworks

Article 9.04 - ditto

Article 9.05 (a) - Need to resolve appointments to Sub Committees

Article 10.02 (b) - This now a prejudicial interest so member must withdraw.

Article 11.02 (a) - Joint arrangements are exercised through joint Committees

Article 12.01 (e) - Add Monitoring Officer reporting to the Head of Paid Service

Article 12.02 (b) - Check for accuracy

Article 12.03 (e) - Add Referrals by Assessment and Review Sub Committees

Article 12.03 - (g) and (h) MO competent to advise on financial impropriety

Article 12.04 (d) CFO competent to advise on powers, authority to take decisions and maladministration. Delete reference to elected Mayor

Article 13.03 (b) Key decisions:-

Financial test needs reconsideration plus delete any reference to an electoral division.

Community impact test is reasonably good apart from (iv) which should refer to two or more wards and the making of policy amendments a key decision - which only confuses key decisions with the Policy Framework.

Article 13.08 - Delete 'criminal responsibility' as the Council does not do this.

Article 14.02 - Delete Contracts Procedure Rules and replace with Contracts Standing Orders (throughout Constitution).

Article 14.04 and 14.05 - Delete reference to MO.

Article 15.02 (a) - add CRWP and delete (b) and (c)?

**Schedule 1** - Add Budget and Policy Framework Procedure Rules

### **Part 3 Section 1 - Local Choice Functions**

Cabinet - Delete 2

Council - Delete 1 Housing Benefit Review Boards abolished.

### **Section 2 - Planning Committee-**

Need improved TOR

Fails to record that a Cabinet member cannot be Chairman?

P1 - Delete - This is a Cabinet Function.

P2 - Amend - Has not removed the power to determine these applications. Applications that do not accord with the Core Strategy or a DPD may still be determined by officers if not called in.

P10 - Delete. Planning Committee has no power to do this - This is a function of Scrutiny

Cross refer to Scheme of Delegations to Officers and to Planning Protocol?

### **Licensing Board**

TOR out of date. Includes repealed functions and excludes new legislation such as Gambling Act and Clean Neighbourhoods and Environment Act

42. Can't exclude statement of licensing policy otherwise no consideration Committee.

**Standards Committee** - Updated TOR and include Sub-Committees TOR

Appeals Panel - delete

Governance & Audit

12. Whistleblowing - already with Standards Committee - Delete or amend?

### **Joint Transport Board**

Delete - This is a Joint Cabinet Committee?

### **CRWP**

Has evidently failed to agree its own TOR!

Why CRWP and Standards?

### **Council???**

Why isn't there a Boundaries and Electoral Arrangements Committee? - i.e a deliberative Committee to make recommends to Council on items 1-13 (apart from appointment of ERO and Returning Officer)

18. Council can now confirm byelaws too.

22. Power to appoint staff needs to refer to and harmonise with Officer Employment Procedure Rules. It doesn't as Rule 21 of OEPR states that a Committee or Sub Committee of the Council will appoint both Chief Officers and deputy Chief Officers.

### **Section 3 Cabinet Functions**

3 A - General Powers - needs to be numbered and urgent key decision will still require notification to or consent of scrutiny chairman.

D. Port of Ramsgate - overlaps with I.

E Community Portfolio - Probation Orders? Demoted tenancies?

Table Should include Lead Members?

### **Section 4 Scheme of Officer Delegations**

1.7 typo

1.8 Statutory functions of CFO and MO are delegated to their appointed deputies

1.9 Only Chief Executive can authorise a CHIS

3.8 Needs to be modified in the light of TOR of General Purposes Committee.

5.16 Suspended?

6.7 Surely Director of Environmental Services?

7.14 Should be in consultation with Director of Regeneration in relation to use of Council land

9.1 Needs to include renewals

9.4 Needs more detail

9.7 This is wrong - Thanet applications cannot be determined by an officer (KCC applications can) and 9.7 (iii) illustrates the confusion - a member or officer application will not be a TDC application.

9.9 Needs rewording

9.19 Power to issue enforcement notices should be delegated (?) and what about Temporary Stop Notices?

9.20 Can't jointly decide anything as it can't deal with deadlock - and why the Applications Manager (wrong title) who is a Regeneration employee.? Obligation to determine in consultation with Head of Legal & Democratic Services.? (HOLADS)

9.28 In consultation with HOLADS as enforcement by prevention means seeking an injunction - see 12.4 .

9.29 LGA 1982 - surely LG(MP)A 1982.

9.30 Can't be all functions as approving Gambling Licensing Policy is a Cabinet Function- See Gambling Act Licensing Policy which actually contains the scheme of delegations

9.34 Not a Cabinet function or not a Planning Committee function?

9.35 Obligation to have regard to objections

10.9 Surely in consultation with Regeneration (Estates)

11.3 Section 16 and 17 LGHA 1989? Do they empower delegation of powers of appointment to Officers

12.10 - Not jointly

12.19 - Intention to do what?

12.20 Suspended?

Note Not practical to always consult with Portfolio holder and 'those officers' does not make grammatical sense

13.1 What of the other powers?

## **Section 5 Joint Arrangements**

Add TOR for JTB

## **Part 4 Rules of Procedure**

### **Council Procedure Rules**

1.1(vi) will change with Strong Leader

1.2(v) and(vi) Conflicts with power of Leader to appoint to outside bodies whether Cabinet function or not. (Leaders delegated powers).

2.1 (ix) insert Chief Exec Report and - re-number.

7.0 Who is the Corporate Programme Manager? Surely HOLADS or Democratic Services Manager (DSM)

8.0 Delete Corporate Programme Manager

10.0 Quorum - Can't apply to Licensing Sub Committee and Standards Sub-Committee. Quorum for Standards also requires presence of one independent member.

12.0 Petitions will change with Statutory Procedures.

12.3 Should there be a latest time?

13.3 Delivered to DSM by 10.00 a.m.? Also the right is to question the Cabinet so should not refer to 'members of the Council'

13.6 HOLADS OR DSM?

14.4 Deliver to DSM by 10.00 a.m.?

14.9 line two. DSM?

14.9 (iv) DSM?

15.1 DSM?

15.2 DSM?

19.10 That the meeting continue beyond 10.30 p.m.??

22.2 DSM?

22.3 Refer to CPR for Extraordinary Meetings surely?

24.1 Of the Committee, Sub- Committee or Working Party of the Cabinet or Council or both?? Also there is no Management Appraisal Board or Appeals Panel.

25.1 Reverse (i) and (ii) and add Monitoring Officer

25.1 (v) DSM?.

30.0. Surely Reference to CPR14 should be to CPR 14.3 to 14.8 (14.1. 14.2 and 14.9 is purely for Council meetings)

32.0 (1) Amend to add HOLADS instead of Head of Service. Substitute DSM for Corporate Programme Manager.

32.(3) - DMS?

CPR needed for Public Speaking at Planning Committee?

### **Access To Information Procedure Rules**

1.0 Apply to Sub Committees other than Standards Assessment & Review Sub-Committees.

2.0 Include EIR 2004

7.0 Delete CPM

9.1 Who is Proper Officer? HOLADS?

9.2 Legal obligation is six years, not four.

11.4 Table is incomplete - replace

14.0 (a) Five clear days, not three

16.0 (d) - ditto

Last sentence of 16.0 Exempt key decision will not be taken in public

18.1 What Policy Scrutiny Panel?

20.1 Five clear days

### **Budget & Policy Framework Procedure Rules**

2.0 The NB at the end. Delete 'framework'

6.0 (a) What Executive & Policy Scrutiny Panel?

### **Cabinet Procedure Rules**

1.6 These must be pre- published so conflicts with this rule.?

Generally - Where is the power to fix a meeting after an adjournment (e.g. cannot complete business in time or meeting becomes inquorate) or to call and extraordinary meeting - as Council Procedure Rules for these do not apply - See CPR 30.0 which apply only CPR 24 to Cabinet Meetings.

### **Overview & Scrutiny Procedure Rules**

1.0 (b) Add CDRP and CCFA Roles

5.0 One half? - we say so everywhere else

16.0 Whipping Declarations to go on Agenda??

### **Standards Committee Hearings Procedure**

Amend - Out of date as ignores local assessment and the fact that Hearings are conducted by a dedicated Sub-Committee

### **Financial Procedure Rules**

Ensure they are the most up to date.

### **Contract Standing Orders**

OK

### **Officer Employment Procedure Rules**

OK

### **Prescribed and Other Standing Orders**

Delete SO's 1 to 10 as covered by OEPR

Delete SO 11 as covered by Council PR 21.4 and CPR 21.5 goes further than 11.

Delete SO 12 - Not needed by virtue of restriction on business in Council PR3.1

So no purpose to SO 13 - delete

### **Part II Standing Order Relating to Staff**

Delete and replace with CDC stuff in the OEPR

### **Part III - SO's relating to Executive Plans Strategies and Estimates.**

Delete and add to Budget and Policy Framework Procedure Rules

### **Appendix 1 Proper Officer Functions**

Section 96 LGA - Doesn't apply

Replace Corporate Programme Manager with DSM

S 151 – amend to DCR and



204(3) – repealed

Section 225- HOLADS/Legal Services Manager (LSM)

Section 236 (9) and (10) – HOLLADS and LSM

Section 238 HOLADS/LSMS

LG(MP) A 1976 - Section 41 HOLADS/DSM

LGHA 1989 – Section 5 HOLADS NB Deputy is appointed not nominated

National Assistance Act 1948 etc. – re write