

## CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 1 April 2010 at 10.00 am in Turner Room, Cecil Street, Margate, Kent.

**Present:** Mr Robin Hills (Chairman); Councillors Gregory, Harrison, Latchford and B Hinchley (Independent Member)

### 22. ALSO PRESENT:-

Brian White – Director of Regeneration Services  
Harvey Patterson – Head of Legal and Democratic Services  
Glenn back – Democratic Services and Scrutiny Manager  
Simon Thomas – Planning Applications Manager

### 23. VARIATION OF AGENDA

Members agreed that items 5 and 6 would be taken together and that the annexes would be taken separately.

### 24. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Mrs Roberts and Councillor David Green.

### 25. DECLARATIONS OF INTEREST

There were no declarations of interest.

### 26. MINUTES OF PREVIOUS MEETING

The minutes of the meeting held on 7 October 2009, were agreed and signed by the Chairman.

### 27. MATTERS ARISING FROM THE MINUTES 7 OCTOBER 2009

It was agreed that paper copies of the Council's Constitution would be provided to the Constitutional Review Working Party after any changes had been made following Annual Council in May 2010.

It was agreed that following consultation a report would be submitted to Cabinet and then Council on the preferred political governance model prescribed by part 3 and Section 64 of the Local Government & Public Involvement in Health Act 2007 ('the Act').

The Leader and Cabinet Executive model under the 2007 Act differs slightly from what that Act calls the "old style" Leader and Cabinet model (under the LGA 2000). The main differences being:

- (i) Under the "old style" arrangements a Leader could be "strong" or "weak". With a "strong" Leader the Cabinet is appointed by the Leader. With a "weak" Leader the Cabinet is appointed by the full Council. Under the 2007 Act the Cabinet must be appointed by the Leader. Thanet District Council currently appoints the Leader and Deputy Leader and the Cabinet Leader then elects the Cabinet (up to 9).
- (ii) Under the "old style" arrangement it was possible for the Constitution to make provision with respect to the allocation of executive functions amongst the

Cabinet – that is to say the Constitution could specify the terms of reference and portfolios of the Leader, the Cabinet collectively and individual Cabinet Members. Under the 2007 Act the Cabinet Leader will decide these matters, i.e. the position will be the same for a Leader as for a directly elected Mayor. In practice this means that in future the Leader will determine the portfolio allocation of executive functions without the input of full Council.

- (iii) Under the “old style” arrangements the Constitution “may include provision with respect to...the election and term of office of the executive leader” – that is to say, the Leader’s term of office is for the full Council to decide when approving the Constitution. Under the 2007 Act the Leader’s term of office (in the case of a Council operating whole-council elections) will be four years.

In the Mayor and Cabinet Executive model the Mayor is directly elected for four years, appoints the Cabinet and determines their portfolios. He or she cannot be removed from office by the Council and, Members noted, if the Mayor “crossed the floor” i.e. changed political party, then the Council would immediately have a new administration until the end of the four years term of office.

The Council must consult the public and other interested person for a minimum 12 week period before drawing up proposals for a change in its political governance arrangements. In drawing up its proposals the Council will have regard to the responses to the public consultation as well as the extent to which the proposals if implemented, would be likely to assist in securing continuous improvement in the way in which the Councils functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

The Council must then resolve by not later than **31 December 2010** which of the two available governance models it proposes to adopt and the Council must pass this resolution at an Extraordinary General Meeting specifically convened for this purpose. The new governance arrangements will then come into force on the third day following ‘a relevant election’ - in the case of Thanet the whole Council elections in May 2011 will be a relevant election.

It had been resolved that the report be received and noted.

It had been resolved that the Working party determined whether to begin the processes necessary to change the Councils political governance and management arrangements in **the 2009/10** cycle of meetings.

## **28. GOVERNANCE AND AUDIT COMMITTEE - TERMS OF REFERENCE**

The Working Party considered the report of the Corporate Governance and Risk Officer which detailed the revised Governance and Audit Committee Terms of Reference (Version 4).

Moved by Councillor Gregory, seconded by Councillor Latchford and resolved that the Working Party recommend to the Standards Committee that the revised Terms of Reference be approved and referred to Full Council for ratification.

## **29. PROPOSED AMENDMENTS TO THE CONSTITUTION OF THE GOVERNANCE OF THANET DISTRICT COUNCIL**

Members considered the report of the Head of Legal and Democratic Services and Monitoring Officer regarding various drafting amendments to the Council's Constitution in relation to Planning Matters, Councillor Calls for Action and the Terms of Reference of the Standards Committee, Standards (Referrals and Review) Sub Committee, Standards (Hearings) Sub Committee and the Governance & Audit Committee.

#### ANNEX 1 – PART A – DRAFT/PROTOCOL FOR THE GUIDANCE OF PLANNING COMMITTEE AND OFFICERS

Consideration was given by the Working Party to the request to add the 'Heritage Champion' to the list of permitted speakers at site visits. This was not agreed as the Heritage Champion was a district councillor and the Committee intended to include district councillors on the list of those persons entitled to speak at site visits. Members also raised concerns about the restriction on public speaking if the applicant was not present as this would enable applicants to frustrate public speaking by non attendance. Consequently, Paragraph 12.6 of the Protocol should be amended to read as follows:

##### Amendment 1

"No public speaking will be permitted at site visits unless the Site Visit Chairman gives his consent. In such circumstances public speaking will take place in a publicly accessible location unless the applicant has given permission for the Committee and objectors to enter the site. Public speaking will be limited to not more than three minutes per contributor and contributions will be taken in the following order:-

- From the applicant or his representative;
- From one person raising points of concern;
- From one representative of the Town or Parish Council (if applicable); and
- From any District Councillor who is present"

AGREED.

The Planning Applications Manager outlined the changes to the 'Call-In' Procedure to the Working Party.

At 10.4 of the Protocol it states that:

"Notification will be in the form of individual letters and by means of the weekly list of planning applications circulated to all Members. Any request for an application must be made within 3 weeks of the date of the weekly list. However, should subsequently the applicant amend the application prior to decision the Members within whose ward the application site lies will be further notified by letter or e-mail and given a further specified period of not less than 7 days for requesting that the application be determined by the Planning Committee".

However, it was noted that a heading was required at the beginning of this point. Possibly 'WEEKLY LIST OF PLANNING APPLICATIONS'.

Moved by Councillor Harrison, seconded by Councillor Latchford and resolved that the Working Party recommend to the Standards Committee that the revised Protocol in Annex 1, with the agreed amendments, be approved and referred to Full Council for ratification.

ANNEX 2 – PART A – UPDATED TERMS OF REFERENCE OF THE PLANNING COMMITTEE

Members noted that an additional column had been added giving detailed information on the regulations for the functions relating to Town and Country Planning and Development Control. A question was raised regarding 'Miscellaneous functions' and the power to stop up footpaths and bridleways. Harvey Patterson advised that we, as the District Council under Section 118 /119 of the Highways Act 1980 and Section 257 of the Town and Country Planning Act 1990, are responsible for this function.

ANNEX 2 – PART B – PROPOSED AMENDMENTS TO SCHEME OF DELEGATIONS TO OFFICERS RELATING TO PLANNING MATTERS

At point (iii) of the Annex, the suggested change was that **'applications submitted by a Member of the Council, members of the Corporate Management Team or any member of the staff directly or indirectly involved in the determination of planning applications'**.

Having considered this amendment Members agreed to retain the original paragraph as below:-

**Members' Applications**

Serving Councillors and Officers should never act as agents for people pursuing a planning matter with their Authority. Should they submit their own proposals to the Authority they serve they should take no part in its processing.

Such a proposal should be readily identified and a Senior Officer should be informed of any such proposal.

Such proposals should be reported to the Planning Committee as main items and not dealt with by Officers under delegated powers.

**Officers' Applications**

As soon as an officer submits a planning application, they should inform the Council's Monitoring Officer in writing. A copy of the notification will be placed on the register of officer's interests.

Applications by officers are always considered by the Planning Committee, which will be informed of the fact that the application is made by or on behalf of an officer.

Moved by Councillor Latchford, seconded by Councillor Harrison and resolved that the Working Party recommend to the Standards Committee that the proposed amendments to the Scheme of Delegations to Officers relating to Planning Matters at Annex 2, Parts A and B, with the agreed amendments, be approved and referred to Full Council for ratification.

ANNEX 3 AND 4 – PROPOSED AMENDMENTS TO INTRODUCE COUNCILLOR CALL FOR ACTION (CCFA) AND THE DRAFT PROTOCOL

The proposed amendments highlighted in bold below, are to make provision for Scrutiny to deal with local issues when individuals have found no other route has worked for them.

## Agenda Items

- (a) Any member of an Overview and Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Democratic Services **and Scrutiny** Manager that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. **In addition, any member of the Council shall be entitled to give notice to the Democratic Services and Scrutiny Manager that he/she wishes a local government matter to be included on the agenda for the next available meeting of the Committee PROVIDED such notice complies with the requirements of any protocol from time to time adopted by the Council regulating the exercise of such right.** On receipt of any such a request not later than two weeks prior to the meeting in question identifying the subject matter and briefly stating the reasons why it is suggested it is an appropriate subject for scrutiny (**or in the case of a local government matter briefly stating the steps that have already been taken to try to resolve the matter in question and why such steps have been unsuccessful**) the Democratic Services **and Scrutiny** Manager will ensure that it is included on the next available agenda and copy the same as soon as practicable to the Chairman of the Committee for information.

A Guidance and Explanatory Note are included in the report and a Councillor Call for Action (CCfA) Request Form, to be completed by the District Councillor is also included.

Moved by Councillor Latchford, seconded by Councillor Harrison and resolved that the Working Party recommend to the Standards Committee that the proposed amendments to introduce Councillor Call for Action (CCFA) be approved and referred to Full Council for ratification.

### ANNEX 5 – STANDARDS COMMITTEE

The Standards Committee is a Committee of the Council established to make recommendations in relation to ethics and the standards of conduct expected of elected and co-opted members of Thanet District Council and the Town and Parish Councils established in administrative area of Thanet District Council.

It was noted that at point 1.2 of the report, Membership, Chairmanship and Quorum, that the number of Members should read fourteen members comprising of 7 District Councillors, four Independent Members and the three Town/parish Representatives.

In addition at 2.5 'Notes' the paragraphs should read 1, 2, 3, and 4. The next Standards Committee meeting is to be on the 13 April 2010 and subject to approval at this meeting this date will be added to the report.

Moved by Councillor Harrison, seconded by Councillor Gregory and resolved that the Working Party recommend to the Standards Committee that the proposed amendments to the Standards Committee Terms of Reference be approved and referred to Full Council for ratification.

## 30. REVISED PLANNING PROTOCOL AND PROCEDURES

This item was dealt with under item 5 of the agenda and minute number 29.

Meeting concluded : 11.00am