

CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 27 February 2024 at 7.00 pm in Council Chamber, Cecil Street, Margate, Kent.

Present: Mr Peter Tucker (Chair); Councillors Austin, Britcher, W Scobie and Yates

In Attendance: Mr Peter Lorenzo (Independent Member of the Standards Committee) and Councillor Crittenden

1. APOLOGIES FOR ABSENCE

Apologies were received from Carolyn Ruston and Councillor Everitt, who was substituted by Councillor Yates.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES OF PREVIOUS MEETING

The Chair proposed, Councillor Austin seconded and the Working Party agreed that the minutes of the meeting held on 9 November 2023 were a correct record.

4. CONTRACT PROCEDURE RULES

Matt Sanham, Head of Finance and Procurement, introduced the report and made the following comments:

- The new Procurement Act 2023 was to come into force in October 2024, as the current CSOs needed to reflect the newer requirements that were under the new act. The requirements also needed to work in accordance with the Public Contract Regulations 2015;
- CSOs were required to be completely rewritten in the future due to the potential number of changes that have been made, however the Council had opted for a refresh rather than the full rewrite. This was because of a recent review of the procurement process that CSOs remained fit for purpose until such time and that current levels of projected spend will remain unaffected;
- The main changes of significance included changes to spending thresholds and updates for organisational changes to job titles;
- Supporting documents would also be refreshed once these changes have been approved, with emphasis on the purchasing guide, which provided guidance on how the CSOs applied to purchasing decisions and processes;
- Councillors would have the opportunity to review the newly developed purchasing guide when it comes back to the Constitutional Review Working Party.

Councillor Crittenden spoke under Council Rule 20.1 and raised that information included in this report was only viewable via the Council intranet, which was currently being worked on so Councillors could have access, this meant that the Council's Whistleblowing Code was only available through the Monitoring Officer which raised concerns of breaching confidentiality.

Councillors made comments and asked questions as follows:

- Councillors expressed concerns over cyber security under risk management and how although Councillors involved in this committee would get to have their

opinions heard, a future Cabinet Advisory Group for Cyber Security was being planned for the future and that they would benefit from being involved with the procurement process for cyber security;

Independent Member Peter Lorenzo proposed, Councillor Austin seconded and Councillors agreed, that:

The CRWP supported the revised content of Thanet District Councils contract standing orders as outlined in the report provided.

5. COUNCILLOR/OFFICER PROTOCOL

Ingrid Brown, Head of Legal and Democracy & Monitoring Officer presented this report and made the following comments:

- The revised protocol changes aimed to improve the working relationships between Councillors and Officers; where some of the protocol was unchanged from before, but other parts detailed new provisions and was drafted after reviews carried out of these protocols and how they compared to other Councils;
- One of the changes detailed was that going forward, Councillors will only be referred to as Councillors rather than being referred to as "Members", to provide clarification and avoid confusion amongst the general public;
- Other features of the report included the responsibility for delegated decisions, details of the specific roles of statutory officers, including Councillor interaction; Councillors representing local residents in legal proceedings, officer reports and what they should include; Officer involvement with local wards so that Councillors could carry out their roles in their wards more effectively; guidance around correspondence and Councillor briefings; handling local media; Councillor access to information and details on what would happen if protocol wasn't followed.

Councillor Crittenden spoke under Council Rule 20.1 to comment on her approval of the document. She also wanted to highlight under paragraph 3.13 of the report, that detailed how Councillors should go about contacting Heads of Service and Officers will reply in a timely manner. She expressed that in the past, there have been issues in this regard due to Officers having large amounts of emails and work affecting response times.

Councillors made comments and asked questions as follows:

- Councillors expressed their approval of the report and their agreement with Councillor Crittenden about Heads of Service needing further support to keep workloads down;
- Recommendations were made regarding several paragraphs in the document where wording was a key factor, these included the following:
 - Regarding paragraph 1.7 "This Protocol applies to Councillors and Co-opted Councillors..." be changed to instead read "This Protocol applies to elected Councillors and Co-opted Councillors...";
 - Regarding paragraph 2.5 "... not be subject to the group or party whip." be changed to instead read "...not be subject to any group or party whip";
 - Paragraphs 2.7 and 2.10 are to be combined as the descriptors are too similar;
 - Regarding paragraph 3.2 "... they should not pressurise the Officer to make a recommendation contrary to the Officer's professional view, nor victimise an Officer for discharging his or her responsibilities." be changed to instead read "... they should not pressurise the Officer to make a recommendation contrary to the Officer's professional view, not criticise an Officer for discharging his or her responsibilities";
 - Regarding paragraph 3.7 "... This will be appropriate for example when the junior Officer is the only Officer with the relevant expertise to address

- the issue" be changed to instead read "... This will be appropriate for example when the junior Officer is the only Officer with the relevant expertise and all up to date information to address the issue";
- Regarding paragraph 4.6 "Councillors must not make contact with any Officers..." be changed to instead read "Councillors must not make direct contact with any Officers...";
 - Regarding paragraph 8.2 "during the early stages of policy development, where practicable." be changed to instead read "during the early stages of policy development, wherever practicable";
 - Regarding paragraph 8.3 "Ward Councillors should be notified at the start of the exercise." be changed to instead read "Ward Councillors should be notified at, or wherever possible, before the start of the exercise";
 - An additional paragraph be added to prevent Councillors from posting correspondence with officers on social media.
- Councillors raised concerns that whilst there would be ramifications for Officers for not following the new protocol, the same could not be said for Councillors, following changes in 2010/11 that removed sanctions against Councillors feeling that the new rules felt "toothless". Officers recognised that although it felt like the new protocol was without ramifications for Councillors, that it was still best practise to have it in place as the majority of Councillors would follow these guidelines anyway and it still keeps a system in place for complaints;
 - It was brought up that the lack of access to information that Councillors felt they had, with problems arising from accessing the Intranet and hyperlinks in files not working as they should. Councillors felt that non-Cabinet Councillors were challenged especially in this regard;
 - Councillors followed up on the previous point about disciplinary action imbalance to also question the imbalance of health and wellbeing as Officers have support in place, but Councillors do not. Officers replied to clarify that Councillors did have access to the Employee Assistance Programme which was offered to Officers, but further discussions will be made to highlight this going forward;
 - In regards to paragraph 8.8 which detailed when an MP would be invited to the Council, regarding local ward issues, Councillors asked if the Councillor for said ward would be made aware of this. Officers informed Councillors that it would depend on the situation, but generally, ward Councillors would be made aware.

Councillor Austin proposed, Councillor Britcher seconded and Councillors agreed, that:

The CRWP has considered the contents of the report provided to Councillors and have approved with the amendments detailed above.

6. REVISED CONSTITUTIONAL CHANGE PROCESS

Nick Hughes, Committee Services Manager presented this report and made the following comments:

- This report detailed how the Council made constitutional changes as the Council used a three-stage process that involved first presenting the change to the Constitutional Review Working Party, then taking the proposal to Standards before going to Full Council. The revised change would eliminate the Standards part of the process, to make it a two stage process;
- The reason for these changes was to bring down the waiting times for these alterations to be put into action;
- Other Councils in Kent have been used as a basis of comparison as they mostly used a two-stage process, with the exception of Swale who still used a three-stage process and Gravesham who take the proposed changes straight to Full Council;

- Councillors were reminded that the Constitutional Review Working Party acted as a fully constituted Council committee.

Councillor Crittenden spoke under Council Rule 20.1 to put forward her concerns about the proposed changes. She recognised the need for the reduction in waiting times, however she brought up a situation in a previous Full Council meeting where an item got referred back to the Constitutional Review Working Party following a revolt from Councillors in the meeting itself. She raised concerns about reducing the rights of Councillors to ask questions and scrutinise the proposed changes and suggested an increase of membership of the committee. She left the CRWP with three questions to consider: How large was the CRWP membership in other Councils? What challenges do the Councils with the two-stage process face when recommendations are made to the Full Council? What was the interplay between these two factors?

Councillors made comments and asked questions as follows:

- Councillors brought up the current situation in Tunbridge Wells where they have a two-stage process in place for minor changes, but for bigger changes, they stick to a three-stage process;
- It was mentioned that the Constitutional Review Working Party doesn't work the same as other committees in the Council and that it was difficult for back-benchers of the respective parties to put forward changes to the constitution itself. Councillors suggested that the membership of the Constitutional Working Review Party itself be expanded to increase representation and that the style of booked meetings be more frequent;
- Officers informed Councillors that there were currently changes being made to the protocol where Councillors can suggest changes to the constitution which involved a new online form that they could fill in and submit to the committee. Officers went on to say that the current frequency of meetings was this way as the committee only needed to meet when proposed changes were put forward, but could look at revising this for the future;
- Councillors felt that if the Constitutional Review Working Party was recognised as a full Council committee, then the name should be changed to the Constitutional Review Committee with an increased membership and involvement from the leadership of each party the Council represents;
- Another suggestion was made to have one annual meeting every year, following the annual Full Council meeting for any changes and to lay out a work programme for the following year.

The Chair proposed, Councillor Austin seconded and Councillors agreed, that:

1. The Council's constitutional change process change from a three-step process (CRWP to Standards to Full Council) to a two-step process (CRWP to Full Council);
2. That the membership be expanded in line with other Council committees;
3. That the CRWP have an annual meeting to consider the future year's work programme;
4. That the CRWP change its name to the Constitutional Review Committee.

Meeting concluded: 8:04pm