

STANDARDS AND CONSTITUTIONAL OVERSIGHT WORKING GROUP

Wednesday, 16 November 2016

Present: Councillor R Abbey (in the Chair)
Councillors C Blakeley, B Kenny, D Elderton,
P Gilchrist

In attendance: Independent Members
B Cummings and Prof SR Jones

61 APOLOGIES FOR ABSENCE

No apologies for absence were received.

62 MEMBERS' CODE OF CONDUCT

Members were asked to consider whether they had any disclosable pecuniary interests and/or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

No such declarations were made.

63 MINUTES

It was noted that the minute of the meeting held 19 September listed Mr B Cummings as OBE, he had been in fact awarded the MBE for services to education in the Queen's birthday honours list 2012.

RESOLVED:

That subject to the above correction, the Minutes of the meetings of the Working Group held on 19 September, 10 October and 26 October 2016 be confirmed as a correct record.

64 DRAFT MAYOR'S CHARITY TERMS OF REFERENCE

Further to Minute 48 (Standards and Constitutional Oversight Working Group, 10 October 2016) Members were requested to have regard to the draft Terms of Reference and Trust Deeds for the Mayor's Charity Committee.

The Assistant Director: Law and Governance and Monitoring Officer introduced the item explaining that although the Mayor's Charity had been in existence for many years, and a Trust Deed had been prepared in 1986, the paperwork for the Charities Terms of Reference had need review. He reported that work continued with regard to ongoing monitoring of the original Trust Deed and membership of the Charity Committee.

The Working Group were apprised that each year the Mayor's Charity accounts were submitted to the Charity Commission, and insofar as being fit for purpose, the Trust Deed itself would not require any redrafting.

A Member questioned reference to the handling of investments. The Assistant Director: Law and Governance and Monitoring Officer informed that reference to investments was included to highlight the Trustee's legal responsibilities and obligations with regard to maximising return. Such matters were monitored by the Council's Internal Audit function and signed off prior to the Charity's accounts being submitted to the Charity Commission. He further informed that in practice the Mayor's Charity collected monies throughout the year on behalf of the current Mayor's chosen beneficiaries, with all funds being paid over at the end of the Municipal Year.

The Assistant Director: Law and Governance and Monitoring Officer reported that after the Working Group had agreed to these draft Terms of Reference for the Mayor's Charity Committee he intended to brief the Civic Mayor on them prior to being submitted to the Standards and Constitutional Oversight Committee for its approval.

RESOLVED:

That the Standards and Constitutional Oversight Committee be recommended to agree the Mayor's Charity Draft Terms of Reference.

65 **STATUTORY SCRUTINY OFFICER**

The Assistant Director: Law and Governance and Monitoring Officer introduced the item informing that Section 9FB of the Localism Act 2011 placed a duty on County and Unitary Councils to designate an Officer to act as the Council's Statutory Scrutiny Officer to undertake the following statutory functions:

- Promote the role of the Council's Overview and Scrutiny Committees;
- Provide support to the Council's Overview and Scrutiny Committees and the members of those bodies; and
- Provide support and guidance to Members and Officers of the Council and the Executive on the functions of its Overview and Scrutiny Committees.

He informed that the Statutory Scrutiny Officer could not be the Council's Head of Paid Service (Chief Executive), Chief Finance Officer or Monitoring Officer.

Members were requested to recommend to the Standards and Constitutional Oversight Committee (and subsequently, the Council) the appointment of the Head of Intelligence as the Council's Statutory Scrutiny Officer, in place of the Managing Director for Delivery (i.e. Strategic Director of Transformation and Resources – pre Senior Management Restructure 1 November 2016).

RESOLVED:

That the Standards and Constitutional Oversight Committee (and subsequently Council) be recommended to agree the appointment of the Head of Intelligence as the Council's Statutory Scrutiny Officer, in place of the Managing Director for Delivery.

66 **OFFICER DELEGATED DECISION MAKING - FINANCIAL EXPENDITURE**

Further to Minute 55 (Standards and Constitutional Oversight Working Group, 26 October 2016), the Assistant Director: Law and Governance (Monitoring Officer) provided an oral update on the Council's Transparency Code. He informed that in line with the Code, all authorised items of expenditure were reported on the Council's website with all single expenditure items in excess of £500 listed and summarised by supplier and type of expense.

The Working Group was apprised that a route map and instructions on filtering the data would be forwarded by email following the meeting.

A Member asked if the data sheet could be updated to include an additional column to identify recurring expenditure. The Assistant Director: Law and Governance and Monitoring Officer stated that the request would be investigated, to see if this data was recorded, and if so whether it could be included in the data extraction.

RESOLVED:

That that the oral report provided be noted.

67 **COUNCIL PROCEDURE RULES - NOTICES OF MOTION**

Further to Minute 56 (Standards and Constitutional Oversight Working Group, 26 October 2016), the Working Group considered the outcome of the Political Group's discussions on the suggestion that the Council could consider three Notices of Motion, one from each Political Group, with any remaining being dealt with under the current arrangements.

Representatives from each political group stated whether or not such an arrangement was acceptable.

It was Proposed by Councillor Chris Blakeley
Seconded by Councillor Phil Gilchrist

“That a minimum of three Notices of Motion be debated at meetings of the Council”.

A vote was taken on Councillor Blakeley’s Motion and was **carried (3:2) (no abstentions)**.

Labour Members Councillors Ron Abbey and Brian Kenny requested that their objections be recorded.

The Assistant Director: Law and Governance and Monitoring Officer informed that a summary of the existing wording and variation would be prepared for consideration by the Standards and Constitutional Oversight Committee.

RESOLVED:

That the Standards and Constitutional Oversight Committee be recommended to agree that a minimum of three Notices of Motion be debated at meetings of the Council.

68 **COUNCIL PROCEDURE RULES**

Further to Minute 56 (Standards and Constitutional Oversight Working Group, 26 October 2016), the Assistant Director: Law and Governance and Monitoring Officer informed that clarification had been sought via the Party Spokespersons on proposed changes to wording within the Council Constitution arising from:

- a) earlier discussions regarding changes to Council Standing Orders 26(2), 35(8) and 35(9); and
- b) proposed change to the wording within the Scrutiny Procedure Rules, in respect of the calling of Special Meeting(s) of Overview and Scrutiny Committee(s).

The Working Group discussed the reasoning behind the proposed changes. Members then requested that the proposed wording Scrutiny Procedure Rules, Para 4. Meetings of the Overview and Scrutiny Committees, be corrected to include:

“,or by any three Members of the committee.”

The Assistant Director: Law and Governance and Monitoring Officer informed that a summary of changes would be prepared and circulated to Working Group Members ahead of the item being presented to the Standards and Constitutional Oversight Committee.

RESOLVED:

That subject to the inclusion of the above correction that the Standards and Constitutional Oversight Committee (and subsequently the Council) be recommended to agree:

- 1) the proposed changes to Council Standing Orders 26(2), 35(8) and 35(9); and**
- 2) proposed changes to the wording within the Scrutiny Procedure Rules, Paragraph 4 in respect of the calling of Special Meeting(s) of Overview and Scrutiny Committee(s).**

69 DISCLOSURE BARRING SERVICE - CHECKS FOR COUNCILLORS

Further to Minute 57 (Standards and Constitutional Oversight Working Group, 26 October 2016), the Working Group considered a response to the Disclosure Barring Service (DBS) following the outcome of Political Groups' discussions on the matter.

The Assistant Director: Law and Governance and Monitoring Officer informed that the political group responses had been received, and a draft response to the DBS would be prepared by the end of the week.

Members expressed their thanks to the Assistant Director: Law and Governance and Monitoring Officer for his assistance in this matter, as they considered that the work undertaken to date had been helpful in finally getting the DBS to express a view on the subject, and although not entirely successful, had resulted in a 'strong compromise'.

RESOLVED:

That the Standards and Constitutional Oversight Committee be recommended to note the Council's DBS Policy and outcome of discussions with the Disclosure Barring Service.

70 REVIEW OF THE MEMBERS' CODE OF CONDUCT AND PROTOCOL

Further to Minute 58 (Standards and Constitutional Oversight Working Group, 26 October 2016) the Working Group was requested to review the Constitution Extract – Part 5 and Members' Code of Conduct and Protocol.

The Assistant Director: Law and Governance and Monitoring Officer informed that as part of good governance arrangements, the Working Group and subsequently the Standards and Constitutional Oversight Committee were required to annually review and take stock of the Members' Code of Conduct and Protocol (Part 5 of the Council's Constitution).

A short discussion took place seeking clarity on specific dispensations, namely Paragraph 17, and Schedules 2 and 3 of the attached Constitution extract i.e. provisions for minority parties / finely balanced Councils and membership of Trade Unions.

Further discussion ensued regarding consideration of imposing deadlines for dealing with complaints against Members.

The Assistant Director: Law and Governance and Monitoring Officer informed that such deadlines were already included, where practicable, in the existing code, although there were occasions when delays could arise through no fault of the Members or Officers concerned, given the nature of the process and allowing for natural justice to take place.

Members noted that the administrative process included a series of stages that could at any time incur delays arising from the following:

- Cooperation of Members and Witnesses
- Complexity of the case
- Appointment of Investigator / Monitor
- Outcome of initial review – report (no case to answer – process concludes here)
- Standards Panel arrangements
- Legal Advice
- Coordination between all relevant / involved parties

The Assistant Director: Law and Governance and Monitoring Officer informed that he would investigate areas where the timescale of events could be tightened. A Member remarked that if there was a timetable it would provide an opportunity for Members to challenge delays and establish the reasons for this along with any exceptional circumstances. A Member commented that improvements to communication might negate the need for such a review.

Another Member suggested that the Standards Panels should also be treated as public meetings, with exclusion of the public being determined at the outset of the meeting to allow the Panel to discuss the merit of holding cases in public (or otherwise).

RESOLVED:

That the Assistant Director: Law and Governance and Monitoring Officer be requested to develop a framework for the consideration of complaints against Members with appropriate timescales for discussion at the next meeting of the Working Group.

71 **INFORMATION ITEM - CONSTITUTIONAL UPDATES ARISING FROM THE NEW OPERATING MODEL**

The Assistant Director: Law and Governance and Monitoring Officer introduced the item informing that following a quick assessment of the areas of the Constitution that required amendment as a result of the New Operating Model, the following areas had been identified:

Part 2 – Articles of the Constitution

- Article 12 – Officers

Part 3 – Responsibility for Functions

- Schedule 2 – Scheme of Delegation of (Non-Executive) Functions to Committees
- Schedule 3 – Delegation to Advisory and Statutory Committees
- Schedule 4A – Scheme of Non-Executive Delegation of Functions to Officers (recently reviewed, amended version incorporating ‘New Model’ titles agreed at Council 17 October – ALREADY ACTIONED)

Part 4 – Rules of Procedure

- Financial Regulations
- Contract Procedure Rules (recently reviewed, amended version incorporating ‘New Model’ titles – ALREADY ACTIONED)
- Officer Employment Procedure Rules

Members noted that the majority of the changes would be a revision of designations in line with the New Operating Model, and that there would be a report back to the Standards and Constitutional Oversight Committee / Working Group on any changes that were not, or had additional implications requiring a review. The Assistant Director: Law and Governance and Monitoring Officer informed that a summary of changes would be prepared.

RESOLVED:

That the information item – Constitutional updates arising from the New Operating Model be noted.

72 **ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR -
PROTOCOL RE: ATTENDANCE OF THE PUBLIC AT COUNCIL AND
COMMITTEE MEETINGS**

At the request of Members, and with the agreement of the Chair, discussion took place on the matter of the filming of public meetings of the Council, Committees, sub-Committees and Panels.

A Member asked for clarification on the current legislation with regard to the filming of meetings and issues arising should a member of the public attending such a meeting, object to being filmed. He cited a recent example at a licensing committee meeting where open and honest disclosure from a member of the public in response to an item on alcoholism. He pointed out that such disclosures might not be forthcoming if the meeting was filmed.

The Assistant Director: Law and Governance and Monitoring Officer informed that current regulations did not include any measures regarding exceptional circumstances, and that no discretion or guidance existed. He stated that one option that was available to Committee Chairs in such circumstance was to move exclusion of the press and public in compliance with Part 1 of Schedule 12A to section 100A (4) of the Local Government Act 1972.

Discussion took place on suggestions regarding formal announcements by the Chair at the commencement of all meetings and / or the inclusion of wording on all public meeting agendas to explain that the meeting was being or might be filmed.

The Assistant Director: Law and Governance and Monitoring Officer also noted Members' comments regarding the security of Committee Rooms, and suggestions that all public meeting rooms should be secured when not in use. He informed that he was currently drafting a protocol for review by the Working Group to ensure that all concerns highlighted be addressed.

RESOLVED:

That a draft protocol relating to the filming of public meetings, to include access to public meeting rooms be brought back to a future meeting of the Working Group.

73 **DATE AND TIME OF THE NEXT MEETING OF THE STANDARDS AND
CONSTITUTIONAL OVERSIGHT WORKING GROUP**

No date currently scheduled. The Committee Services Officer is to canvass Working Group Members for their availability for a meeting in January 2017.