

## MAIDSTONE BOROUGH COUNCIL

### DEMOCRACY COMMITTEE

#### MINUTES OF THE MEETING HELD ON MONDAY 2 JULY 2018

**Present:** Councillor Mrs Wilson (Chairman) and  
Councillors Bartlett, Fissenden, Mrs Gooch, Mrs Joy,  
Lewins, Perry and Mrs Ring

6. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Mrs Blackmore and Boughton.

7. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Bartlett was substituting for Councillor Boughton.

The Chairman welcomed Councillor Bartlett to his first meeting of the Democracy Committee.

8. URGENT ITEMS

There were no urgent items.

9. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

10. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

11. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

12. EXEMPT ITEMS

**RESOLVED:** That the items on the agenda be taken in public as proposed.

13. MINUTES OF THE MEETING HELD ON 14 MARCH 2018

**RESOLVED:** That the Minutes of the meeting held on 14 March 2018 be approved as a correct record and signed subject to the amendment of Minute 77 (Disclosures of Lobbying) to read:

Councillors English and Perry stated that they had been lobbied on the report relating to Honorary Aldermen.

14. MINUTES OF THE MEETING HELD ON 22 MAY 2018

**RESOLVED:** That the Minutes of the meeting held on 22 May 2018 be approved as a correct record and signed.

15. PRESENTATION OF PETITIONS

There were no petitions.

16. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

17. COMMITTEE WORK PROGRAMME

Mr Mark Green, the Director of Finance and Business Improvement, said that he had no alterations or additions to make to the Committee Work Programme at this stage, but the Programme would develop as the Municipal Year went on. The Chairman said that Members might wish to revisit the Work Programme later in the meeting to pick up issues arising from the debate.

See Minute 21 below

18. PROPOSED CHANGES TO CONSTITUTION - FINANCIAL AND CONTRACT PROCEDURE RULES

Ms Georgia Hawkes, the Head of Commissioning and Business Improvement, introduced her report recommending changes to simplify the Contract Procedure Rules in the Council's Constitution, improve compliance and manage procurement risk. It was noted that:

- The simplification of the Contract Procedure Rules was proposed following a recent review of procurement by Internal Audit which identified some compliance issues and problems with services not always following the correct procurement processes. As part of the management response to the Internal Audit report, the Council commissioned a Procurement Consultant to review the Contract Procedure Rules.
- It was recognised, as part of this review, that the current regulations and processes were more complicated than necessary and that poor compliance was mainly due to lack of awareness rather than malicious avoidance. It became clear that the parts of the Constitution relating to procurement and contracts ought to be easier to understand, so a number of changes were proposed, including replacing some wording with flowcharts and removing any duplication. The changes also gave rise to a small number of changes to the Financial Procedure Rules.

- Simplification of the Contract Procedure Rules was just one of the measures being taken to improve compliance with the Council's procurement processes. For example, an easy to follow Purchasing Guide had been prepared by the Procurement Consultant and the Procurement Team to help Officers understand the correct processes and key Officers had been trained on this.
- Whilst the majority of the proposed changes were to simplify the wording of the Contract Procedure Rules, a few additional changes to the Constitution were proposed as follows:

Changing the levels at which contracts are required to be sealed;

Increasing the emphasis on the need for contracts to be signed or sealed before commencement of works/services:

Removing the need for a risk assessment for all procurements over £10k; and

Removing reference to the submission and opening of paper tenders.

The Head of Legal Partnership advised the Committee that she wished to amend recommendation 2 of the report to clarify that it was proposed that the level for sealing of contracts for non-construction projects be increased to £1m unless it was deemed by her that a non-construction contract for a lower amount required execution under seal.

In response to questions by Members:

The Head of Legal Partnership explained that:

- She was seeking delegated authority to review the proposed revisions and incorporate appropriate changes to the Constitution to ensure that works, goods and services were appropriately commissioned and to undertake a cross-referencing exercise with other sections of the document, including the Scheme of Delegations, to ensure compliance with legislative requirements and consistency, prior to Council approval.
- The new compulsory Procurement Plan ensured that Legal Services were involved as required in the formulation of contracts above £75k. The Council already used standard contracts, but the Legal Services and Procurement Teams were currently reviewing the standard contracts to see if they needed to be updated. They were also working on guidance for services on how to use standard contracts and an explanation of when contracts needed to be referred to Legal.

The other Officers explained that:

- When similar changes were introduced elsewhere the risks associated with procurement processes did reduce and there were fewer errors.

- No changes were proposed to the requirement for the approval of the Policy and Resources Committee before amounts in excess of £12k could be written off, and no changes were proposed to the limits for virement.
- In addition to the training already provided for key purchasing Officers, there would be an ongoing programme of procurement training to ensure that all appropriate Officers understood and complied with the required processes and guidance would be added to the Purchasing Guide. Meetings would be held with the Procurement Team to ensure continuation of the training programme going forward. Involvement of the Team as a whole would build resilience.

During the discussion, the Head of Legal Partnership undertook to provide an update for Members of the Committee following the review of the proposed revisions to the Constitution and the cross-referencing exercise. The Director of Finance and Business Improvement said that he would ensure that Councillor Perry had sight of the Delegated Authorities Matrix. This Matrix was not included in the Constitution as it was subject to change as members of staff changed.

It was suggested and agreed that the Audit, Governance and Standards Committee, which had an ongoing interest in procurement and contract management, be asked to make provision in its work programme to monitor training on and compliance with the revised Financial and Contract Procedure Rules, including the Purchasing Guide.

**RESOLVED:**

1. That the revised wording and incorporation of flow charts into the Financial and Contract Procedure Rules of the Constitution, as detailed in Appendices 1 and 2 to the report of the Head of Commissioning and Business Improvement, be accepted.
2. That the level for sealing of contracts for non-construction projects be increased to £1m unless the Head of Legal Partnership deems that a non-construction contract for a lower amount requires execution under seal.
3. That the requirement for a procurement risk assessment at £10k be removed.
4. That the increased emphasis on contract formulation and signing before commencement of service be agreed.
5. That delegated authority be given to the Head of Legal Partnership to review the proposed revisions and incorporate appropriate changes to the Constitution to ensure that works, goods and services are appropriately commissioned and to undertake a cross-referencing exercise with other sections of the document, including the Scheme of Delegations, to ensure compliance with legislative requirements and consistency, prior to Council approval.

6. That the Audit, Governance and Standards Committee be asked to make provision in its work programme to monitor training on and compliance with the revised Financial and Contract Procedure Rules, including the Purchasing Guide.

Voting:        8 – For        0 – Against        0 – Abstentions

19. REVIEW OF THE COMMITTEE STRUCTURE SCOPING REPORT

Mrs Angela Woodhouse, the Head of Policy, Communications and Governance, introduced her report setting out the terms of reference and timetable for the review to be undertaken of the Committee structure, excluding the Regulatory Committees.

The Committee was also asked to consider the evidence and research required and to determine how the review should be undertaken.

The Committee agreed that a Working Group should be appointed to undertake the review, and that the membership of the Group should comprise all Members of the Democracy Committee. Provision should be made for a mix of daytime and evening meetings to enable all Members of the Committee to be involved. In addition to that suggested in the report, the evidence and research required should include details of the budget for each Committee and an examination of the role of Councillors on Committees and their use of the Committee system by, for example, putting an item on a Committee agenda for consideration, attending the meeting and speaking on the item.

**RESOLVED:**

1. That the terms of reference and timetable for the review to be undertaken of the Committee structure, excluding the Regulatory Committees, as set out in the report of the Head Policy, Communications and Governance, be adopted.
2. That a Working Group be appointed to undertake the review, and that the membership of the Group should comprise all Members of the Democracy Committee. Provision should be made for a mix of daytime and evening meetings to enable all Members of the Committee to be involved. In addition to that suggested in the report, the evidence and research required should include details of the budget for each Committee and an examination of the role of Councillors on Committees and their use of the Committee system by, for example, putting an item on a Committee agenda for consideration, attending the meeting and speaking on the item.

Voting:        8 – For        0 – Against        0 – Abstentions

20. MEMBER LEARNING AND DEVELOPMENT

Mr Sam Bailey, the Democratic and Administration Services Manager, introduced his report setting out details of the learning and development

activities undertaken by Members in 2017/18 and the proposed training plan for 2018/19. The report also proposed the adoption of the Local Government Association's Member Development Charter as the Council's approach to Member learning and development and the involvement of the Political Group Leaders in Member learning and development to ensure strategic ownership.

It was noted that a wide variety of learning and development activities was carried out in 2017/18. These ranged from formal training sessions, attendance at conferences and Member briefings. The activities were delivered by internal and external facilitators. Attendance at these events had been varied. The Local Government Association had produced a Member Development Charter that set out best practice for Member development. Authorities were able to self-assess against the framework and choose to adopt the measures set out in the framework that they deemed appropriate. A small budget of £10,600 was available to spend on Member learning and development activities in 2018/19.

During the ensuing discussion reference was made to the need to take into account different styles of learning; schedule training and briefing sessions to maximise attendance; and avoid overwhelming Members with too much information without sufficient opportunity to ask questions. It was suggested that it was a matter for Group Leaders to consider the development of their Members, but there was a role for the Democracy Committee to look through the Member Development Charter and discuss which elements of the Charter the Council should work towards.

The Committee accepted recommendations 1 and 2 set out in the report relating to learning and development activities undertaken in 2017/18 and planned for 2018/19. However, recommendation 3 relating to the adoption of the Local Government Association's Member Development Charter was not accepted as it was felt that the Charter should be used as the basis for the Council's approach to Member learning and development. It was suggested that a Workshop be held for Members of the Democracy Committee before the next meeting of the Committee to discuss which elements of the Member Development Charter the Council should work towards and that Members of the Committee should ensure that their respective Political Groups are briefed on the content of the Member Development Charter to enable feedback before the Workshop on the Charter. Councillor Mrs Gooch, as the representative of the Independent Group, was asked to liaise with all of the smaller groups on this issue. In light of the foregoing, recommendation 4 relating to the involvement of Group Leaders was deleted.

**RESOLVED:**

1. That the Learning and Development activities undertaken in 2017/18, as set out in Appendix 1 to the report of the Democratic and Administration Services Manager, be noted.

2. That the Member Training Plan for 2018/19, as set out in Appendix 3 to the report of the Democratic and Administration Services Manager, be agreed.

Voting:        8 – For        0 – Against        0 – Abstentions

3. That the Local Government Association's Member Development Charter be used as the basis for the Council's approach to Member Learning and Development.

Voting:        8 – For        0 – Against        0 – Abstentions

4. That a Workshop be held for Members of the Democracy Committee before the next meeting of the Committee to discuss which elements of the Member Development Charter the Council should work towards.

Voting:        8 – For        0 – Against        0 – Abstentions

5. That Members of the Committee should ensure that their respective Political Groups are briefed on the content of the Member Development Charter to enable feedback before the Workshop on the Charter, and that Councillor Mrs Gooch as the representative of the Independent Group be requested to liaise with all of the smaller groups on this issue.

Voting:        8 – For        0 – Against        0 – Abstentions

## 21. COMMITTEE WORK PROGRAMME CONTINUED

The Committee gave further consideration to its Work Programme in the light of decisions made during the meeting. It was noted that, in accordance with the agreed timetable, a report would be submitted to the January 2019 meeting of the Committee on the outcome of the review of the Committee structure, excluding the Regulatory Committees, and the Work Programme would be amended accordingly.

It was suggested and:

**RESOLVED:** That a workshop be arranged to enable Members of the Democracy Committee to discuss all issues associated with the appointment of Honorary Aldermen with a view to a report back on the conclusions to a future meeting of the Committee, and that all other Members of the Council be invited to attend the Workshop.

Voting:        8 – For        0 – Against        0 – Abstentions

## 22. DURATION OF MEETING

6.30 p.m. to 7.45 p.m.