

## **CONSTITUTION WORKING PARTY**

**23 FEBRUARY 2012**

Present: Councillor A Wylie (Chair)  
Councillor

Councillors J Aron, K Hastrick, S Johnson, S Rackett, C Leslie  
and M Mills

Also present: Councillor Jackie Connal

Officers: Head of Legal & Property Services  
Democratic Services Manager

### **1 ELECTION OF CHAIR**

RESOLVED

that Councillor Wylie be elected Chair for the remainder of the Municipal Year.

### **2 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

### **3 DISCLOSURE OF INTERESTS (IF ANY)**

There were no disclosures of interest.

### **4 MINUTES**

The minutes of the meeting held on 30<sup>th</sup> March 2011 were submitted and signed.

### **5 STANDARDS UNDER THE LOCALISM ACT 2011**

The Localism Act received Royal Assent on 15 November 2011. Whilst not all the provisions in the Act in relation to standards had been brought into force, the Government had indicated that it intended for the new regime to be in force from 1 July 2012. It was, therefore, considered timely to advise Members of the provisions of the Act and to start to prepare for the new regime.

The Head of Legal & Property Services presented a report which had also been considered by the Standards Committee on 12 January 2012. The report

incorporated the recommendations from that meeting. It was noted that it would be necessary to take a report to Annual Council in May to agree the new standards regime for Watford to come into effect on 1 July 2012.

The Head of Legal & Property Services advised that the draft regulations on disclosable pecuniary interests had not yet been published. She had had discussions with legal colleagues in other Hertfordshire authorities about whether there should be a standard Code of Conduct across the county. There were, however, differences of opinion about how rigid the Code should be. The LGA was also considering proposing a Code for Councils to adopt, however, nothing had been formally published

She advised that ACSeS had procured a Legal Opinion on whether existing independent members could apply to be the Independent Person in the new regime. This had confirmed that as the wording of the legislation currently stood they could not. A report in the legal press had indicated that DCLG may be considering a change to that wording.

The need for the Standards Committee to be politically balanced had been discussed by the Standards Committee. The point had been made that there could be a danger of bias and that this could be a particular issue in the run up to the elections. The Head of Legal & Property Services had advised that full Council could appoint a non-proportionate committee if it was so minded and provided the voting was unanimous. The Standards Committee had suggested that the committee comprise two members from the majority group and one from each of the others. Members had been asked to consult their Groups on this proposal. The Independent Person could not be a member of the Standards Committee.

The Standards Committee had also agreed an additional criteria that the Independent Person should not have stood for election during the past 5 years and that that the interview panel for the Independent Person would comprise Councillor members of the Standards Committee.

A councillor who was also a member of the Standards Committee endorsed the views expressed about the non proportionality of the Standards Committee. He also added his concerns about the loss of expertise if existing independent members could not be re-appointed and the need for the Independent Person to be non political.

In response to a Member's question about the appointment of the Independent Person, the Head of Legal & Property Services confirmed that the appointment would need to be endorsed by Council. It would also be necessary to advertise the position and make clear what exclusions applied. The appointment should be made ahead of Annual Council in order for it to be formally agreed and effective from 1<sup>st</sup> July. The current Standards Committee would also need to be re-appointed at Annual Council to remain in place until 30<sup>th</sup> June.

In response to a councillor's question regarding transitional arrangements, the Head of Legal & Property explained that much would depend on whether the

Government ultimately allowed current independent members to apply. If arrangements could not be confirmed at Annual Council there may be a need for a special meeting in order to meet the 1<sup>st</sup> July deadline.

A Member asked about remuneration. The Head of Legal & Property Services advised that this was a delegated matter as referred to in the report. The amount would be included in the report to Council.

## RESOLVED

That the following recommendations be made to Council:

- 1 That the Council establish a Standards Committee comprising 5 elected members of the Council, and that Council agrees that the committee be not constituted on the lines of proportionality, with one seat for each of the opposition groups and 2 seats for the ruling group.
  - 2a. that the draft Code of Conduct attached as appendix 1 to the report be adopted by the Council.
  - 2b. that, when the Disclosable Pecuniary Interests Regulations are published, the Monitoring Officer, after consultation with the Chair of Standards Committee, add to that draft Code provisions which she considers to be appropriate for the registration and disclosure of interests other than DPIs.
- 3 that the arrangements attached at appendix 2 be considered for adoption by Council. Such arrangements include the following: -
  - 3a. that the Head of Legal and Property be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;
  - 3b. that the Head of Legal and Property be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. She be instructed to seek resolution of complaints without formal investigation wherever practicable and that she be given discretion to refer decisions on investigation to the Standards Committee where she feels that it is inappropriate for her to take the decision and to report quarterly to Standards Committee on the discharge of this function;
  - 3c. Where the investigation finds no evidence of failure to comply with the Code of Conduct, the Head of Legal and Property be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned and to the Independent Person and reporting the findings to the Standards Committee for information;
  - 3d. Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Head of Legal and Property in consultation with the Independent Person be authorised to seek local resolution to the

satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Committee. Where such local resolution is not appropriate or not possible, she is to report the investigation findings to a Hearings Panel of the Standards Committee for local hearing;

- 3e. that Council delegate to Hearings Panels such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include –
- Reporting its findings to Council for information;
  - Recommending to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
  - Recommending to the Mayor that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
  - Instructing the Head of Legal and Property to arrange training for the member;
  - Removing from all outside appointments to which he/she has been appointed or nominated by the Council and recommending to the Mayor removal from all outside appointments to which he/she has been appointed by the Mayor;
  - Withdrawing facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
  - Excluding the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 4a. That the Head of Legal and Property, in consultation with the Chair of Standards Committee and with the advice of the Head of HR, be authorised to set the initial allowances and expenses for the Independent Person and any Reserve Independent Persons and this function subsequently be delegated to the Standards Committee.
- 4b. That the Head of Legal and Property advertise a vacancy of the appointment of 1 Independent Person and 2 Reserve Independent Persons.
- 4c. That a Committee comprising four councillor representatives on the Standards Committee be set up to short-list and interview candidates and to make a recommendation to Council for appointment.

- 4d. that an additional criteria be adopted for exclusion of candidates for the role of Independent Person. In that no candidate should have stood for election on the Council for the last 5 years.
- 5a. that the Head of Legal and Property prepare and maintain a new register of Members' interests to comply with the requirements of the Act and of the Council's Code of Conduct, once adopted and ensure that it is available for inspection as required by the Act.
- 5b. that the Head of Legal and Property ensure that all Members are informed of their duty to register interests.
6. The Head of Legal and Property be instructed to recommend to Council a Procedure Rule which equates to the current Code of Conduct requirement that a Member must withdraw from the meeting room, including from the public gallery, during the whole of consideration of any item of business in which he/she has a DPI, except where he/she is permitted to remain as a result of the grant of a dispensation
7. that Council delegate the power to grant dispensations –
  - 7a. on Grounds set out in Paragraphs 11.3.1 and 11.3.4 of this report to the Head of Legal and Property with an appeal to Standards Committee, and
  - 7b. on Grounds 11.3.2, 11.3.3 and 11.3.5 to the Standards Committee, after consultation with the Independent Person.

## 6

### **SUGGESTED AMENDMENTS TO THE CONSTITUTION**

The Working Party received a report on a number of suggested changes to the Constitution in relation to the following:

- A minor amendment to the Council scheme of delegation relating to Town and Country Planning and Development Control with regard to Article 4 Directions.
- To agree to changes to the Officer Code of Conduct to reflect the introduction of offences under the Bribery Act 2010.
- The Watford Borough Petition Scheme
- Matters for consideration at Council meetings
- Arrangements for access by councillors to Part B reports
- Access to meetings and papers in respect of Scrutiny Task Groups
- Replacement members on committees
- Councillors' names in minutes.
- Virement Rules

**A minor amendment to the Council scheme of delegation relating to Town and Country Planning and Development Control with regard to Article 4 Directions.**

The Working Party AGREED the amendment.

**To agree to changes to the Officer Code of Conduct to reflect the introduction of offences under the Bribery Act 2010.**

The Working Party AGREED the changes.

**The Watford Borough Petition Scheme**

A Member commented that he found the current arrangement for dealing with petitions frustrating as the opportunity for debate was limited. He would like to revert to the position of petitions being accepted for discussion at Cabinet or Council by way of the Procedure Rules. The Chair added that whether a petition went to Cabinet or to Council would depend on the subject matter.

Members suggested that it might be useful to get feedback from petitioners

The Working Party AGREED that the Council should revert to the previous position of petitions being accepted for discussion at full Council and Cabinet by way of the Procedure Rules but that the length of the debate be extended to up to 30 minutes and that petitioners be asked for feedback.

**Matters for consideration at Council meetings**

The Working Party AGREED to keep public petitions at Annual Council and Budget Council because if the provision were removed it would create a large gap between meetings at which they could be presented.

The Working Party AGREED that there should continue to be a Mayor's Report at Budget Council. Members felt it was important to retain the opportunity to ask questions of the Mayor at all Council meetings (except the Annual meeting

The Working Party AGREED that written Member Questions should continue to be taken at Annual Council.

**Arrangements for access by councillors to Part B reports**

The Working Party AGREED the following process for dealing with Part B reports:

One hard copy of a Part B report would be sent to each of the Group Leaders asking them to contact the Democratic Services Manager if they required any further copies and stating why they needed them. This would give all Groups an opportunity to see the report whilst still retaining a level of control over distribution.

## **Access to meetings and papers in respect of Scrutiny Task Groups**

When the current scrutiny arrangements were introduced it was determined that scrutiny task groups should be treated in the same way as formal committees with agenda and minutes being published on the web and the meetings open to the public.

One of the problems which occurred following a meeting of the Hospital Parking Charges Task Group at which the press was present was that an inappropriate quote was published in the paper.

The purpose of task groups was to brainstorm ideas and thoughts on a specific topic with a view to making recommendations to the Overview & Scrutiny Committee. If the press and public were present there was always the risk that a comment made as part of the discussion may be taken out of context and presented as a firm proposal. It was also important to encourage a good flow of ideas at Task Groups to ensure that all aspects of the topic were covered and having the press and public present could stifle such debates.

Officers had consulted other local authorities to see what they did with regard to task groups and most responded that they did not treat them as public meetings. All task Group minutes, along with its recommendations, would be made public once they were reported to the Overview & Scrutiny Committee.

A Member said he did not agree with this approach and considered that task group topics were a matter of public interest. He considered that the meetings should be held in public. He added that councillors were public representatives and it was important to demonstrate openness and transparency.

Another Member, however, said she felt that it was important to be able to speak freely at task group meetings and having the press there would stifle debate.

The Chair agreed that there was a need to be more guarded if the press were present. He agreed, however, that task groups did not fit easily with Council Procedure Rules. He suggested seeking the views of the Overview & Scrutiny Committee.

The Working Party AGREED that the question of access to meeting and papers in respect of scrutiny task groups be referred to the Overview and Scrutiny Committee for consideration.

## **Replacement members on committees**

The Working Party AGREED that replacement members should be allowed on all scrutiny committees except where there was an ongoing review and that this arrangement should be included in the Constitution.

### **Councillors' names in minutes.**

The Working Party AGREED that councillors be referred to by name in minutes with effect from the 2012/13 Municipal Year.

### **Virement Rules**

The proposed rules relating to virement were AGREED

RESOLVED

1. that the suggested changes to the Constitution as agreed by the Working Party be recommended to Council.
2. that the issue of access to meetings and papers in respect of scrutiny task groups be referred to the Overview & Scrutiny Committee for consideration.

Chair

The Meeting started at 6.00pm  
and finished at 6.55pm