

MINUTES OF THE CONSTITUTION WORKING PARTY

Thursday, 6 September 2012 at 7.00 pm

PRESENT: Councillors Obajimi Adefiranye, Jenni Clutten, Damien Egan, Vicky Foxcroft, Alan Hall (Chair), Stella Jeffrey and Susan Wise

ALSO PRESENT: Councillor David Britton and 1 member of the public

Apologies for absence were received from Councillor Christine Allison, Councillor Kevin Bonavia and Councillor Philip Peake

14. Declaration of interests

There were no Declarations of Interest.

15. Minutes

RESOLVED that the Minutes of the meeting of the Constitution Working Party held on 6 June 2012 be confirmed and signed.

16. Constitutional update

This item was introduced by the Head of Law, who explained that the report proposed amendments to the Council's Constitution to reflect the provisions contained within Schedule 2 Localism Act 2011.

Members carefully considered the proposed amendments, and highlighted the following points:

- Councillor Hall asked whether the Councillor Call for Action had been abolished as part of the Act. The Head of Law said that it remained and that it had been consolidated within the Overview and Scrutiny Procedure Rules.
- Councillor Jeffrey said that the Constitutional wording around the Licensing Committee suggested that the Committee was obliged to establish four Sub-Committees and asked whether this was the case. The Head of Law said that this option existed for the Committee but was not mandatory and said that this would be re-examined.
- Councillor Jeffrey noted that whether proposed changes to the scope of questions could be robustly enforced. She noted that questions were often posed at full Council that were substantially the same as a question put to Council within the previous three months, in spite of the fact that this was not allowed for constitutionally. Members suggested that Council Questions were on occasion abused. Councillor Wise said that it would be helpful if questions of a similar nature were assimilated to allow for more questions at one session. The Head of Law said that there was a balance to be struck in

permitting as many Council Questions as possible to ensure transparency while ruling out questions that were frivolous or repetitive.

- Councillor Clutten said that similar questions could be asked at consecutive Council meetings because the answers provided were insufficient the first time and said that it would be helpful for Members the full range of ways beyond Council Questions in which Members could source information.
- Councillor Britton suggested that the wording around Quorum be amended to read “A meeting of the Executive or a Committee of it will not be quorate if neither the Mayor nor the Deputy Mayor are present unless five other Members of the Executive are present.” The Head of Law said that this would be amended accordingly.
- The Head of Law said that a number of Overview and Scrutiny Procedure Rules were subject to change, as set out within the report, but that many of the legislative changes had already been incorporated. The changes would help in allowing Members to raise items more easily on Overview and Scrutiny agenda.
- Councillor Jeffrey asked what had necessitated the amendments to the Contract Procedure Rules. Ms Helen Glass said that this was required due to amendments around legislation for Category C contracts.
- The Head of Law said that the proposed Constitutional amendments also reflected that the Health and Wellbeing Board (HWB), currently in shadow form, would be a formal Committee of the Council from April 2013. Councillor Jeffrey asked whether the HWB would be bound by the same Constitutional regulations as other Committees. The Head of Law said that the Council was awaiting guidance from the Department of Health and the Department of Communities and Local Government on this point, and that further changes to the Constitution would most likely need to be made in due course to reflect this guidance.
- Members noted the proposed amendments to Members’ Allowances, noting that, due to changes set out within the Localism Act, an elected Member rather than an Independent Member would now take the Chair of the Standards Committee, and that allowances would need to be amended to reflect this. Members also noted the amendments allowed for an allowance to be granted to the Chair of the Strategic Planning Committee in the instance that they were not chair of one of the other Planning Committees.

Members said that it would be useful if, in future, changes to the Constitution were marked with “tracked changes” to allow Members to more easily monitor such changes. The Head of Law acknowledged the point.

The Head of Law said that the mandate for local authorities to make an e-petitions facility available had been repealed by the Localism Act and asked Members for their views on whether the Council should maintain this facility. Members said that it was not a facility that had been commonly used by Borough residents and that remained a number of ways in which members of the public could engage with the Council. However, some Members expressed concern that removing e-petitions

would remove one recourse for members of the public to place items on Committee agenda and were keen to ensure that measures which improved transparency and openness should remain.

The Chair said that differing views on e-petitions had been expressed and said that the Working Party would reconsider this at a future date.

- RESOLVED
- a) that the proposed amendments to the Constitution be approved, subject to Members' further amendments as suggested above, and recommended their approval to full Council.
 - b) that a report on Special Responsibility Allowances, particularly in relation to the Chairs of Strategic Planning and Standards Committees, will be brought to Council on 26 September 2012;
 - c) that officers give further consideration to the maintenance of the e-petitions facility and make recommendations to the Working Party as appropriate.

17. Health Scrutiny Consultation

The Chair introduced the item and noted that the Healthier Communities Select Committee had considered and agreed a response to the Department of Health (DH) consultation on health scrutiny. The Chair said that the Working Party was asked to endorse the Select Committee's response.

Ms Sarah Wainer, Head of Strategy and Performance, outlined the key areas within the consultation, and set out in detail the Select Committee's response on those areas. She said that DH had already made a number of changes to reflect initial concerns expressed by local authorities on the workability of some of the proposals within the consultation.

The Chair commended the Select Committee's response and noted that any necessary amendments to the Constitution following the consultation would be considered by the Working Party.

- RESOLVED
- that the Constitutional Working Party endorse the Healthier Communities Select Committee's response to the DH consultation on Local Authority Health Scrutiny.

18. Local Authorities Access to Information Regulations 2012

The Head of Law introduced the report, which set out the changes that the Council had to adhere to comply with the Local Authorities Access to Information Regulations 2012. Full Council would approve changes to the Constitution at the next meeting on 26 September.

The Head of Law said that this report had been tabled urgently because the regulations had been laid during Parliamentary recess with no transitional arrangements in place. The new regulations came into effect on 10 September 2012. Councillor Wise asked whether CLG had adhered to proper process in

introducing the regulations and whether any Council was proposing to challenge the regulations. The Head of Law said that it was unusual for regulations to be laid during recess and that it would be difficult for Councils to appeal against regulations that were ostensibly designed to achieve greater transparency in Council decision-making.

The Head of Law said that the regulations would lead to changes in the Council's Forward Plan process, with an obligation to publish decisions that were likely to be considered in private 28 clear days ahead of any such decision being made. Members asked whether this would delay important business, to which the Head of Law reiterated that the Council would have to change its planning processes and added that there were processes for decisions to be taken urgently.

The Head of Law added that the Government had described the Regulations as a "Blogger's Charter", noting that there were requirements within the Regulations around enabling the reporting of Council meetings. The Council already complied with the majority of these requirements.

Councillor Clutten asked whether the Regulations would lead to an increase in business that could be discussed in open session. The Head of Law said that there were very defined circumstances in which items could be exempt and therefore discussed in private and these circumstances would remain. The Council did attempt to present as much information as possible publicly.

RESOLVED that the Constitutional Working Party noted the Local Authorities Access to Information Regulations 2012 and the amendments to the Constitution to comply with those Regulations.