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Subject to approval at the next Constitution Working Party meeting

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CONSTITUTION WORKING PARTY

16 November 2023 at 6.00 pm

Present: Councillors Yeates (Chair), Jones (Vice-Chair), Bower, Butcher, Haywood, Pendleton (Substituting for Councillor Greenway) and Purser.

1. APOLOGY FOR ABSENCE

An Apology for Absence had been received from Councillor Greenway.

2. DECLARATIONS OF INTEREST

There were no Declarations of Interest made.

3. MINUTES

The minutes of the last meeting of the Working Party held on 5 December 2022 were approved as a correct record with the Chair confirming that these would be signed at the end of the meeting.

4. ITEMS NOT ON THE AGENDA THAT THE CHAIR OF THE MEETING IS OF THE OPINION SHOULD BE CONSIDERED AS A MATTER OF URGENCY BY REASON OF SPECIAL CIRCUMSTANCES

The Chair confirmed that there were no urgent matters for this meeting.

5. START TIMES

The Working Party

RESOLVED

That its start times for the remainder of 2023/2024 be 6.00 pm.

6. AUDIT & GOVERNANCE COMMITTEE - 28 FEBRUARY 2023 - RECOMMENDATION FOR THE WORKING PARTY

The Group Head of Law & Governance and Monitoring Officer presented this item explaining that at the meeting of the Audit & Governance Committee held on 28 February 2023, that Committee had received a report asking it to extend the terms of office for all five members of the Independent Remuneration Panel (IRP) until 31 March 2024.

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It was explained that the IRP were appointed to review the Members' Allowances Scheme and make recommendations to Full Council. The request to extend their term of office would allow the IRP to commence work on undertaking its next review of the Members' Allowances Scheme immediately following the District Elections that had been held in May 2023 and could be extended immediately from 31 March 2023 to 31 March 2024 allowing the review to commence.

The Monitoring Officer had identified a gap in the Constitution. Although the Responsibility for Functions for the Audit & Governance Committee stated that "Approving arrangements for establishing an IPR, in accordance with statutory requirements, and instructing the Chief Executive to make any appointments to the Panel in line with their delegated authority at Part 3, Section 2 of the Constitution", that delegation had not been included and needed to be. It was clear that the intention of Full Council was for this matter to be delegated to the Chief Executive.

To correct this error, the Audit & Governance Committee were recommending the Working Party to approve that the following wording be added to the Chief Executive's delegations at Part 4 of the Constitution to read:

After consultation with and agreement of the Chair of the Audit & Governance Committee, to appoint members of the Independent Remuneration Panel for Members' Allowances and be able to extend their term of office.

Should the Chief Executive consider that the appointment of any Independent Remuneration Panel Member for the Members Allowances Scheme be changed or terminated, the Chief Executive will consult with the Chair of the Audit & Governance Committee prior to making a final decision.

Having had the recommendation proposed by Councillor Purser and seconded by Councillor Butcher, the Working Party

RECOMMEND TO FULL COUNCIL

The following wording be added to the Chief Executive's delegation at Part 4 of the Constitution:

After consultation with and agreement of the Chair of the Audit & Governance Committee, to appoint members of the Independent Remuneration Panel for Members' Allowances and be able to extend their term of office.

Should the Chief Executive consider that the appointment of any Independent Remuneration Panel Member for the Members Allowances Scheme be changed or terminated, the Chief Executive will consult with the Chair of the Audit & Governance Committee prior to making a final decision.

7. PLANNING PROTOCOL

The Working Party received a report from the Group Head of Planning proposing some minor changes to the Planning Protocol. Some of these changes related to the public speaking rules and how Arun Councillors could address the Planning Committee (Section 11 of the Protocol).

Members' attention was drawn to each of the proposed changes in the order that they had been set out within the report. These were:

- Paragraph 6 – Development Proposals Submitted by Councillors and officer and Council Development – Paragraph 6.2, bullet point 1 provided alternative wording for clarity purposes.
- At Section 11 – the order of speaking table, part 5 the changes proposed aimed to make the speaking rules clearer to Councillors not on the Committee including those representing the Ward in which an application was sited. This reinforced that Ward Members had an automatic right to address the Committee and reconfirming that non-Ward Councillors required the agreement of the Committee before they could address the meeting. Paragraph 11.8 reminded Members of the restriction in place for addressing the Committee.
- Section 13 – Committee Site Visits – 13.3 provided additional clarity in terms of process.
- Section 15 – Deferral – Additional paragraphs had been added to tidy up and strengthen the process in place when deferring an application.

The Chair then invited debate on the proposed changes. The following comments/observations were made:

- On the speaking rules for Councillors under 5) and the suggestion that Councillors limit their presentation to 3 minutes. The Working Party did not like the word 'presentation'. Following debate, it was agreed to remove the wording in the time allowed column and insert 3 minutes so that consistency and the same rules were applied for all speakers.
- On non-ward members addressing the Committee, an observation was made that Members needed to ensure that their contributions were confined to the application and did not stray into discussing the policy being applied as this fell under the remit of another Committee. The response was that this was down to the Chair to manage. Discussion drifted into Planning Committee training and that this should be compulsory for all 54 Councillors to attend.
- On deferral, some tweaking to the wording in 15.4 was requested to make it clear that when an application was deferred for a specific reason, when that application returned to Committee, that debate would only focus on the matters that were new.

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Following considerable debate, the following alternative wording was approved by the Working Party – deletions have been shown using ~~strikethrough~~ with additions shown in **bold**:

Members need to be mindful that when an application returns to the committee following a deferral there will be reasonable expectation from the applicant and officers that ~~matters that were not part of the deferral were acceptable~~ **the subsequent debate should** only focus on the matters that are new. If the committee are not satisfied with all other matters, these should either be included within the deferral, or the application should be refused planning permission. It is unreasonable to repeatedly defer applications for different reasons.

Having had the recommendations, as amended, proposed by Councillor Bower and seconded by Councillor Jones, the Working Party

RECOMMEND TO FULL COUNCIL

That the proposed amendments to the Planning Protocol, as amended by the Working Party, be agreed.

8. CONSTITUTION AMENDMENTS - FINANCE GROUP

The Working Party received a report from the Group Head of Finance and Section 151 Officer proposing changes to the Council's Constitution in relation to Contract Standing Orders which would improve operational practices and efficiency in terms of procurement activity.

The report explained the reasons for requesting a slight change to the financial thresholds at Part 6, Section 4 of the Constitution determining what procurement activity needed to take place and when.

The table at Paragraph 4.2 of the report illustrated the current thresholds with the recommended new thresholds being set out in the table at Paragraph 4.4 of the report. There one change proposed was to change the threshold from £10,001 to £50,000 to £10,001 to £100,000. It was explained that the current thresholds had been in place for many years during which time the cost of materials and services had risen considerably. This had meant that contract values had increased in line with inflation resulting in smaller sized contracts having to be referred to procurement. By increasing the thresholds to a higher threshold of £100,001 would reduce the impact and the number of smaller contracts needing to be referred to procurement support at Hampshire County Council. The request for this change had been consulted fully with Hampshire Procurement and would allow for Arun's procurement process to become more agile and in some cases would mean that a contract could be awarded more quickly, but still in line with the usual approval mechanisms but allowing Hampshire Procurement to focus on larger projects and contracts.

Questions raised by Members focused on Councillor input and the need to be involved in such processes. It was explained that this was a judgement for the Officer concerned as they might decide to use a framework or dynamic purchasing system. Officers would consult with Members on anything that was contentious or on a contract that was above the UK threshold.

Following brief discussion, the majority of the Working Party was content with the revised thresholds as they recognised that Officers needed a level of flexibility to get the day job done without having to refer to Committees constantly. There were other Councillors who were more hesitant with the proposals. The Group Head of Finance and Section 151 Officer provided reassurance stating that if the changes were approved, monthly meetings would be held with Hampshire Procurement to assess the adoption of the changes. Procurement training was also being rolled out to staff in December 2023 where the changes could be monitored regarding suitability of the threshold over time. The Group Head of Finance and Section 151 Officer confirmed that he would be happy to report the findings of this review and report back to Members any concerns.

Having had the recommendations proposed by Councillor Yeates and seconded by Councillor Jones, the Working Party

RECOMMEND TO FULL COUNCIL

The Contract Standing Orders be amended as set out in the report.

9. CONSTITUTION CHANGES AND UPDATES

The Group Head of Law and Governance and Monitoring Officer explained that he felt that it would provide more benefit for the Working Party to have the opportunity to discuss the list of areas that required review in the Constitution, as detailed in the minutes from the last meeting, rather than providing a written report.

It was explained that the Monitoring Officer kept and reviewed a record of requests for change received from Officers and Members. Due to a significant change in the membership of this Working Party, following Annual Council in May 2023, this was an opportunity for new Members to discuss and prioritise areas for review.

The list of items for review identified at the last meeting of the Working Party were:

- Part 3 – Responsibility for Functions – Committees in terms of approving cases for Write-Offs, looking at write-off levels, in respect of tenant arrears, rent arrears and other debts; Council Tax and National Non-Domestic Rates to include Part 6 – Financial Procedure Rules
- Part 5 – Rules of Procedure (Meetings) Section 1 – Council Procedure Rules in respect of Questions by Members of the Public; Notices of Motion; Referral and Recovery; Previous Decisions and Motions – Motion to Rescind a previous decision; and General Questions from Members;

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- Part 5 – Rules of Procedure (Meetings) – Section 2 – Committee Procedure Rules – Questions by Members of the Public

The Chair in inviting Member input, suggested that a schedule of items for review be pulled together for the Working Party so that Members were aware of what should be reviewed and when. It was also highlighted that meetings of the Working Party were not programmed into the annual Meetings Calendar as they had been before and that meetings should be confirmed in setting a future schedule of work. This would allow the Working Party to prioritise its work. It was agreed that a work programme would be circulated to Members of the Working Party ahead of confirming its next meeting so that recommendations could be made to the 13 March 2024 Council meeting. This would then form the agenda for the next meeting of the Working Party.

Questions were asked as to how Members, not on the Working Party, could put forward areas that they felt needed to be reviewed. It was explained that Members could put forward their suggestions via their Group Leaders; the Chair of the Working Party or could approach the Monitoring Officer directly. It was acknowledged that once the draft work programme had been circulated to Working Party Members, Members could liaise with their Groups over the content and when matters would be reviewed.

The Working Party then had a detailed discussion on the priority areas requiring review – these were:

- Part 5 – Section 2 – Committee Procedure Rules – Rule 8 – Duration of Meeting. It was unanimously agreed that the 3 hour duration time for meetings was not working for meetings of the Planning Committee and Licensing Sub-Committee. Additional meetings of both Committees had had to be organised over the last year to accommodate instances where all the items on the agenda had not been considered.
- Part 3 – Responsibility for Functions – Committees in terms of approving write-offs – the Group Head of Finance and Section 151 Officer confirmed that a Debt Write-Off Policy would need to be submitted to the Policy & Finance Committee first for approval before any of the write-off levels and anomalies could be considered and addressed by the Working Party.
- Public Question Time for Full Council and Committees – in terms of the criteria for allowing and refusing questions and the number of questions that could be asked by each person.
- Council Procedure Rule 14.3 – General Questions from Members – a tidying up in terms of who was responsible for responding to questions.
- Council Procedure Rule 18 – The Referral and Recovery procedures – reviewing the number of Councillors who could request a referral or recovery.
- Council Procedure Rule 19 – the removal of the rescinding motion and reinstating this

Following a lengthy discussion, the priority for the Working Party was to address the duration of meetings rule for the Planning Committee and Licensing Sub-Committee. As the next meeting of Full Council was taking place on 10 January 2024, and there was no opportunity for the Working Party to meet again ahead of that date, it was agreed that a recommendation from the Working Party to make the Planning Committee and Licensing Sub-Committee exempt from this procedure rule be considered now.

Following discussion, this was unanimously agreed and so Councillor Bower formally proposed this as a recommendation which was seconded by Councillor Pendleton.

The Working Party

RECOMMEND TO FULL COUNCIL

That the Planning Committee and the Licensing Sub-Committee be excluded from applying the duration of meeting Committee Procedure Rules.

The Working Party

RESOLVED

That the Monitoring Officer draft the exact wording to be proposed by the Chair of the Constitution Working Party at Full Council on 10 January 2024, with this being circulated to Working Party Members in advance.

(The meeting concluded at 7.37 pm)

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