

**Minutes of the Meeting of the STANDARDS AND CONSTITUTION COMMITTEE
held at the Council Chamber, Epsom Town Hall on 5 December 2023**

PRESENT -

Councillor Liz Frost (Chair); Councillor Hannah Dalton (Vice-Chair); Councillors Chris Ames, James Lawrence, Robert Leach and Chris Watson

In Attendance: Councillor Kate Chinn and Councillor Steven McCormick

Absent:

Officers present: Andrew Bircher (Interim Director of Corporate Services), Piero Ionta (Head of Legal Services and Monitoring Officer) and Tim Richardson (Democratic Services Manager)

7 QUESTIONS AND STATEMENTS FROM THE PUBLIC

No questions or statements were received from members of the public.

8 DECLARATIONS OF INTEREST

No declarations of interest were made in relation to items of business to be discussed at the meeting.

9 MINUTES OF THE PREVIOUS MEETING

The Minutes of the Meeting of the Standards and Constitution Committee held on 29 June 2023 were agreed as a true record and signed by the Chair.

10 ORDER OF AGENDA ITEMS

The Chair informed the Committee that Item 4 of the agenda (Update to the Council's Constitution) was a large item and would be considered following the other items on the agenda.

11 COUNCILLOR CODE OF CONDUCT

The Committee received a report presenting the Councillor code of conduct, which has been reviewed by the Constitution Working group (CWG), with a recommendation for adoption.

The following matters were considered:

- a) **Local Government Association (LGA) model code.** The Vice-Chair informed the Committee that the proposed Code of Conduct had been produced by the LGA with input from numerous sources and had been adopted by many other councils. The Head of Legal and Monitoring Officer informed the Committee that he had contacted the LGA's Head of Legal Services regarding the next scheduled review of the Code of Conduct and had been informed that this was likely to be undertaken in 2024.
- b) **Code of Conduct Section 4, Dispensations (p236 of agenda pack).** In response to a question from a member, the Head of Legal and Monitoring Officer clarified the role of the Monitoring Officer as a statutory officer in relation to standards matters. The Head of Legal and Monitoring Officer informed the Committee that the wording of the LGA Code adopted established best practice with regard to the consideration of dispensation requests.

Following consideration the Committee unanimously resolved to:

- (1) **Recommend to Full Council that the Local Government Association Model Code of Conduct 2020 is adopted in its entirety.**

12 INDEMNITY SCHEME FOR COUNCILLORS AND OFFICERS

The Committee received a report presenting an indemnity scheme that had been reviewed by the Constitution Working Group (CWG) for adoption.

Following consideration the Committee unanimously resolved to:

- (1) **Consider the updated wording for the indemnity scheme as set out in Appendix 2 to the report; and**
- (2) **Recommend to Full Council that the revised indemnity scheme at Appendix 2 to the report, should be adopted as part of the council's operating framework.**

13 REVIEW OF CODE OF CONDUCT COMPLAINTS

To provide an update on complaints made under the Code of Conduct for Members from 1/2/2022 to 27/11/2023.

The following matters were considered:

- a) **Update as of 5 December 2023.** The Head of Legal and Monitoring Officer informed the Committee that subsequent to the publication of the agenda, no complaints about councillors had been received by the Council and that the report was correct as of 5 December.
- b) **Definition of complaints.** In response to a question from a member, the Head of Legal and Monitoring Officer informed the Committee that this

report related to complaints made about the conduct of councillors, rather than complaints about council services which were recorded and reported through a separate process.

Following consideration the Committee unanimously resolved to:

- (1) **Note there have been no complaints between 1 February 2022 to the 27 November 2023;**

14 UPDATE TO THE COUNCIL'S CONSTITUTION

This Committee received a report detailing the work that had taken place on updates to the Council's Constitution since August 2023 and set out proposals for recommendation to Full Council for adoption.

The Committee noted that an addendum to the report had been published as a supplement to the agenda in advance of the meeting.

The following matters were considered:

- a) **Council Constitution.** The Head of Legal and Monitoring Officer (Head of Legal) provided the Committee with a verbal introduction to his report. The Committee was informed that the Constitution is critical to success of the Council's effective decision making, provides delegation of authority to officers and the ability to maintain good order at meetings. The work of the Committee and Working Group was of great importance in ensuring that the Constitution is maintained in good order to enable the effective running of the Council on a daily basis. The Head of Legal expressed his appreciation for the support of councillors and external legal counsel to enable the report to be brought to this meeting.
- b) **Terms of reference of Policy Committees.** In response to a question from a member, the Head of Legal informed the Committee that all Policy Committee terms of reference had been amended to clarify that the Committee was able to approve all policy matters within their terms of reference, unless there was a budget impact outside the budget approved for that committee. In circumstances where there was a budget impact outside the committee's approved budget, the matter must be referred to the Strategy and Resources Committee for consideration unless otherwise permitted by Financial Regulations.
- c) **Financial Regulations.** In response to a question from the Vice Chair, the Head of Legal informed the Committee that the Terms of Reference of the Committees were read in conjunction with the Council's Financial Regulations. The Financial Regulations set out that Committees had delegated authority to approve initiatives outside of the approved budget (up to a maximum of £50,000) if certain conditions were met as set out in the Regulations. These conditions included the agreement of the Chief Finance Officer.

- d) **Amendment to Licensing and Planning Policy Committee Terms of Reference.** The Committee noted that Term of Reference 4 of the Licensing and Planning Policy Committee as detailed on page 82 of the agenda had been included in error and would be deleted prior to consideration by Full Council.
- e) **Amendment to Scheme of delegation.** In response to a question from a member, the Head of Legal informed the Committee that the Council would be able to consider and approve an amendment to the Scheme of Delegation at its upcoming meeting despite having considered the Scheme at a meeting less than 6 months ago. The Council would not be considering a proposal which would be contrary to its previous decision.
- f) **Process for future changes to the Constitution.** In response to a question from a member, the Head of Legal informed the Committee that future changes to the Constitution (including amendments to Committee Terms of Reference) would be considered by the Constitution Working Group, brought to this Committee then recommended to Full Council for adoption.
- g) **Risk of policy fracture.** In response to a question from a member, the Vice Chair informed the Committee that the risk of policy fracture was addressed by the Council's Annual Plan providing clear direction on strategic priorities, regular meetings of all policy committee chairs and vice chairs and engagement from the Corporate Management Team. In response to a further question on the matter the Head of Legal informed the Committee that paragraph 1.3 of Appendix 3 to the Constitution (Terms of Reference) set out that in the event of there being uncertainty over the responsibility for a matter falling within the purview of more than one committee, the Chair of the Strategy and Resources Committee shall in consultation with the Monitoring Officer determine who shall make the decision.
- h) **Appendix 3, paragraphs 1.2 and 1.3.** The Vice Chair identified that paragraph 1.2 and 1.3 should be amended to include the words "Vice Chair of Strategy and Resources" in both provisions. The Head of Legal informed the Committee that these amendments were detailed in the agenda supplement published for this item.
- i) **Senior Management Structure diagram.** In response to a question from the Vice Chair, the Head of Legal informed the Committee that the Senior Management Structure diagram was maintained by the Council's HR team and would be updated as required.
- j) **Procedure during absence of relevant officers.** In response to a question from the Vice Chair, the Head of Legal informed the Committee that the live register of declarations would enable a time-limited delegation to a different officer to be put in place in the event of the planned absence

of an officer. The Live Register of delegations would be included on the Transparency page of the Council's website.

- k) **Procedure for urgent decisions.** In response to a question from a member, the Head of Legal informed the Committee that the wording of section 3.1 i. of appendix 2 had been recommended by external legal counsel following comparison with the standing orders of other neighbouring authorities of a similar nature and had been included within the Council's Constitution for a number of years.
- l) **Report to Audit and Scrutiny Committee on significant delegated decisions.** In response to a question from the Vice Chair, the Head of Legal informed the Committee that draft reports were shared with the Chair and Vice Chair of the Audit and Scrutiny Committee in advance of the publication of agendas for that committee and that this enabled their consideration of whether delegated decisions met the threshold of the test of significance.
- m) **Determination of Tree Preservation and High Hedges applications.** In response to a question from the Vice Chair, the Head of Legal informed the Committee that these matters had now been included within the delegation to the Head of Place.
- n) **Constitution Working Group consideration.** In response to a question from a member, the Head of Legal informed the Committee that the wording of paragraph 3.4 of Appendix 5 (Protocol for Managing Councillor / Officer relations) had been recommended by external legal counsel following comparison with the standing orders of other neighbouring authorities of a similar nature, but had not been considered by the Constitution Working Group in advance of the meeting of the Committee. The Head of Legal informed the Committee that the other amendments proposed by the report had been considered by the Working Group.
- o) **Amendment to paragraph 3.4, Appendix 5 (Protocol for Managing Councillor / Officer relations).** The Vice Chair proposed, and Councillor James Lawrence seconded an amendment to paragraph 3.4 of Appendix 5, that the paragraph be amended to read:

“A Councillor should not approach officers directly to instruct that they work upon an issue that is not already included in an agreed workplan.”

Following consideration this amendment the Committee agreed this amendment, there being 3 votes for, 1 vote against, 1 abstention and the Chair not voting.

- p) **Paragraph 2.10, Appendix 7 (Protocol for Members of the Public Speaking at Committees).** In response to a question from a member, the Head of Legal informed the Committee that the inclusion of additional

wording in paragraph 2.10 of Appendix 7 was to clarify the intention of the paragraph and provide consistency to public speaking at meetings.

- q) **Scrutiny.** In response to a question from a member, the Head of Legal informed the Committee that Annex 4.6 of the Council's Operating Framework set out the arrangements for overview and scrutiny at the council and should be read in conjunction with the scrutiny procedures set out in Appendix 2 (Scheme of Delegation to Officers). Requests by councillors for scrutiny of delegated decisions should be made to the Council's Scrutiny Officer.

Following consideration, the Committee unanimously resolved to:

- (1) **Recommend that the Full Council approve the updated Appendices (2, 3 and 4) and Annexes (2-4, 3-3, 4-7, 5-1, 5-2, 5-3 and 6-2) and additional updated within the addendum to the report, so that they be adopted.**

The Committee resolved with 4 votes for, 1 vote against and 1 abstention to:

- (2) **Recommend that the Full Council approves the updated Annexe 4-2.**

The Committee unanimously resolved to:

- (3) **Agree that the Standard and Constitution Working Group review its Work Plan for this municipal year and bring a revised work programme to the next meeting of this Committee.**

The meeting began at 7.30 pm and ended at 9.12 pm

COUNCILLOR LIZ FROST (CHAIR)