



Agenda

Meeting: **Constitution Working Group**
Date: **15 November 2023**
Time: **3.00 pm**
Place: **Zoom – Remote meeting**

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To: Councillors Mrs Jennifer Hollingsbee, Jim Martin, Connor McConville,
Tim Prater and Paul Thomas

1. **Apologies for absence**
2. **Declarations of interest**
3. **Minutes**

To agree as a true record the minutes of the meeting held on 24 October 2023.

4. **Discussion on various aspects relating to the change in Governance Arrangements**

To receive a presentation from David Kitson of Bevan Brittan, and have a discussion on the following points:

- Spokesperson role
- Financial thresholds
- All Member Briefing.

Queries about the agenda? Need a different format?

Contact Jemma West – Tel: 01303 853369
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Minutes

Constitution Working Group

Held at:	Remote meeting (Zoom)
Date	Tuesday, 24 October 2023
Present	Councillors Mrs Jennifer Hollingsbee, Jim Martin, Connor McConville, Tim Prater and Paul Thomas
Apologies for Absence	None.
Officers Present:	Ellen Joyce (Democratic Services Trainee), Susan Priest (Chief Executive), Kirsty Roberts and Jemma West (Democratic Services Senior Specialist)
Others Present:	David Kitson, Bevan Brittan.

1. **Declarations of interest**

There were no declarations of interest at the meeting.

2. **Minutes**

The minutes of the meetings held on 31 August and 29 September 2023 were agreed as true records of the meetings.

3. **Confirmation of proposals discussed at the September Working Group and Group responses**

David Kitson, of Bevan Brittan, introduced his presentation which set out the proposed structure for the new committee system, along with descriptions for each of the service committees, role descriptions for the spokespersons, and a summary of officer delegations.

Members commented on various aspects of the presentation and made points including the following:

- In terms of the spokesperson role, was this adequately defined in terms of the role description and title of the role?
- Could the Chair and Vice-Chair of Committees also be the spokespeople?

- Would it make sense for the spokespersons to be aligned with the remit of the two directors, for each of the committees, rather than having 9 different people? Would it be more appropriate, rather than setting the spokespersons at the outset, if there were particular topics which needed input, could a task and finish group be created? The current proposals around spokespersons did not seem streamlined.
- The draft role description for spokesperson made clear that there was no decision-making powers. The spokesperson would act as the check and balance, sense checking where required, and liaising with officers.
- It was the role of the Independent Remuneration to make recommendations in terms of any Special Responsibility Allowances.

David Kitson responded to some of the issues raised and made points including the following:

- The spokesperson title was appropriate as it did not suggest that the role had any decision-making powers. It was important to ensure it was clear publicly what the nature of the role was, which would offer some mitigation against any risks in terms of ostensible authority.
- It was possible for spokespersons to also be the Chair and Vice-Chair of Committees, but it was important to ensure the role was not too burdensome, so it reduced the focus of the Chair. If there were fewer spokespersons, the role would be broader.
- Task and Finish Groups could be created, and Members could pick topics for this where appropriate. A committee model of governance was not as streamlined as a Cabinet model, as there were no cabinet member decision making powers. Officers therefore needed to be given greater delegations to ensure decision making could still be efficient. It was likely that once the authority was working within the new governance arrangements, tweaks would need to be made.

David then outlined the referral and rescission processes, inviting feedback, particularly in respect of the thresholds. Members commented on various aspects, including the following:

- In terms of the referral process for officer key decisions, there was a requirement for representatives from two political groups to sign the request. What would happen in the event of a change in political balance?
- Did the MO, as well as the Chief Executive, have the authority to reject a request for referral to committee? If an item was rejected, how would this then be reported?
- The rescission process acted as a second crash barrier, and three days to put in a rescission request seemed adequate.

David responded to some of the issues raised, and made points including the following:

- In the event of a change in political balance, where it would be difficult to get signatures from two different political groups, the referral process would

need to be amended to reflect this. The constitution could be amended at an ordinary meeting of the Council, rather than having to wait for an Annual Meeting. However, wording could be added to address a scenario where there was only one political group represented on the Council.

- As per Paragraph 5 (b) and (c) of the draft document, the Chief Executive or her nominee could reject an item if it was considered likely that the removal of delegation in respect of a Key Decision due to be taken by an officer and to be referred to a policy Committee for determination would cause serious prejudice to the Council's or the public's interest. In such a case, it would be reported to the next available meeting of the appropriate policy committee.

Members agreed the following points:

- **Referral of officer key decisions to Committee**

The threshold to be set to at least six members, from either committee including from at least two political groups and inclusive of the relevant spokesperson or a committee chair or vice-chair. Requests to be submitted before the expiry of three full working days prior to the date on which the Forward Plan states that the item of business was due to be determined. It was noted that in the event of a change to political balance, the constitution would be amended in a timely manner.

- **Rescission process**

That requests be submitted before the expiry of three full working days from the date on which the decision notice was published, and be supported or signed by at least half of the Members of the Council.

4. **Financial limits for and between committees and council**

The Working Group Members indicated that in terms of financial limits, it would be useful to see the current levels before making a decision. It was agreed that this information be provided for the next meeting of the Working Group, and a further discussion would take place.

5. **All member workshop content**

David Kitson advised that an all Member Briefing would include high level principles for the new structure, which might still require some finessing. The briefing was scheduled for November, with the date and time to be agreed.

The Working Group Members made points including the following:

- It would be useful to do a comparison exercise for the all member briefing, using all decisions made by Cabinet in the last two years, showing which committee each decision would be made by in the new arrangements, and those which would be delegated to officers.
- It would be useful to discuss the role of the spokesperson at an all member briefing, particularly in terms of the number of spokespersons

and how they would be appointed. The workload demands on officers to operationalise the matter also needed to be considered.

It was agreed by the working group that the roles and scopes of spokesperson and the Chair and Vice-Chair of Committees would be further discussed at the next meeting of the Working Group, with examples and options prepared by David.

Constitution Working Group

Folkestone & Hythe DC

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For 15 November 2023

Agenda Item 4

From the last meeting

- Threshold for referral of key decision to Committee agreed:
 - at least 6 members from at least 2 political groups, inclusive of relevant spokesperson or a committee chair/vice chair;
 - requests submitted before expiry of 3 full working days prior to date decision to be made
- Threshold for rescission process agreed:
 - Requests submitted before expiry of 3 full working days from date of publication of decision notice;
 - Signed by at least half of Council members
- Financial limits for committee decisions to be considered further
- All member briefing to be finalised
- Comparison of previous Cabinet decisions – where would these be made in the new structure?
- Roles of spokespersons to be further discussed and clarified
- Roles of Chairs and Vice Chairs to be discussed

Spokespersons

- Scope
- Alignment
 - Themes
 - Committees
 - Directorates
- Duties
- Reporting
- Protocol document?
- Appointment
 - By whom?
 - Term (subject to removal)?
- Risks

Financial thresholds (1)

- Virements – current limits
 - HoPS can vire payroll budget to various budget headings, to facilitate delivery of existing policies
 - Chief Officers can vire within a budget heading, and across budget headings, up to £20k
 - HoPS (in consultation with Leadership Team) can transfer between budget headings up to £15k
 - Cabinet approval for virements over £25k
 - Full Council approval for virements outside Budget & Policy framework
 - All virements reported to Cabinet
 - Limits are cumulative for the financial year

Financial thresholds (2)

- Virements – suggested
 - HoPS can vire payroll budget to various budget headings, to facilitate delivery of existing policies (SAME)
 - Chief Officers can vire within a budget heading, and across budget headings, up to £25k
 - Virements between £25 and £50k to be agreed by relevant Director and s.151
 - Virements between £50k and £100k to be agreed by relevant Director and s.151 in consultation with relevant Committee Chair

Financial thresholds (3)

- Key decision financial threshold currently:
 - £300k standard
 - £500k where relates to entering into contractual obligation
 - £500k for acquisition or disposal of land or property
- Proposed thresholds for Committee decision:
 - Award of contracts – if outside of approved budget/non-routine?
 - Acquisition/disposal of land or property
 - Reference to “material” as being appropriate trigger?
 - HoPS, Directors and s.151 to determine what is material on a case by case basis?

All Member Briefing

- 6pm Monday 11 December 2023
- Principles based
- Outline of work undertaken by CWG
- Overview of structure
- Timeline

Discussion