

## Minutes of the Meeting of the Constitution Working Group held on 12 December 2023 at 7.00 pm

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**Present:** Councillors Graham Snell (Chair), Andrew Jefferies, Joycelyn Redsell, Neil Speight and Lee Watson

**Apologies:** Councillors Lynn Worrall (Vice-Chair), Deborah Arnold and John Kent

**In attendance:** Matthew Boulter, Head of Democratic, Scrutiny and Member Services  
Asmat Hussain, Director of Legal and Governance and Monitoring Officer  
Rhiannon Whiteley, Senior Democratic Services Officer

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Before the start of the Meeting, all present were advised that the meeting may be filmed and was being recorded, with the audio recording to be made available on the Council's website.

### **1. Apologies for Absence**

Apologies were received from Councillor Arnold, Councillor J Kent and Councillor Worrall.

### **2. Items of Urgent Business**

There were no items of urgent business.

### **3. Declarations of Interest**

No interests were declared.

### **4. Finance Procedure Rules Update 'Report to Follow'**

The Interim Director of Legal and Governance and Monitoring Officer confirmed that the meeting is not being live streamed as it is a working group but members of the public were welcome to come and observe the meeting.

The Head of Democratic Scrutiny and Member Services stated that on the 14 November 2023 CIPFA (The Chartered Institute of Public Finance and Accountancy) attended the Civic Offices. CIPFA has taken comments on board, re-worked the procedure rules and also included some of the comments from officers.

Madeleine Humphreys from CIPFA presented to the meeting the document 'Changes to Financial Regulations since 14.11.23 MCWG Meeting'.

The following key points were highlighted: -

- Members expressed concern that anything in the Finance Procedure Rules should be solely approved by the S151 Officer and they would not be happy with the CFO doing anything in isolation. The Chief Executive / Managing Director should also have to approve.
- Madeleine confirmed the group had strong feelings about the financial limit of £500k for a key decision and therefore this remains the same for revenue and capital decisions. Although it can be reviewed annually as part of the budget setting process.
- CIPFA wrote the guidance on Council owned companies, they are very thorough and easy for the council to see at a glance that everything is in place.
- The meeting discussed memorandum of understanding was not sufficient on its own. The meeting discussed how a company is legally set up and that Articles of Association are required.
- Members confirmed that the constitution needs to be very specific and not vague or open to interpretation.
- Members requested the following amendment in relation to the Scheme of Delegation pg 2 2.4 and 2.5 – officers *should* have due regard to advice provided is replaced with officers *must* have due regard.
- Members raised that on page 4 regarding Directorate delegation – there needs to a written record of who is delegated responsibility for doing something and specifically what they are delegated to do.
- Members raised that in part 5 – in exceptional circumstances where it is commercially sensitive it states that consultation with members is not required. Members queried what happens when commissioners are no longer part of the picture. CIPFA responded that it was a good point which they did go backwards and forwards on however it can be taken out and the constitution should be reviewed annually and needs to keep pace with what is happening in Thurrock.
- Members raised that the Council is in the position that it is because of that clause. Members suggested the information is shared with members but they are asked to sign a non-disclosure agreement. There should be no commercially sensitive information that cannot be shared with members.
- Members raised that '*commercially sensitive*' was used by the previous Chief Executive a lot.
- Members raised that even in an emergency there still needs to be a recording so it can be re-visited as a point of record.
- Members referred to paragraph 5.1 and 5.2 and highlighted that members seem to have been forgotten about and they take the flack as they see the residents.
- Members proposed 5.1 and 5.2 re-written to include the Chief Executive. 5.3 – do not want wording 'when a commercially sensitive thing has expired'.

- Member's noted that CIPFA many not have understood the depth of feeling in Thurrock.
- Members highlighted in relation to 8.1 and conflict of interest. If someone has a conflict of interest they should be removed from the decision making.
- Members requested that the constitution drafting is watertight and that member oversight is required every step of the way.
- Members suggested before any decision is made the leader could be made aware even if in a private briefing. Members queried the process for Directors disclosing conflict of interests.
- The Interim Director of Legal and Governance and Monitoring Officer agreed with the points raised by members and that the rules can be tightened up. The Interim Director of Legal and Governance and Monitoring Officer confirmed that officers on an annual basis fill out a register and declare any interests for the purpose of internal and external audit. As part of the internal audit a register of gifts and hospitality should be taken to the Standards and Audit Committee.
- Members raised that in relation to section 8, it should not be Chief Executive who delegates but the monitoring officer instead. Members were not happy with section 8 in its entirety.
- Members raised if there is a procedure for a log of important decision making to act as an added level and record of decision making. This would not have to be available to the public.
- Madeleine from CIPFA responded that she takes the point on conflict of interest and they can come up with something more palatable for members.
- Members noted that there was no mention of the Assistant Chief Executive anywhere. Madeleine from CIPFA confirmed she did not know about that role and can include it.
- Members stated that previously officers were making decisions based on their own interpretation of the constitution, there needs to be no wiggle room. Flexibility is not needed and the oversight of members is required at every stage.
- The Interim Director of Legal and Governance and Monitoring Officer agreed and stated that every year discussions need to take place about whether the constitution is still fit for purpose.
- Members agreed decisions should go to the Leader and PFH and if they divulge commercially sensitive information there should be a disciplinary procedure in place for that.
- Members requested if they can have a document showing the changes made.
- Madeleine from CIPFA clarified that she did try to run a comparison document but it didn't give a meaningful comparison. It would take a long time to prepare and would not be value for money. It is not feasible in the timescales and with the resources they have.
- Members requested that the table provided this evening could be updated so members can refer back to it.
- Members queried how long the review of the constitution will take. The Interim Director of Legal and Governance and Monitoring Officer

responded that when this process commenced she drew upon previous experiences and made reference to 12 months. The Interim Director of Legal and Governance and Monitoring Officer confirmed that during this process it may be that some sections can be taken to Full Council to be adopted earlier. Members confirmed that they would support the new Finance Procedure Rules and Scheme of Delegation being introduced soon.

- The Head of Democratic Scrutiny and Member Services confirmed that re-drafted parts of the constitution will go to Constitution Working Group first, then to the General Services Committee and finally to Full Council so that all members have an opportunity to look at them and comment.
- The Head of Democratic Scrutiny and Member Services raised that they will be looking at the Overview and Scrutiny Work Programmes in January 2024 and a report to Full Council will be taken in March regarding the new Overview and Scrutiny structure. There will be new Terms of Reference drafted for the committees which will go through, SLT, Governance Review Board, Constitution Working Group, General Services Committee and finally Full Council. The Head of Democratic Scrutiny and Member Services sought members opinion on that. Members confirmed that they were happy with the Terms of reference being circulated to them beforehand to make comments.
- Members suggested that the Chairs and Vice of Chairs of the Overview and Scrutiny Committees next year need to go on mandatory training. The Head of Democratic Scrutiny and Member Services confirmed this would need to be a Full Council decision.
- Members queried if Democratic services were resourced properly. The Head of Democratic Scrutiny and Member Services agreed there are a lot of projects to work through but they had two scrutiny officers starting in January 2024.
- The Head of Democratic Scrutiny and Member Services confirmed that they are taking a report to the Standards and Audit Committee on Member Learning Development in February 2024. It will be a member led decision. A register of attendance is proposed, to be more open and transparent.

**The meeting finished at 8.25 pm**

Approved as a true and correct record

**CHAIR**

**DATE**

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Democratic Services at [Direct.Democracy@thurrock.gov.uk](mailto:Direct.Democracy@thurrock.gov.uk)**