

MAIDSTONE BOROUGH COUNCIL

DEMOCRACY AND GENERAL PURPOSES COMMITTEE

**MINUTES OF THE MEETING HELD ON WEDNESDAY 13
NOVEMBER 2019**

Present: Councillor Mrs Gooch (Chairman), and
Councillors Mrs Blackmore, Chappell-Tay, Mrs Gooch,
Hastie, Joy, Kimmance, Perry, Purle and Webb

40. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Lewins.

41. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Kimmance was present as a Substitute for Councillor Lewins.

42. URGENT ITEMS

The Chairman informed the Committee that she had agreed to take an urgent update to Agenda Item 14 – Reference from Council – Motion – Access to Information. The reason for urgency was that the amended agenda provided further information to ensure that the Members of the Committee could make an informed decision.

43. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

44. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

45. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

46. EXEMPT ITEMS

RESOLVED: That all items be taken in public as proposed.

47. MINUTES OF THE MEETING HELD ON 4 SEPTEMBER 2019

RESOLVED: That the minutes of the meeting held on 4 September 2019 be approved as a correct record and signed.

48. PRESENTATION OF PETITIONS

There were no petitions.

49. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

50. COMMITTEE WORK PROGRAMME

RESOLVED: That the Committee Work Programme be noted.

51. PRESENTATION - NEW LOOK CONSTITUTION

The Democratic and Electoral Services Manager gave a presentation to the Committee on the new look for the Constitution.

The Committee noted that:-

- The Constitution could be accessed online and via the modern.gov app.
- The document had been split up into its relevant parts for ease of reference.
- The document would be scrutinised by the Monitoring Officer in terms of content before being agreed by Council in March.

RESOLVED: That the presentation be noted.

52. REFERENCE FROM THE AUDIT, GOVERNANCE AND STANDARDS COMMITTEE - ACTIONS ARISING FROM THE INVESTIGATION INTO THE RELEASE OF EXEMPT INFORMATION CONTRARY TO PART 1 OF SCHEDULE 12A TO THE LOCAL GOVERNMENT ACT 1972

The Committee considered the Reference from Audit, Governance and Standards Committee which related to actions arising from the investigation into the release of exempt information contrary to Part I of Schedule 12A to the Local Government Act 1972.

The Democratic and Electoral Services Manager advised that the Reference from the Audit, Governance and Standards Committee requested that the Committee reviewed how the actions to be taken to manage the risks of exempt information being made public were implemented.

The Committee made the following comments:-

- That there should be an element of trust on both sides.
- The whole investigatory process was unnecessary and that instead efforts should be made to re-establish trust on both sides.

The Committee discussed the action points put forward by the Audit, Governance and Standards Committee and made the following comments:-

- That Action i) should be amended to 'A training course would be made available to Members on Media training and insight if required'
- Action ii) should be agreed
- Actions iii) and iv) should be deleted as they were not necessary and that the Council should move forward on both sides and draw a line under the experience in order that trust could be restored.

RESOLVED:

- 1) That action i) be amended to 'A training course would be made available to Members on Media training and insight if required'.
- 2) That action ii) be agreed – 'Officers will be provided with training from Democratic Services on how to structure reports to minimise the information required to be taken in Part II of a meeting'.
- 3) That actions iii) and iv) be deleted.

53. REFERENCE FROM COUNCIL - MOTION - ACCESS TO INFORMATION

The Committee considered the Reference from Council on a Motion which related to Access to Information.

The Head of Policy, Communications and Governance referred the Committee to the Briefing Note set out in Appendix A to the report which outlined the rights of Members to exempt information.

The Committee was informed that the Motion removed the 'need to know' test by suggesting that Councillors should be given access to all Council documentation by virtue of their decision as a Councillor. Following the discussion at the meeting and the proposal of additional amendments for the Committee to consider, external Counsel advice was sought on the matter.

The Head of Policy, Communications and Governance explained that the external advice was clear in that to pass such a Motion to allow Councillors to request such information, without demonstrating a need to know basis, went beyond the boundaries of the law. Such a change would not be legally compliant if agreed.

The Head of Legal Partnership provided further clarification in regard to the Counsel's Opinion and in summary concluded that the proposal, as set out in the Motion, went beyond the statutory requirements of the law.

In response to a question from a Member, the Head of Policy, Communications and Governance advised that when Councillors had requested exempt information previously, each case was taken on its own merits. Ordinarily if a report was commercially sensitive then it would not be available to all Members unless there was 'a need to know basis', however if a decision on a report would affect a particular Ward, then those Ward Members would be alerted by Officers.

The Head of Legal Partnership emphasised that there was no automatic right to access to exempt information and that the Proper Officer must consider each request.

RESOLVED: That following Counsel's Opinion, the Motion would not be progressed.

54. WHOLE COUNCIL ELECTIONS - CONSULTATION STAGE APPROVAL

The Democratic and Electoral Services Manager introduced a report on moving to Whole Council Elections.

The Committee was informed that following a Motion to full Council in February 2019 on Whole Council Elections, the Council adopted the Motion and requested that a report be provided to this Committee for consideration.

During the debate the Committee made the following comments:-

- Four yearly elections were popular with residents
- There were significant savings to be made for the Council if it changed to four yearly elections
- If four yearly elections were implemented then the Council could lose many experienced Councillors
- The current system of one thirds elections created voter apathy, a low turnout and instability for the Council
- Should a consultation be pursued then it should be carried out at the right time, not just after the General Election
- In the event of no overall control of the Council then it would be difficult to implement decisions

RESOLVED: That the Committee agree not to proceed to the consultation stage for Whole Council Elections and to retain the current election cycle of one thirds elections.

55. COMMITTEE STRUCTURE REVIEW - 6 MONTH UPDATE

The Committee noted the six month update report on the Committee Structure Review.

RESOLVED: That the report be noted.

56. DURATION OF MEETING

6.30 p.m. to 8 p.m.