

CONSTITUTION SUB COMMITTEE

THURSDAY, 29 OCTOBER 2015

PRESENT: Councillors David Burbage (Chairman), Phillip Bicknell (Vice-Chairman) and Malcolm Beer and Simon Dudley.

Also in attendance: Councillor Mrs Jones

Officers: Sean O'Connor and Karen Shepherd

APOLOGIES FOR ABSENCE

An apology for Absence was received from Councillor Jenner.

DECLARATIONS OF INTEREST

None received

MINUTES

RESOLVED UNANIMOUSLY: That the minutes of the meeting held on 16 March 2015 be approved.

CONSTITUTIONAL CHANGES - MEMBER/OFFICER PROTOCOL

Members considered possible options relating to 'Part 7D – Member / Officer Protocol' in particular to procedures where information was supplied to Councillors.

The Chairman reminded Members that he had originally proposed a change at Full Council on 24 September 2015, to reinstate a paragraph that had been removed relating to factual information held by the council, and available to any councillor or member of the public. When a councillor accessed the information, the relevant Panel Chairman and Lead Member should also be told. He felt this was a proper, equitable and fair clause and the situation was no different to a Freedom of Information request where both the request and response were published on the website. To have a different standard for councillors would be perverse, backward and bizarre. He therefore proposed the clause be reinstated.

Councillor Dudley commented that he was aware the clause used to feature in the constitution and asked when it had been removed. The Chairman stated that he was aware the clause had been in place during the previous administration. It had probably been removed, for reasons unknown, during the last major review of the constitution in 2009. The absence caused problems for officers who were put in a difficult position and unsure of the obligation to confidentiality. The proposal would remove any ambiguity.

Councillor Dudley commented that a fair understanding of the facts was an important principle between the administration and the opposition, to enable Members to debate the facts on the substance of an issue. There was a potential that, without the clause, officers would be put in a difficult position.

Councillor Bicknell asked the Opposition Members what problems they had with the proposal. He understood that if the issue came under Freedom of information, everyone would be able to know anyway. If the issue was confidential, this was not being disputed. The Chairman commented that if a Councillor accessed Part II information, that would not be accessible to the public, but it would still be available to other councillors.

Councillor Mrs Jones stated that she had no problem with factual information. However she was concerned as there was no need for a Lead Member to know who had asked for the information, therefore she felt that emails going to an officer should not be passed on. If a councillor had received agreement from a resident to forward on a trail of emails to an officer, the officer would then be in the position of having to decide whether or not to forward it on. The Chairman commented that such information would become a public document once inside the council network anyway, apart from the private information relating to a resident. The Interim Monitoring Officer confirmed that information provided in confidence would be excluded from Freedom of Information. Councillor Mrs Jones stated that she had no problem with data resulting from her request being distributed, but she was concerned about her correspondence. The Chairman commented that as soon as it was submitted to council offices, such correspondence became a public document. The Interim Monitoring Officer commented that with the change proposed, residents would be submitting on the understanding that their email would not be confidential.

The Chairman stated that, if the proposal were agreed, it would be important that it was communicated to officers. The Chairman agreed, and asked for it to be minuted, that who requested the information would not need to be disclosed. The Interim Monitoring Officer confirmed that the issue was not a legal one but came under standing orders. The Chairman highlighted that the clause required the information to be provided, not the name of the requestor.

Councillor Beer stated that the clause previously referred to written communications. The Chairman responded that if a councillor spoke to an officer, he did not receive a transcript of the conversation, however if written information was provided, it should be distributed to others as appropriate.

Councillor Bicknell commented that he was awaiting a decision from legal officers about distribution of an email marked 'confidential' from the planning department. Although an email was marked as confidential, this did not necessarily mean the information contained in it was confidential.

Councillor Mrs Jones asked whether a reciprocal arrangement would be in place, in that the Leader of the opposition would receive data given to other councillors. The Chairman stated that this would not be the case, and had not happened previously when he had been Leader of the Opposition. Councillor Beer referred to a clause in the constitution that no political group should be given extra support from council resources above others. This was an example of when the administration would receive information denied to other parties. If groups were unaware of information, he felt they were being denied full access to resources of the council. The chairman stated that the information would be supplied to the appropriate Panel Chairman, which would not necessarily be a member of the administration.

RESOLVED: That the Sub Committee agree to adopt option 4 as described in section 2.2 of the report to include the clause:

‘Where a Councillor requests factual information (usually written) from an Officer as set out in paragraph 2.3 above, that information will also be supplied to the Chairman of the appropriate Panel, Forum or Committee, or the relevant Lead Member of the Cabinet, and relevant Officers.’

(Councillors Burbage, Bicknell and Dudley voted in favour of the motion. Councillor Beer voted against the motion).

The meeting, which began at 9.00 am, finished at 9.26 am

CHAIRMAN.....

DATE.....