

NOTICE
OF
MEETING



CONSTITUTION SUB COMMITTEE

will meet on

TUESDAY, 21ST JUNE, 2016

At 5.30 pm

in the

ASCOT AND BRAY - TOWN HALL, MAIDENHEAD

TO: MEMBERS OF THE CONSTITUTION SUB COMMITTEE

COUNCILLORS LISA TARGOWSKA (CHAIRMAN), PHILLIP BICKNELL (VICE-CHAIRMAN), JOHN STORY AND MALCOLM BEER

SUBSTITUTE MEMBERS

COUNCILLORS SIMON DUDLEY, RICHARD KELLAWAY, DAVID COPPINGER, LYNNE JONES AND SIMON WERNER

Karen Shepherd - Democratic Services Manager - Issued: 13 June 2016

Members of the Press and Public are welcome to attend Part I of this meeting. The agenda is available on the Council's web site at www.rbwm.gov.uk or contact the Panel Administrator **Karen Shepherd** 01628 796529

Fire Alarm - In the event of the fire alarm sounding or other emergency, please leave the building quickly and calmly by the nearest exit. Do not stop to collect personal belongings and do not use the lifts. Congregate in the Town Hall Car Park, Park Street, Maidenhead (immediately adjacent to the Town Hall) and do not re-enter the building until told to do so by a member of staff.

Recording of Meetings – The Council allows the filming, recording and photography of public Council meetings. This may be undertaken by the Council itself, or any person attending the meeting. By entering the meeting room you are acknowledging that you may be audio or video recorded and that this recording will be available for public viewing on the RBWM website. If you have any questions regarding the council's policy, please speak to the Democratic Services or Legal representative at the meeting.

AGENDA

PART I

| <u>ITEM</u> | <u>SUBJECT</u> | <u>PAGE NO</u> |
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| 1. | <u>APOLOGIES FOR ABSENCE</u> To receive any apologies for absence | |
| 2. | <u>DECLARATIONS OF INTEREST</u> To consider any declarations of interest | 5 - 6 |
| 3. | <u>MINUTES</u> To consider the minutes of the meeting held on 29 October 2016. | 7 - 10 |
| 4. | <u>MEMBERS' CODE OF CONDUCT REVIEW</u> To consider the above report | To Follow |

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MEMBERS' GUIDANCE NOTE

DECLARING INTERESTS IN MEETINGS

DISCLOSABLE PECUNIARY INTERESTS (DPIs)

DPIs include:

- Any employment, office, trade, profession or vocation carried on for profit or gain.
- Any payment or provision of any other financial benefit made in respect of any expenses occurred in carrying out member duties or election expenses.
- Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.
- Any beneficial interest in land within the area of the relevant authority.
- Any license to occupy land in the area of the relevant authority for a month or longer.
- Any tenancy where the landlord is the relevant authority, and the tenant is a body in which the relevant person has a beneficial interest.
- Any beneficial interest in securities of a body where
 - a) that body has a piece of business or land in the area of the relevant authority, and
 - b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body **or** (ii) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.

PREJUDICIAL INTERESTS

This is an interest which a reasonable fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs your ability to judge the public interest. That is, your decision making is influenced by your interest that you are not able to impartially consider only relevant issues.

DECLARING INTERESTS

If you have not disclosed your interest in the register, you **must make** the declaration of interest at the beginning of the meeting, or as soon as you are aware that you have a DPI or Prejudicial Interest. If you have already disclosed the interest in your Register of Interests you are still required to disclose this in the meeting if it relates to the matter being discussed. A member with a DPI or Prejudicial Interest **may make representations at the start of the item but must not take part in discussion or vote at a meeting.** The term 'discussion' has been taken to mean a discussion by the members of the committee or other body determining the issue. You should notify Democratic Services before the meeting of your intention to speak. In order to avoid any accusations of taking part in the discussion or vote, you must move to the public area, having made your representations.

If you have any queries then you should obtain advice from the Legal or Democratic Services Officer before participating in the meeting.

If the interest declared has not been entered on to your Register of Interests, you must notify the Monitoring Officer in writing within the next 28 days following the meeting.

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Agenda Item 3

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.....

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