

COUNCIL MEETING

16 OCTOBER 2008

SUPPLEMENTARY SUMMONS

ITEM 9(a) and (b)

CONSTITUTION - ANNUAL REVIEW

(Ref: Minutes of Corporate Management Committee 27 March 2008, page 861, para. 617).

The Committee considered a review of, and proposed updates to, the Council's Constitution.

Under Section 37 of the Local Government Act 2000, the Council had to maintain a Constitution containing its Standing Orders, a Code of Conduct for Members, such information as the Secretary of State might direct, and any other information which the Council considered appropriate. The document was made publicly available in electronic format.

Runnymede's Constitution had been compiled with the intention of providing a comprehensive reference document setting out the Council's key procedures and protocols rather than the minimum required by statute. It was normally revised annually in time for a new edition to be adopted at the Annual Council Meeting. However, this year, with the move to the new building absorbing much staff time, the review had been postponed. External Auditors had commented favourably on the fact that the Council reviewed the Constitution regularly. In March 2008, the Committee had requested that in connection with the review of the Constitution, Officers should report on the status and working practices of Member Working Groups in order to establish how they could best sit within the decision making structure. The Committee had also decided that the Terms of Reference for Committees should be revisited once it was clear whether the Council would be taking any highway environmental maintenance functions as agent from the County Council. The position on this possible transfer of functions was still the subject of discussion but should be clarified over the next few months.

The Committee noted a summary of the main changes in the draft revised Constitution which had been made available electronically and commended the thoroughness of the document, noting that only limited numbers would be printed in view of its size. The document would also be available on the website. Financial Regulations and the Finance Rule Book had been re-drafted by the Director of Finance. The Terms of Reference for the provision of internal audit services were included in the Constitution for the first time. The Anti-Fraud and Corruption Policy had been revised to strengthen certain sections, including protection afforded to 'whistleblowing' staff. The protocols under which staff had access to the Council's IT and Communications facilities had been extensively revised to reflect changes in law and employment practice since they had first been promulgated a number of years ago. The figures in the Scheme of Members' Allowances had been updated to reflect the inflationary uplift from 1 April 2008. The current Standing Orders for the Disposal of Land applied in very restricted situations and were of little practical use, so they had been revised to make them more flexible and of greater practical value.

In May 2008, the responsibility for receiving and vetting allegations that Members or co-opted Members had broken the Code of Conduct had passed from the Standards Board for England to the Standards Committees of local authorities. This had necessitated the drafting of new procedures, and the revision of existing procedures. The Committee considered that if a case of an alleged breach of the Code were to occur, it would be important that the proceedings to investigate the matter were conducted in as public a manner as possible, as the Council, rather than an independent body, would now be determining issues relating to the conduct of its own Members.

There were also a number of minor wording changes to add explanation, reflect minor changes in the law, or for clarification. No significant changes were proposed to the Articles of the Constitution, the Scheme of Delegation, or Procedural Standing Orders. The provisions of the Local Government and Public Involvement In Health Act 2007 relating to the introduction of executive arrangements did not apply to Runnymede. The authority continued to enjoy the exemption for areas below a certain population size.

The Committee also considered guidance which sought to ensure soundness of administration while retaining the advantage of the informality which working groups offered.

Ordinary Committees and Sub-Committees of the authority had to be formally constituted in such a way as to reflect the political balance requirements under the Local Government and Housing Act 1989. There were legal requirements for the publication of agendas and reports and access to background papers. Working groups were not part of the formal decision making process of an authority and could not lawfully be given any power to make decisions. In an alternative arrangements authority such as Runnymede, decisions could only be taken by a Committee, Sub-Committee or authorised Officer. As working groups had no legal status, they were not subject to any political balance or publicity requirements, although Runnymede normally included a mix of political groups when setting them up.

When a local authority created a working group, which could consist of Members and Officers or only Members with Officer advice and support, its function could only be to discuss a matter and offer views. The use of working groups was common where a local authority did not wish to formally create a sub-committee but wanted to establish a forum in which some sifting and discussion of detail could take place to assist a subsequent committee or sub-committee meeting to make a decision on the matter. The Committee confirmed that working groups in Runnymede had served this useful purpose. Depending on the subject and the composition of a particular working group, its view might carry significant weight, but it was important for all concerned to be clear that the decision itself could not be taken by the working group. The local authority had to be careful about how complex it allowed its informal structures such as working groups to become, and how much influence it gave to such bodies, in order to maintain transparency in its decision making. Runnymede had been prudent in this respect. Working groups were usually set up by direct authority of a Committee, with clear terms of reference and a prescribed mix of Members. They were also relatively few in number.

If any detailed rules such as Standing Orders were created for working groups, there was a risk that both inside and outside the authority their role might be confused with that of Committees and Sub-Committees. Nevertheless, it would be appropriate to include some guidance on the operation of working groups, and the Committee accordingly recommended that the guidance set out in Appendix 'A' should be added to the constitution.

**RECOMMEND that -**

- i) the Director of Administration and Leisure be authorised to amend the Council's Constitution as outlined in the preamble to this recommendation and the revised Constitution be adopted; and**
- ii) the paragraphs set out at Appendix 'A' be adopted as guidance for Working Groups, Committees, Sub-Committees and Officers as to the setting up and working practice of Member Working Groups, and included at an appropriate place in the Constitution.**

CHILD PROTECTION POLICY/SAFEGUARDING POLICY

The Committee considered a review of, and proposed changes to, the Council's policy for the protection of children and vulnerable adults.

The Council had first adopted a Child Protection Policy in January 1999. The Policy had been substantially revised and updated in 2004 to cover a wider range of vulnerable groups and to reflect changes in law and procedure. In January 2005 the Leisure and Environment Committee had resolved, following the Best Value Review of young people's activities, to develop internal protocols for training and information sharing under the Child Protection Policy.

As a District/Borough Council, Runnymede had no specific duties under the Children Act 1989, apart from its playscheme activities. Nevertheless, it offered many services to children and vulnerable adults. It could be found to owe a duty of care to take reasonable steps to protect them from reasonably foreseeable kinds of exploitation and abuse by persons associated with the authority, and would be expected to notify the appropriate authorities in the event of evidence of abuse from any quarter. A further revised Child Protection/Safeguarding Policy had now been drafted building on previous practice, but also reflecting further internal discussion on the correct balance between

checks, procedures, and the actual level of protection achieved. The revised policy was intended to form a sound basis for the Council to exercise its duty of care.

The Committee recommended that the policy be retitled the "Safeguarding Policy", in line with current usage by Government and other bodies, so that the policy would include both children and vulnerable adults.

The Committee noted the revised Policy and Appendices as set out in Appendix 'B' and the main changes from the previous version. In accordance with statute, the term "children" was defined as covering everyone up to the age of 18 years. There was a greater attempt to harmonise the document with the Government guidance for checking workers in schools and a modification of the original requirement to check staff already in post and to recheck every three years. Staff seeking to change jobs within the authority would be subject to the same checking requirements as outside applicants, existing staff would still be asked to cooperate with a check if they occupied a position in which a check would be required for a new recruit, and had not previously been checked, and rechecks would not take place automatically every three years, but only if the employee moved to a position involving greater responsibility for children or vulnerable adults, or if their manager became concerned that a further check might reveal new information. Staff working with children or vulnerable adults were placed under an explicit expectation of disclosure if they had been charged with or convicted of a criminal offence. The guidance for determining which (and to what levels) posts should be checked had been modified in the light of legal criteria and Criminal Records Bureau (CRB) guidance. It was important to recognise that a criminal offence was committed under the Rehabilitation of Offenders Act, if information about a "spent" conviction was used when the post did not fall into one of the exempt categories under which the CRB was empowered to divulge information.

The policy covered recruitment and employer safeguards, training and education of staff and others, and instructions on how to respond to suspicions of abuse. It was backed up by guidance on which posts should be checked via the CRB, and a guidance document for departments on implementation. CRB checks were conducted mainly through the Council's Personnel Section. While this added administration to the recruitment process, it could generally be contained within existing resources.

It was not expected that many existing staff would fall to be checked under the policy. However, should any cause for concern be revealed about an existing staff member, this presented potentially more complex issues than a recruitment decision, and these issues might take significant personnel and management time to resolve. In any such process the paramount objective had to be the protection of vulnerable persons but this had to be achieved in a manner consistent with the rights of staff. There was no requirement for Members of the local authority to be checked under the policy, although if Members were in contact with children or vulnerable adults in the same way as Council staff, then it would be legitimate for Members to be checked.

The local branch of UNISON had been consulted on a draft of the policy. UNISON had requested that the wording about the confidentiality of investigations into staff conduct be strengthened. UNISON had also requested that the policy should state that departmental Officers nominated to undertake multi-agency training and corporate liaison should be fully aware of the nature of the task before agreeing to undertake it, and that such responsibilities should be taken into account in the grading of the post. Subject to this, union representatives had noted the thoroughness of the policy, criteria and guidance notes which they welcomed. UNISON had also drawn attention to and expressed support for the National UNISON briefing note which stated the absolute importance of safeguarding vulnerable persons whilst ensuring transparency and fairness and a fair hearing should any allegations be forthcoming. Officers had sought to take account of UNISON's comments in the final draft of the policy.

It was noted that the Safeguarding Vulnerable Groups Act 2006 would, with effect from October 2009, bring about a new regime for checking prospective workers, under the Independent Safeguarding Authority. It was therefore recommended that the Safeguarding Policy be revisited at that time.

**RECOMMEND that -**

- i) the revised Safeguarding Policy as set out at Appendix 'B' be adopted;  
and**
- ii) a further report be brought in 2009 on any revisions to policy and  
procedure required on implementation of the Safeguarding Vulnerable  
Groups Act 2006.**