

DECISION REVIEW PROCEDURE RULES

- To:** Council
- Date:** 13th October 2015
- From:** LGSS Director of Law, Property and Governance and Monitoring Officer
- Purpose:** To consider proposed changes to the Decision Review Procedure Rules.
- Recommendation:** That, subject to any revisions required arising from consideration at this meeting of the report of the Audit and Accounts Committee on the Cambridge Library Enterprise Centre:-
1. The Council approves the amendment of Rule 3 of the Decision Review Rules (Decisions which may not be reviewed) to cover the position where a decision is rescinded prior to the consideration of a decision review request (paragraph 5.2 – 5.3 refers).
 2. Subject to any amendments approved at 1 above, the Council approves the revision of:-
 - (a) Part 4.5 of the Constitution (Decision Review Rules) as set out in Appendix A; and
 - (b) Article 6 of the Constitution (The Decision Review Process and Statutory Scrutiny Function) as set out in Appendix B.
 3. The Council authorises the Monitoring Officer, in consultation with the Chairwoman of the Constitution and Ethics Committee, to make any other minor or consequential amendments to the Constitution necessary for, or incidental to, the implementation of these proposals.

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1. BACKGROUND

- 1.1 At its meeting held on 15th September 2015, the Constitution and Ethics Committee considered a report regarding changes to the Decision Review Procedure Rules. Members noted that this procedure had been employed for the first time only recently. Officers had, as a result, identified some ambiguities within the current rules, particularly a question as to whether it was possible within the existing provisions to have a circular process of repeated reviewing of a decision.
- 1.2 In receiving the report, the Committee was mindful of the review currently being undertaken by the Audit and Accounts Committee in relation to the decision concerning the Cambridge Library Enterprise Centre and the potential for recommendations arising from that review to impact on the Decision Review process. Some Members indicated a preference for deferring consideration of the report, however the Committee agreed to proceed with consideration having noted that any necessary changes arising from the review by the Audit and Accounts Committee could be reported to the Council.

2. DECISION REVIEW RULES – NEED FOR REVIEW

- 2.1 The paragraphs below set out the reasoning for the need to amend the Decision Review Rules.
- 2.2 Part 4.5 of the Constitution sets out the rules which apply in respect of the review of a decision. Under a Leader and Cabinet system, this procedure is generally known as “call in” with decisions of the Executive, Executive members and key decisions taken by officers being subject to call in by the relevant Overview and Scrutiny Committee.
- 2.3 When the Council changed its constitutional arrangements and introduced the committee system, although there was no longer a statutory requirement for the Constitution to include such a procedure, Members opted to retain a form of decision review in the new arrangements.
- 2.4 Under the current rules, to trigger the review process, at least 8 members of the Council are required to submit a request for review of a decision that falls within the remit of the procedure, by the General Purposes Committee. At least 24 members of the Council are required to submit a request to trigger a review of a decision by Full Council.
- 2.5 The review of the decision of the Highways and Community Infrastructure Policy and Service Committee in respect of the Cambridge Central Library Enterprise Centre put the decision review provisions in Part 4.5 of the Constitution under the microscope and highlighted where some improvements might be made to clarify certain aspects of the process.
- 2.6 The decision of the Highways and Community Infrastructure Policy and Service Committee was subject to a decision review by the General Purposes Committee who referred the decision back to the Highways and Community Infrastructure Policy and Service Committee for re-consideration. The

Highways and Community Infrastructure Policy and Service Committee, at its meeting held on 2 June, made a decision to proceed with the proposals to develop an Enterprise Centre within Cambridge Central Library.

- 2.7. The Monitoring Officer ruled that the process for review of the decision of the Highways and Community Infrastructure Policy and Service Committee by the General Purposes Committee had been exhausted, although the second stage of review by Full Council was still available, subject to 24 members submitting a written request within the time limits. It is recommended that this process is made clearer within the wording of the relevant Rules.
- 2.8. In the case of the Central Library decision, a request was made by the requisite number of Members to refer the decision for review by Full Council. However, in view of new information that had come to light, the Chairman of the Committee exercised his authority to call a special meeting of the Committee to reconsider their original decision. The Committee rescinded its decision which effectively meant that the decision that had been subject of the decision review request no longer existed.
- 2.9. In the interests of efficiency of decision taking, there is a need to have a clear process identifying the point at which decisions will be implemented to avoid repeated calling in of the same decision.

3. UPDATED DECISION REVIEW RULES/ARTICLE 6

- 3.1. Amendments are proposed to the Decision Review Rules and Article 6. These amendments take account of revisions proposed by the Constitution and Ethics Committee at its meeting held on 23rd June 2015.
- 3.2. The revised Rules are set out in Appendix A to this report. Article 6 to the Constitution (The Decision Review Process and Statutory Scrutiny Function) is attached at Appendix B. Any deletions are denoted by strike through text and additions/amendments are denoted by underlined text.
- 3.3. Officers have also taken the opportunity to revise the proposed wording of Rule 4.2.1 to ensure that it is consistent with Rule 4.2.2.

4. COMMITTEES SUBJECT TO THE DECISION REVIEW PROCESS

- 4.1. The revised Rules at Appendix A (Rule 2) replicate the committees and decision takers already listed in Article 6 of the Constitution as being subject to the decision review procedure as follows:-
 - Policy and Service Committees (Adults, Children and Young People, Economy and Environment, Health and Highways and Community Infrastructure);
 - General Purposes Committee;
 - Joint Area Committees;
 - LGSS Joint Committee; and
 - Any Key Decisions made by officers (note: officers may not make Key Decisions unless specifically authorised).

- 4.2. Decision statements are prepared for these committees and those decisions may be subject to review under the decision review process.
- 4.3. There are a number of other committees that are not presently subject to the decision review process:-
- Audit and Accounts Committee;
 - Constitution and Ethics Committee;
 - Staffing and Appeals Committee;
 - Cambridgeshire Health and Wellbeing Board;
 - Planning Committee; and
 - Pension Fund Committee.
- 4.4. It is a well-accepted principle that decisions of a quasi-judicial nature should not be subject to a call in process since there will usually be recourse to separate appeals processes for such decisions. It would therefore not be appropriate for decisions of the Planning Committee, some decisions of the Staffing and Appeals Committee or the Service Appeals Sub-Committee when acting in a quasi-judicial capacity, to be subject to the decision review process.
- 4.5. The Constitution and Ethics Committee was of the view that the current arrangements should be maintained and only the committees listed in paragraph 4.1 should be subject to the decision review procedure.

5. RESCINDED DECISIONS

- 5.1. As indicated in paragraph 2.8 above, the decision of the Cambridge Enterprise Library was rescinded by the Highways and Community Infrastructure Policy and Service Committee, the Chairman having called a special meeting in the light of new information which had come to light.
- 5.2. The Constitution and Ethics Committee reflected on the implications of the rescission of a decision which is already subject to a review request. After discussion, it was agreed to recommend that in the event of a decision being rescinded prior to any decision review request being determined, the decision review process should not proceed on the basis that there is no extant decision for review.
- 5.3. The following addition is proposed to Rule 3 (Decisions which may not be reviewed) to reflect this change.
- (vi) A decision which has been rescinded by the relevant committee or decision maker prior to the determination of any request for a decision review in accordance with Rule 4.2.
- 5.4. The Committee agreed to defer consideration of whether Rule 17 of the Committee Procedure Rules (Previous Decisions and Motions) should be amended. This Rule covers the mechanisms that control the moving of a motion or amendment to rescind a decision made by a committee or sub-committee within the past six months or a motion or amendment in similar terms to one that has been rejected within that timescale. The Committee has requested the Monitoring Officer to submit proposals to enable further review by Members of arrangements for rescission of decisions.

- 5.5 At the time of writing, the review relating to the Cambridge Library Enterprise Centre had just been published and the report to the Audit and Accounts Committee identifies as an action point the need to clarify whether a decision may be rescinded by a Committee or whether this is the responsibility of the full Council. It is therefore timely that the Constitution and Ethics Committee is reviewing the issue of rescission of decisions and has requested a report from the Monitoring Officer.

6. CONCLUSION

- 6.1. Subject to any revisions required in the light of the review by the Audit and Accounts Committee to be considered at the Council meeting, the Council is invited to consider and approve the recommendations of the Constitution and Ethics Committee for review of the Decision Procedure Rules, as set out in this report.

SOURCE DOCUMENTS	LOCATION
Constitution	http://www.cambridgeshire.gov.uk/info/20050/council_structure/288/councils_constitution