

CONSTITUTION AND ETHICS COMMITTEE: MINUTES

Date: Thursday 4th February 2016

Time: 3.00pm – 4.20pm

Place: Kreis Viersen Room, Shire Hall, Cambridge

Present: Councillors M Smith (Chairwoman), S Bywater (substituting for Cllr Bullen), D Brown, A Dent (substituting for Cllr Reynolds), P Downes (substituting for Cllr Nethsingha), R Hickford, J Hipkin, M McGuire, P Reeve, J Scutt and S van de Ven (substituting for Cllr Cearn's)

Apologies: Councillors P Bullen, E Cearn's, L Nethsingha and K Reynolds

96. DECLARATIONS OF INTEREST

None

97. MINUTES – 19th NOVEMBER 2015 AND ACTION LOG

The minutes of the meeting held on 19th November 2015 were confirmed as a correct record and signed by the Chairwoman. In relation to the resolution in minute 86 ('that a report on the matter be put to the Highways and Community Infrastructure Committee and the Economy and Environment Committee and any subsequent approval for the proposal be taken straight to Full Council'), the Committee agreed that a report also be taken to Planning Committee on the proposal that the Joint Development Control Committee – Cambridge Fringes, rather than the constituent authorities' planning committees, be authorised to grant planning consent for City Deal infrastructure schemes.

The action log was noted.

98. MINI REVIEW OF GOVERNANCE PROCEDURES

The Committee received a report setting out the results of a mini review of Cambridgeshire County Council's governance procedures, noting that one of the suggestions made by respondents had been that meetings of full Council should start at 2.00pm rather than 10.30am.

Discussing the timing of full Council meetings, Members

- noted that Group Leaders, who had responsibility for agreeing the Meeting Card, had requested that the Council's budget meetings continue to start at 10.30am because of the amount of business to be covered, but were content to accept the Committee's decision on the timing of other meetings of the full Council
- reported that the Conservative group would prefer a 1.30pm start for non-budget meetings, rather than the 2pm start suggested in the review

- commented that an afternoon start would avoid adding further vehicles to the morning traffic peak, and make the meetings more accessible to residents in employment and to those living in the more distant parts of the county
- observed that the later start time would affect the amount of time spent in debate
- pointed out that many Members also had to attend parish council meetings at 7.30pm on a Tuesday, so would need to leave Shire Hall by about 5.30pm.

It was suggested that it would be possible to have a cut-off time of 6pm, particularly if there were no oral questions at future meetings, but others opposed the idea of a formal guillotine, suggesting instead that those Members who had to leave before the end of a meeting should simply do so.

It was proposed by Councillor McGuire and seconded by Councillor Hickford that

- meetings of Council start at 1.30pm, with the exception of meetings at which the Business Plan was to be considered, which would continue to start at 10.30am.

On being put to the vote, the motion was carried unanimously.

Turning to other aspects of the mini review, Members

- commented that there was a higher degree of expectation on the vice-chairman/woman of a committee than on spokes; vice-chairs were for example invited to briefings that spokes did not attend. Members were advised that the Member Development Panel, in its consideration of the role description for vice-chairman/woman, had no intention of discouraging existing good practice
- pointed out that the Members' Allowances Scheme did not specify the meetings for attendance at which a special responsibility allowance was paid, and suggested that the invitation to a Member to repay part of the allowance in the event of non-attendance should be expressed more strongly; for example, the Member should be 'expected' or 'required' to repay. In both cases, officers advised that it was not open to the Committee to make such changes, but these points could be brought to the attention of the Independent Remuneration Panel at the next scheme review
- agreed that Members wishing to place items on committee agendas should continue to do so through Spokes meetings, the dates of which were published on the Policy and Service Committees' agenda plans.

In relation to oral questions at Full Council, Members

- expressed appreciation for the awkwardness faced by a committee chairman/woman expected to answer questions on a decision with which he/she and their group disagreed
- stressed that in a committee system, the committee, not its chair, was responsible for the decisions made, and suggested that it would be more appropriate to direct questions at any member of a committee, or that the chairman/woman might properly wish to refer the question to another Member who could provide a better answer to the question

- expressed the view that oral questions at Council had worked well under cabinet governance, but should be discontinued under the committee system, which would have the benefit of making meetings of Council more efficient
- disagreed that oral questions at Council were inappropriate, saying that it was important that Members be able to ask questions about the business of a committee. If the questioner raised a valid point that the chairman/woman felt unable to answer, he/she could refer the question to the committee, or take it back to spokes
- pointed out that the answers to oral questions were often drafted in writing in advance of the meeting, and suggested that it would be better to discontinue the custom of oral questions at Council, but to take written questions either to committees or to Council
- noted that at present, written questions from Members were sent to the relevant officer to prepare an answer on behalf of the committee chairman/woman, who was copied in to the correspondence. The question and answer were then published on the Council's website shortly before the meeting of Council
- drew attention to the need for questions to be clearly expressed and directed, and to relate to decisions of Council or a committee rather than to the opinions of individual Members
- noted that there was currently a limit of 13 on the number of written questions that could be submitted to any one meeting of Council, and that it would be necessary to amend the Constitution in order to remove or change this limit.

It was proposed by Councillor Bywater and seconded by Councillor Hipkin that the Committee recommend to Council that

- the oral questions procedure be removed from the Constitution
- the limit on the number of written questions to Council be removed.

On being put to the vote, the motion was carried by a majority.

99. SECTION 85 LOCAL GOVERNMENT ACT 1972 – RECOMMENDATION TO EXTEND SIX MONTH RULE

The Committee received a report inviting it to consider a proposal that Council should consider introducing a policy to allow only one extension to the six month rule in any four year municipal period. Members noted that under the Local Government Act 1972, a member of a local authority who failed to attend any meeting of that authority for a period of six consecutive months would cease to be a member of that authority, unless the authority had exercised the discretion granted it by the Act to approve the member's absence from meetings for a longer period.

The proposal to limit the number of times that Council could give such approval had arisen from the serious illnesses of two Members, one of whom had been granted more than one six-month extension within the current municipal period. Both illnesses had unfortunately proved fatal.

The Monitoring Officer cautioned that any proposal to fetter Council's discretion was fraught with risk from a legal perspective, whether the proposal was to limit the number of extensions the Council could grant, or to limit the number of extensions an individual Councillor could receive. This was because it would remove an individual Councillor's statutory right to ask Council to exercise its discretion. He was not aware of any other local authority adopting such a limitation.

In the course of discussion, Members noted that the reason for prolonged absence was usually serious ill-health, and that the Act did not specify the circumstances in which an extension might be appropriate. It was suggested that any proposal to limit the number of extensions should specify that the limit applied to consecutive periods of absence; it would be unreasonable, for example, automatically to penalise a Member who had more than one long illness, but separated by a substantial period of good health and attendance.

At the Chairwoman's suggestion, the Committee agreed unanimously to defer consideration of the proposal until it had been established whether it would be legally feasible to impose a restriction on the number of times Council could grant an extension to the six-month rule.

100. MILTON KEYNES COUNCIL TO JOIN LGSS SHARED SERVICES PARTNERSHIP

The Committee received a report inviting it to consider a new scheme of delegation for the LGSS Joint Committee for inclusion in the Council's Constitution, noting that this would be required if the full Councils of Cambridgeshire and Northamptonshire county councils, and of Milton Keynes Borough Council approved the proposal that Milton Keynes join Cambridgeshire and Northamptonshire in Local Government Shared Services (LGSS). However, the timing of the present meeting meant that it had not been possible to complete the scheme of delegation to the point where the Committee could be asked to recommend it to full Council for adoption when the expansion of LGSS was considered on 22nd March 2016.

It was therefore suggested that the Committee delegate authority to the Monitoring Officer, in consultation with the committee Chairwoman and Vice-Chairman, to recommend the scheme of delegation to Council once it had been fully developed. The Vice-Chairman commented that he was already involved in the expansion of LGSS as Chairman of the LGSS Joint Committee. One Member suggested that it would be more appropriate to delegate authority to the Monitoring Officer in consultation with Group Leaders only, but another Member said that the Chairwoman of the Committee should be involved because what was being considered was a change to the Constitution.

It was proposed by Councillor Brown and seconded by Councillor Hickford that

- the Monitoring Officer, in consultation with the Chairwoman and Vice-Chairman of the Constitution and Ethics Committee and Group Leaders, be delegated authority to recommend the new scheme of delegation for the LGSS Joint Committee to full Council on 22nd March 2016.

On being put to the vote, the motion was carried by a majority.

101. CHANGE TO SCHEME OF DELEGATION (PENSION FUND COMMITTEE)

The Committee noted that this agenda item had been withdrawn. On closer examination, the draft report had proposed changes to the Constitution that were not actually required.

102. OFFICIAL OPENINGS

The Committee received a report inviting it to consider arrangements for conducting official openings of buildings or projects that had been developed by a committee of the Council, and to consider whether such events should not be regarded as 'civic' functions. Members noted that, under Article 5 of the Constitution, the Chairman/woman of Council's civic functions included officially opening new buildings and projects, but it had been suggested that it might be appropriate for the committee chairman/woman to open those which had been developed by their committee.

In the course of discussion, Members

- expressed the view that the Chairman/woman of Council should continue to conduct such openings because it was important to strengthen their civic role, and because members of the public set great store by seeing the chain of office
- commented that the opening of a building or project marked an achievement of the Council as a whole, and should be highlighted as such by being opened by the Chairman/woman of Council, rather than by a politician
- drew attention to the importance of inviting the Local Member to and involving the Local Member in official openings, noting that Article 5 related solely to the role and function of the Chairman/woman of Council, and that the role of the Local Member was covered elsewhere in the Constitution.

It was resolved unanimously

- not to recommend any change to current arrangements for the official opening of buildings and projects
- that the openings of facilities or projects promoted by a Committee should continue to be regarded as 'civic' functions.

103. OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014

The Committee received a report inviting it to review the threshold of materiality under the Openness Regulations. Members noted that, based on information about practice in other authorities, Cambridgeshire officers were taking the obligation to publish seriously and working to a similar threshold of materiality.

Discussing the report's suggestion that the threshold remain at £250,000, Members

- commented that it might have been better to start with a £50,000 threshold and monitor the impact. Another Member said that there were some very expensive care packages, for example for disabled children, and that information about these was already published elsewhere

- suggested that a £50,000 threshold would lead to greater transparency for the public
- suggested that, while £50,000 might be too low a threshold, a figure such as £150,000 might be appropriate, in view of increased public concern that local authorities procure from companies that pay tax fully and behave ethically
- suggested that the threshold be left at £250,000, but reviewed again in a further six months, with more information being supplied to the Committee about the bureaucratic burden that a lower threshold might impose.

It was resolved by a majority

to confirm the threshold of £250,000 to determine materiality under the Openness Regulations.

Councillor Reeve requested that his vote against the proposal be recorded.

104. A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT TO 22 JANUARY 2016

The Committee received a report setting out the number and nature of the complaints received about Members under the Code of Conduct from 7 November 2015 to 22 January 2016; there had been no complaints during this period.

The Committee noted the report.

105. FORWARD AGENDA PLAN

The Committee reviewed and agreed its forward agenda plan, with the additions of a revised report on the six-month rule to the agenda for 5th April 2016 and of a further review of the threshold of materiality under the Openness Regulations to the agenda for 22nd September 2016.

It was agreed unanimously to cancel the provisional meeting date of 23 February.

106. DATE OF NEXT MEETING

It was noted that the next meeting was due to take place at 2pm on Tuesday 5th April 2016.

Chairwoman