

AMENDMENTS TO THE COUNCIL'S CONSTITUTION

To: Constitution and Ethics Committee

Date: 23rd June 2015

From: LGSS Director Law, Property and Governance

Electoral division(s): All

Purpose: To consider proposed changes to the Council's Constitution.

Recommendation: That the Committee recommend to full Council that:-

- 1. Part 3D of the Constitution (Responsibility for Functions Scheme of Delegation to Officers) be amended as set out in Appendix A to this report.**
- 2. Part 4.5 of the Constitution (Decision Review Rules) be amended as set out in Appendix B.**
- 3. The Monitoring Officer, in consultation with the Chairman of the Constitution and Ethics Committee, be authorised 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 The Committee is invited to consider a number of amendments to the Constitution as detailed below.

2. PART 4 – RULES OF PROCEDURE

- 2.1. A number of changes are proposed to the Rules of Procedure. Suggested revisions are set out in Appendix A. Any deletions are denoted by strike through text and additions/amendments are denoted by underlined text.

3. PART 3 – RESPONSIBILITY FOR FUNCTIONS

Part 3D – Scheme of Delegation to Officers

(a) Flood and Water Management

- 3.1 New Government planning policy on sustainable drainage systems came into effect on 6 April 2015. To support the new planning policy, Lead Local Flood Authorities have also been made statutory consultees on planning applications for major development in relation to surface water (Schedule 4 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. This comes into force on the 15 April 2015.)
- 3.2 The new provisions require the Council, as the Lead Local Flood Authority, to be consulted on these developments when a planning application is received by the Local Planning Authority, which could include the Council itself or one of the districts.
- 3.3 It is recommended that the following addition be made to the part (a) of the delegations to the Executive Director: Economy, Transport and Environment Services in Part 3 D of the Constitution (Responsibility for Functions Scheme of Delegation to Officers)
- **Flood and water management**

This amendment is set out in Appendix A to the report.

- 3.4 If approved by the Committee and Council, a specific delegation will be added to the Economy, Transport and Environment Services Scheme of Authorisation, exercisable by the Head of Growth and Economy, after consultation with the Chairman/woman of the Economy and Environment Committee, to respond to formal stakeholder floods and water related consultations to meet statutory deadlines.

(b) Energy Investment

- 3.5. It is also felt that the provisions of part (a) of the delegations to the Executive Director: Economy, Transport and Environment Services should be amended to refer specifically to the Council's work in respect of energy

efficiency, for example contracts entered into under the Mobilising Local Energy Investment (MLEI) project, the future Energy Investment Unit and for Travel for Cambridgeshire.

The Committee is therefore requested to recommend amendment of part (a) of the delegations to the Executive Director: Economy, Transport and Environment Services in Part 3 D of the Constitution (Responsibility for Functions Scheme of Delegation to Officers) by the inclusion of the following:

- **Mobilising Local Energy Investment Project**
Energy Investment Unit
Travel for Cambridgeshire

This amendment is set out in Appendix A to the report.

4. PART 4 – RULES OF PROCEDURE

Part 4.5 – Decision Review Rules

- 4.1 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.
- 4.2 When the Council changed its constitutional arrangements and introduced the committee system, Members opted to retain a form of decision review in the new arrangements, although there was no longer a statutory requirement for the Constitution to include such a procedure.
- 4.3 Under the current rules, at least 8 members of the Council may 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 may submit a request, for review of a decision by Full Council.
- 4.4 The recent review of the decision of the Highways and Community Infrastructure Committee in respect of the Cambridge Central Library Enterprise Centre has put the decision review provisions in Part 4.5 of the Constitution under the microscope and has indicated a lack of clarity in terms of the outcomes following conclusion of a decision review process.
- 4.5 In this instance, the decision of the Highways and Community Infrastructure Committee was subject to a decision review by the General Purposes Committee who referred the decision back to the Highways and Community Infrastructure Committee for re-consideration. The Highways and Community Infrastructure 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. However Part 4.5 of the Constitution is currently silent on the position at the end of the decision review process. Specifically, it is unclear on whether once the relevant committee or decision taker has considered a decision referred back to it by the General Purposes

Committee, that decision may then be implemented immediately or whether that decision is available for further call in.

- 4.6 The modular constitution for English local authorities, envisaged a position where the overview and scrutiny committee could refer a decision back to the decision maker **or** to Council for **final** decision:

“If, having considered the decision, the overview and scrutiny committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further [x] working days, amending the decision or not, before adopting a final decision.”

- 4.7 In this instance, the Monitoring Officer ruled that the process for review of the decision of the Highways and Community Infrastructure Committee by the General Purposes Committee had been exhausted but that the second provision of Rule 4.5, review of decision by Full Council, should still apply and that the decision should be subject to call in if at least 24 members so requested.

- 4.8 Clearly, 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. However, it is assumed that the Committee will wish to retain the current two step decision review process so that, even if a decision has been called in to the General Purposes Committee, it can still be referred, subject to securing the support of 24 Members, to full Council for review and decision. This provides an opportunity for the most controversial of decisions to be subject to review by the full Council.

- 4.9 Appendix B to the report sets out suggested wording for consideration and recommendation to the Council.

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