

CONSTITUTION AND ETHICS COMMITTEE



Date: Thursday, 27 September 2018

Democratic and Members' Services

Fiona McMillan

Deputy Monitoring Officer

14:00hr

Shire Hall

Castle Hill

Cambridge

CB3 0AP

Kreis Viersen Room

Shire Hall, Castle Hill, Cambridge, CB3 0AP

AGENDA

Open to Public and Press

- | | | |
|----------|---|----------------|
| 1 | Apologies for absence and declarations of interest | |
| | <i>Guidance on declaring interests is available at</i> | |
| | http://tinyurl.com/ccc-conduct-code | |
| 2 | Minutes - 24th April 2018 | 3 - 8 |
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| 6 | Transfer of delegated responsibility for the council's
whistleblowing policy | 65 - 68 |
| 7 | Complaints review report 17.09.18 | 69 - 74 |

The Constitution and Ethics Committee comprises the following members:

Councillor Mac McGuire (Chairman) Councillor Kevin Reynolds (Vice-Chairman)

Councillor David Connor Councillor Lorna Dupre Councillor Roger Hickford Councillor Lucy Nethsingha Councillor Jocelyne Scutt and Councillor Peter Topping

For more information about this meeting, including access arrangements and facilities for people with disabilities, please contact

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Public speaking on the agenda items above is encouraged. Speakers must register their intention to speak by contacting the Democratic Services Officer no later than 12.00 noon three working days before the meeting. Full details of arrangements for public speaking are set out in Part 4, Part 4.4 of the Council's Constitution <https://tinyurl.com/ProcedureRules>.

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CONSTITUTION AND ETHICS COMMITTEE: MINUTES

Date: Tuesday 24th April 2018

Time: 2.00pm – 3.00pm

Place: Kreis Viersen Room, Shire Hall, Cambridge

Present: Councillors M McGuire (Chairman), D Connor, L Dupré, R Hickford, L Nethsingha, J Scutt and P Topping

31. DECLARATIONS OF INTEREST

None

32. MINUTES – 27th FEBRUARY 2018

The minutes of the meeting held on 27th February 2018 were confirmed as a correct record and signed by the Chairman.

33. ALLOCATION OF RESPONSIBILITIES TO POLICY AND SERVICE COMMITTEES

The Committee received a report inviting it to consider whether the current approach for the allocation of responsibilities to policy and service committees was appropriate, and to recommend to Council any revisions to the Constitution which it considered necessary. At the Committee's meetings in January and February 2018, the question had been raised of the relationship of the Commercial and Investment (C&I) Committee to other committees, particularly as concerned traded services and property management.

Members noted that the matter had subsequently been considered by Group Leaders. All Group Leaders had acknowledged the need for one Committee to own an issue, in the sense of taking a decision about it, but some had thought that the Constitution needed to be more prescriptive about the process of involving other committees in a decision. In the absence of consensus among Group Leaders, the question of whether it was necessary to change the Constitution to introduce a requirement for the C&I Committee to consult other committees had been brought back to the Committee for further consideration.

Councillor Scutt asked that her view be recorded, that decision-making should rest with the policy and service committee, not with the C&I Committee; the present arrangement elevated the selling of assets as superior to the provision of services. The C&I Committee should make a recommendation to the policy and service committee if it wanted to sell assets. The purpose of the County Council was to provide services to the people of Cambridgeshire.

Members noted that the question was of relatively recent origin, as until the establishment of the C&I Committee, such matters had gone through the General Purposes Committee (GPC). The C&I Committee's terms of reference included responsibility for traded activities, which is why it had come to make decisions about Cambridgeshire Catering and Cleaning Services (CCS), Cambridgeshire Music, and the Outdoor Centres.

Members further noted that responsibility for the provision of services on a non-commercial basis remained with the other relevant policy and service committees. Under the present constitutional arrangements, it was already possible for the C&I Committee to involve other policy and service committees in a decision, but it was up to the Chairman/woman of the C&I Committee to take the initiative in doing so.

The Committee discussed the issues raised at length. Points made in favour of keeping the present constitutional arrangements included:

- forward agenda plans were published for each policy and service committee; it was incumbent on every member and political group to make themselves aware of the decisions about to be made
- the need for a clear line of responsibility for decision-making was paramount; if additional committees were to be involved, there was a risk that different committees would reach differing decisions
- under the current arrangements, the C&I Committee could already seek the views of other committees.

Points raised in favour of changing the constitutional arrangements included:

- consultation between the C&I Committee and policy and service committees had in practice not gone beyond conversation between the chairs of committees. In the recent decision to close CCS, for example, no use had been made of the knowledge held by members of the Children and Young People Committee, and engagement by members not on the C&I Committee had been hampered by the confidential nature of the report
- without the engagement of other members, there was a risk of the C&I Committee taking decisions on the basis of less information than could have been available to it
- setting up a working group with another policy and service committee would not mean that there would be two committees trying to take a decision on a matter
- the remit of the C&I Committee was to make commercial decisions, not to consider the impact on partner agencies or schools.

The following amendment was proposed by Councillor Nethsingha and seconded by Councillor Dupre:

Constitution and Ethics Committee asks the Monitoring Officer to draw up proposals to require the Commercial and Investment Committee to consult with any service committee when changes to a traded service are proposed which would have an impact on that service committee.

On being put to the vote, the amendment was defeated.

It was proposed by the Chairman, seconded by Councillor Hickford, and agreed by a majority that

Having reviewed the current arrangements for the allocation of responsibilities to policy and service committees, the Constitution and Ethics Committee considered that there was no need to revise the Constitution to alter these arrangements.

Councillors Dupre, Nethsingha and Scutt asked that their votes against the motion be recorded.

34. QUORUM ARRANGEMENTS

Following concerns about quorum arrangements expressed at its meeting in February 2018, the Committee received a report setting out the current quorums for meetings of the Council and its committees. Members' attention was directed particularly to the arrangements for committees with a quorum of one quarter of the whole number of voting members; Policy and Service Committees, Planning Committee, and Audits and Accounts Committee were included in this group.

In discussion, members

- noted that no meeting of a Policy and Service Committee had ever been inquorate; in very severe weather, a meeting would probably be cancelled rather than take place with very few members present
- expressed the view that a committee should not be making decisions with fewer than half the full number of members present
- noted that there was no quorum prescribed in law for committees, but the statutory minimum quorum for full Council was one quarter, and one third for community councils
- suggested that a quorum of one half would not be unreasonable for committees, given that substitute members could be called upon to attend if a member was not available, but for full Council, where there were no substitutes, a quorum of one third would be more appropriate.

It was proposed by the Chairman and seconded by Councillor Connor and agreed by a majority

to recommend to full Council that the quorum for the committees listed in paragraph 1.3 of the report before Committee be raised from one quarter of the whole number of voting members to one half of the whole number of voting members.

It was proposed by the Chairman and seconded by Councillor Nethsingha and agreed unanimously

to recommend to full Council that the quorum for meetings of full Council be raised from one quarter to one third of the whole number of voting members.

35. SCHEME OF DELEGATION

The Committee received a report inviting it to recommend to Council that it agree the scheme of delegation or such part of it as the Constitution determined it was for Council to agree. Members noted that there was a requirement to bring Part 3 of the Constitution to every annual meeting of Council for approval.

Members commented that the City Deal had changed its name to the Greater Cambridge Partnership (GCP). Officers advised that the County's Constitution would be amended once the change of name had been incorporated in the governance documents published on the GCP website; Democratic Services was liaising with South Cambridgeshire colleagues who supported the GCP. Members noted that there would be changes to the Constitution arising from any decision to give the Police and Crime Commissioner responsibility for the fire service.

The Committee agreed that it would be sufficient to include a web link to the Constitution rather than reproducing Part 3 in the report to Council.

It was resolved unanimously

to recommend to Council that it agree the scheme of delegation or such part of it as the Constitution determines it is for Council to agree (as set out in Part 3 of the Constitution).

36. ARRANGEMENTS FOR THE APPOINTMENT OF INDEPENDENT PERSON(S)

The Committee received a report advising it of the resignation of Sean Brady as one of the Council's two Independent Persons, and of the proposal from the Cambridgeshire and Peterborough Combined Authority to set up a panel of Independent Persons for Member Complaints from amongst Constituent Council Independent Persons.

Members noted that the Council had originally appointed two Independent Persons in case one was unavailable or had a conflict of interests in a particular case. Once the Combined Authority's panel had been established, it would be possible to draw on the pool of independent persons in such circumstances, removing the need for the Council to have two Independent Persons.

It was resolved unanimously:

to not appoint a second independent person, at this stage, to replace Mr Sean Brady.

37. A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT TO 12 APRIL 2018

The Committee received a report setting out the number and nature of the complaints received about Members under the Code of Conduct from 15 January 2018 to 12 April 2018.

Members were advised that the complaint which had been open at the date of the last report to Committee had now been concluded. The Independent Person and the Deputy Monitoring Officer had considered the matter, and decided that there had been no breach of the code, and no further action was required. The decision notice would be published on the Council's website.

It was resolved to note the contents of the report.

38. AGENDA PLAN

The Committee noted its agenda plan.

Chairman

MONITORING OFFICER

To: **Constitution and Ethics Committee**

Meeting Date: **27th September 2018**

From: **Chief Executive**

Purpose: **To consider proposed changes to the Constitution following the proposal to appoint a shared post of Director of Governance and Legal Services for Cambridgeshire and Peterborough.**

Recommendation: **The Constitution and Ethics Committee is asked to consider amendments to the Constitution, and recommend any changes to full Council, if appropriate.**

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1. Background

- 1.1 At Cambridgeshire, the role of Director Legal and Democratic Services, and Monitoring Officer function has been provided by the Executive Director of LGSS Law until recently. The role became part of LGSS in 2010, and subsequently in 2015 LGSS Law Ltd was formed.
- 1.2 The postholder left LGSS Law Ltd earlier this year and since then the management of Democratic Services has been retained within LGSS, and an interim Executive Director appointed at LGSS Law Ltd.
- 1.3 The current Constitution lays down that the Council has designated the post of LGSS: Director of Law and Governance to be Monitoring Officer and Solicitor to the Council (Article 11, Officers (see highlighted section in **Appendix 1**)); the Monitoring Officer function is included in the LGSS Joint Committee Scheme of Delegation (Part 3D) (see highlighted section **Appendix 2**).
- 1.4 Only Full Council can confirm the appointment of the Monitoring Officer (Part 3A, Allocation of Responsibility for Functions). (see highlighted section **Appendix 3**)

2. Staffing and Appeals Committee

- 2.1 At its meeting on 4 September 2018, the Staffing and Appeals Committee considered a report setting out a proposal to establish a shared post of Director of Governance and Legal Services for Cambridgeshire and Peterborough, and subject to agreement, to agree the recruitment process to be followed.
- 2.2 Following the agreement between Peterborough City Council and Cambridgeshire County Council (CCC) to share several senior roles across the senior and corporate leadership teams, these vacancies now offer an opportunity to consider a further shared post, and saving, to both authorities.
- 2.3 Sharing management of services is not an end in itself, but one of a number of means by which Councils can achieve their strategic ambitions.
- 2.4 The principles that have underlined all sharing considerations to date are as follows:
 - Removing duplication of effort;
 - Bringing together arrangements which are similar between both Councils to create added value;
 - Exploiting expenditure that exists in both organisations;
 - Creating a positive impact on key partners such as Health, Probation and Police by dealing with joint agendas of Cambridgeshire and Peterborough in single, rather than duplicate meetings;
 - Creating career development opportunities for officers working across both;
 - Utilising the expertise that already exists in both councils to best effect.
- 2.5 It is now proposed to create a further shared role across Cambridgeshire and Peterborough, specifically the Director of Legal and Governance, who will be the Monitoring Officer for both councils.

- 2.6 The role of Monitoring Officer is a statutory appointment under the provisions of Section 5 of the Local Government and Housing Act 1989, which means that any appointment must be confirmed by Full Council.
- 2.7 At its meeting, the Committee confirmed that a new shared Director of Governance and Legal Services post be advertised externally and internally, and agreed the appointments process to be followed.

3. Proposed changes to the Constitution

- 3.1 The proposal to establish a shared post of Director of Governance and Legal Services for Cambridgeshire and Peterborough will require changes to the Council's Constitution.
- 3.2 **Appendix 4** details the proposed changes to Part 3D – Responsibility For Functions – Scheme of Delegation to Officers (see changes highlighted in bold). There is also a need to amend **Appendix 1** – Part 2 – Articles 11 to reflect the proposed change (see changes in bold and strikethrough) and **Appendix 2** - Part 3D – Responsibility For Functions – Scheme of Delegation to Officers (see changes highlighted in bold and strikethrough).

Source Documents	Location
Council's Constitution	http://tinyurl.com/Constitution-CCC
Staffing and Appeals Committee – 4 September 2018	Staffing and Appeals Committee meeting 04/09/2018



Appendix 1

ARTICLE 11 – OFFICERS

TERMINOLOGY

In this Article the use of the word ‘officers’ means all employees and persons engaged by the Council to carry out its functions and includes those engaged under short-term, agency or other contract for services.

11.01 Management Structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council shall engage persons for the following posts, who shall be designated Chief Officers:

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers). Provision of professional advice to all parties in the decision making process. Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council’s decisions. Representing the Council on partnership and external bodies (as required by statute or the Council).
Chief Finance Officer	Section 151 duties; budgetary planning, monitoring and reporting; strategic asset management; facilities management; buildings compliance; transformation; programme and project management
LGSS: Director of Finance	Schools finance; financial closedown and Statement of Accounts; financial transactions, audit, pensions
LGSS: Director of People, Transformation and Transactions	Workforce Strategy and Policy; Strategic HR; Workforce Development (not including elected member development); Business Transformation; Transactional Services; Revenues and Benefits
LGSS: Director of Law and Governance	Legal Services and Democratic Services.
LGSS: Director of IT Services	Strategy; Operations; Applications Services; Networks and Telephony
LGSS: Director of Business Services, Systems and Change	Insurance and Procurement Democratic Services



Post	Functions and areas of responsibility
Director: Corporate and Customer Services	Business Intelligence, Communications & Information, Customer Services, Emergency Planning, IT & Digital Services
Executive Director: People and Communities	Children's social care (including child protection, safeguarding and looked after children); children's enhanced and preventative services (including youth services and children centres; learning; school effectiveness; school organisation and place planning, special educational needs; strategy and commissioning; adult social care learning disability services; physical disability services, adult safeguarding; older people's services; mental health.
Executive Director: Place and Economy	Environment policy, trading standards, highways, passenger transport, planning and sustainable infrastructure, adult and community learning, culture, libraries, coroner and registration.
Director of Public Health	Responsibility for exercising the Council's powers and duties to improve and protect the health of the people in the Council's area, particularly, but not limited to, those under Section 30, Health and Social Care Act 2012 and Section 2B, NHS Act.

(c) Statutory Officers - Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) and Proper Officer

There is a legal requirement to allocate some specific responsibilities to officers and the Council has designated the following posts:

Post	Designation
Chief Executive	Head of Paid Service
Director of Governance and Legal Services	Monitoring Officer and Solicitor to the Council
LGSS: Director of Law and Governance	Monitoring Officer and Solicitor to the Council
Chief Finance Officer	Section 151 Officer
As defined in the Constitution or designated by the Chief Executive	Proper Officer The term 'Proper Officer' is used in many different statutes. Therefore it is appropriate for different officers to fulfil this role depending on the context. As such, unless otherwise stated in the Constitution, the Proper Officer shall in each case be the person nominated by the Chief Executive for that particular purpose.



Such posts will have the functions described in Article 11.02–11.04 below.

- (d) **Structure.** The Head of Paid Service shall determine, subject to Council approval, and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

11.02 **Functions of the Head of Paid Service**

- (a) **Discharge of Functions by the Council.** The Head of Paid Service shall report to Full Council, or an appropriate committee, on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on Functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer (Section 151 Officer) if a qualified accountant.
- (c) **Exemptions from Political Restrictions:** The Head of Paid Service will be responsible for considering applications from officers for exemption from political restriction in respect of the post held by that officer.

11.03 **Functions of the Monitoring Officer**

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring Lawfulness and Fairness of Decision-Making.** After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the Council if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Providing Advice.** To act as the Solicitor to the Council and in consultation with the Head of Paid Service and the Chief Finance Officer, to provide advice on the scope of powers and authority for the Council to take decisions, maladministration, probity and governance issues, to all Councillors and to support and advise Councillors and officers in their respective roles.
- (d) **Supporting the Constitution and Ethics Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Constitution and Ethics Committee. This will include making arrangements for the hearing of allegations against Members concerning breaches of the Code of Conduct.



The Monitoring Officer shall also support the Constitution and Ethics Committee in ensuring the Council's Constitution is fit for purpose and in this role, shall keep it under review and make recommendations as to how it might be amended to better achieve the purposes set out in Article 1 or in response to changes in law.

- (e) **Conducting Assessments.** In the case of allegations that a Councillor has breached the Members' Code of Conduct, the Monitoring Officer and the Council's Independent Person shall conduct an initial assessment of complaint and make a decision as to whether the complaint warrants investigation or any other action.
- (f) **Conducting Investigations.** Where allegations of breaches of the Members' Code of Conduct are referred for investigation, the Monitoring Officer shall make arrangements for the conduct of such investigations and report the findings to the Constitution and Ethics Committee.
- (g) **Proper Officer for Access to Information.** The Monitoring Officer shall ensure that decisions of the Council and its committees, together with the reasons for those decisions, and relevant officer reports and background papers are made publicly available as soon as possible.
- (h) **Advising whether Decisions are within the Budget and Policy Framework.** The Monitoring Officer will advise whether decisions of the Council and its committees are in accordance with the Budget and Policy Framework.
- (i) **Providing Advice.** The Monitoring Officer shall provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors.
- (j) **Qualified Person.** The Monitoring Officer shall determine whether information should be exempt from disclosure under the provisions of Section 36 of the Freedom of Information Act 2000.
- (k) **Restrictions on Posts.** The Monitoring Officer cannot be the Chief Finance Officer (Section 151 Officer) or the Head of Paid Service.

11.04 **Functions of the Chief Finance Officer (Section 151 Officer)**



- (a) **Ensuring Lawfulness and Financial Prudence of Decision Making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council or its committees and to the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of Financial Affairs.** The Chief Finance Officer shall have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to Corporate Management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing Advice.** In consultation with the Monitoring Officer, the Chief Finance Officer will provide advice on the scope of powers and authority to take decisions regarding financial matters, financial maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- (e) **Give Financial Information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.
- (f) **Restriction on Post.** The Chief Finance Officer cannot be the Monitoring Officer but may hold the post of Head of Paid Service.

11.05 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer

The Council shall provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

11.06 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

11.07 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 4 of this Constitution.



Appendix 2

Extract from Part 3D - SCHEME OF DELEGATION TO OFFICERS

1. Introduction

This section describes the extent and nature of the authority delegated to officers to undertake functions on behalf of Cambridgeshire County Council. The delegations are made by either the Full Council or one of its committees.

The LGSS Joint Committee Scheme of Delegation - Shared Services and Delegated Functions

6.6 Monitoring Officer (CCC Only)

Each authority is responsible for designating a person as that authority's Monitoring Officer. CCC has designated ~~LGSS Director of Law & Governance~~ **the Director of Governance and Legal Services** as their Monitoring Officer.

Monitoring Officer - Cambridgeshire County Council

Power or Duty	Delegation to Officer	Condition
To make such amendments to the CCC Constitution and related Documents, as may from time to time become necessary to reflect and take account of changes in legislation, guidance, Council Policy, decisions of the Council and any drafting changes or improvements. This shall not include any changes of substance.	Monitoring Officer (CCC)	In consultation with Group Leaders. Not to be exercised if any Group Leader objects to the proposed change.
The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.	Monitoring Officer (CCC)	
In order to ensure lawfulness and fairness of decision-making and after consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the Council if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.	Monitoring Officer (CCC)	
To act as the Solicitor to the Council and in consultation with the Head of Paid Service and the Chief Finance Officer, to provide advice on the scope of powers and authority	Monitoring Officer (CCC)	



Power or Duty	Delegation to Officer	Condition
for the Council to take decisions, maladministration, probity and governance issues, to all Councillors and to support and advise Councillors and officers in their respective roles.		
To act as the Proper Officer for the purposes of the Local Government Act 2000 and regulations made there under, except where legislation or the Scheme of Delegation names another officer.	Monitoring Officer (CCC)	
In cases of dispute, to decide upon a Member's "need to know".	Monitoring Officer (CCC)	
The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Constitution and Ethics Committee. This will include making arrangements for the hearing of allegations against Members concerning breaches of the Code of Conduct. The Monitoring Officer shall also support the Constitution and Ethics Committee in ensuring the Council's Constitution is fit for purpose and in this role, shall keep it under review and make recommendations as to how it might be amended to better achieve the purposes set out in Article 1 or in response to changes in law.	Monitoring Officer (CCC)	
In the case of allegations that a Councillor has breached the Members' Code of Conduct, the Monitoring Officer and the Council's Independent Person shall conduct an initial assessment of complaint and make a decision as to whether the complaint warrants investigation or any other action.	Monitoring Officer (CCC)	
Where allegations of breaches of the Members' Code of Conduct are referred for investigation, the Monitoring Officer shall make arrangements for the conduct of such investigations and report the findings to the Constitution and Ethics Committee.	Monitoring Officer (CCC)	
The Monitoring Officer shall act as the Proper Officer for Access to Information and shall ensure that decisions of the Council and its committees, together with the reasons for those decisions, and relevant officer reports and background papers are made publicly available as soon as possible.	Monitoring Officer (CCC)	



Power or Duty	Delegation to Officer	Condition
The Monitoring Officer will advise whether decisions of the Council and its committees are in accordance with the Budget and Policy Framework.	Monitoring Officer (CCC)	
The Monitoring Officer will advise whether decisions of the Council and its committees are in accordance with the Budget and Policy Framework.	Monitoring Officer (CCC)	
The Monitoring Officer shall provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors.	Monitoring Officer (CCC)	
The Monitoring Officer shall determine whether information should be exempt from disclosure under the provisions of Section 36 of the Freedom of Information Act 2000.	Monitoring Officer (CCC)	
To agree procedures for the conduct of all appeals heard by the CCC Service Appeals Sub-Committee.	Monitoring Officer (CCC)	
To agree procedures for the conduct of CCC Education Admission and Exclusion Appeals and the selection and appointment of members to CCC appeals panels.	Monitoring Officer (CCC)	

Northamptonshire County Council and Milton Keynes Council have not delegated any Monitoring Officer powers to any LGSS Officer.



Appendix 3

PART 3A – ALLOCATION OF RESPONSIBILITY FOR FUNCTIONS – FULL COUNCIL AND COMMITTEES

1. Introduction

This Part of the Constitution deals with the allocation of responsibility for undertaking the functions of the Council. Full Council is the primary decision-making body of the Council and as such is responsible for the exercise of all the functions that are the responsibility of the local authority.

However, in order to operate more effectively as an organisation, Full Council delegates many of its decision-making powers to committees, to officers, and to other local authorities.

2. Council Functions

Only the Council will exercise the following functions:

- (a) Adopting and changing the Constitution
- (b) Approving or adopting the Policy Framework and the Budget
- (c) Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of a committee function which is covered by the Policy Framework or the Budget where the decision-making body is minded to make it in a manner which would be contrary to the Policy Framework or contrary to, or not wholly in accordance with, the Budget
- (d) Approving changes to any plan or strategy which form part of the Council's Policy Framework, unless:
 - i. that change is required by the Secretary of State or any Government Minister where the plan or strategy has been submitted to him for approval, or
 - ii. Full Council specifically delegated authority in relation to these functions when it approved or adopted the plan or strategy
- (e) Agreeing and/or amending the terms of reference for committees and deciding on their composition
- (f) Appointing the Chairman/woman and Vice-Chairman/woman of each of the seven policy and service committees, and the Chairman/woman of the Health and Wellbeing Board.



- (g) Appointing the Chairman/woman and Vice-Chairman/woman of the General Purposes Committee, who will also fulfil the respective roles of Leader and Deputy Leader of the Council
- (h) Appointing representatives to outside bodies unless the appointment has been delegated by the Council
- (i) Making appointments to the Fire Authority
- (j) Approving the annual Senior Officer Pay Policy Statement
- (k) Adopting a Members' Allowances Scheme
- (l) Changing the name of the area
- (m) Conferring the title of Honorary Alderman/woman
- (n) Confirming the appointment of, and dismissing, the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (Section 151 Officer)
- (o) Making any request to the Local Government Boundary Commission for England for single-member electoral areas
- (p) Passing any resolution to change the County's electoral scheme
- (q) Making an order to give effect to recommendations made in a community governance review
- (r) Making, amending, revoking, re-enacting or adopting Bylaws and promoting or opposing the making of local legislation or personal Bills
- (s) Delegating functions to other local authorities as described in Article 10 of this Constitution
- (t) Amending the Scheme of Delegation to Officers set out in Part 3D of this Constitution
- (u) Approving the Council's Petitions Scheme set out in Part 4.1 of this Constitution
- (v) All other matters which, by law, must be reserved to Council.

3. Delegation of Functions by Full Council

The functions which Full Council delegates to committees, to officers, and to other local authorities are set out below:

Part 3B – Committees of Council

Part 3C – Joint Committees

Part 3D – Scheme of Delegation to Officers

Part 3E – Shareholder Rights in LGSS Law Ltd.



Appendix 4

Extract of Part 3D - SCHEME OF DELEGATION TO OFFICERS

1. Introduction

This section describes the extent and nature of the authority delegated to officers to undertake functions on behalf of Cambridgeshire County Council. The delegations are made by either the Full Council or one of its committees.

2. General Principles

The Chief Executive and the Chief Officers, where they consider it necessary and expedient, may authorise officers within their respective service Directorates to undertake functions on their behalf. If such authorisations are made, the relevant Chief Officer shall prepare and maintain a written schedule of authorisations to be available for inspection by the Monitoring Officer and published on the Council's website.

Where an officer listed in this Scheme of Delegation is absent for any period, the Chief Executive may nominate in writing another officer to act in his/her place during their absence and shall make a record of all such nominations.

The Chairman/woman of the relevant committee may request an officer not to exercise their delegated power in any particular case and, if so, a report will be taken to the next available meeting of this committee for consideration.

Chief Officers shall agree with the Chairman/woman and Vice-Chairman/woman of the relevant committee the nature and level of information the committee requires regarding the exercise of officers' delegated powers.

Chief Officers shall exercise their delegated powers in accordance with any requirements of the Chief Executive.

General Delegation

The Chief Executive and Chief Officers/Directors are authorised to discharge all the functions of the authority within their areas of responsibility as defined below and subject to the General Conditions and Limitations set out below.

Conditions Relating to the Exercise of Delegated Authority

The exercise of functions delegated to officers under this scheme must comply with:

- i) any legal requirement or restriction
- ii) any relevant provision in the Council's Constitution
- iii) the Council's policy framework and any other plans and strategies approved by the Council
- iv) the relevant in-year budget
- v) the relevant officers' code of conduct
- vi) the Council's Financial and Contract Procedure Rules
- vii) the requirements of the Openness of Local Government Bodies Regulations 2014 and any supporting guidance
- viii) all other relevant policies, procedures, protocols and provisions.



Limitations to the Exercise of Delegated Powers

Officers in the exercise of functions delegated by this scheme may not:

- i) make Key Decisions as defined in the relevant Council's Constitution unless it is specifically delegated to the officer. An officer making a Key Decision specifically delegated to him/her shall first consult with the Chairman/woman and Vice-Chairman/woman of the relevant committee before exercising such delegation.
- ii) change or contravene policies or strategies approved by the Council or its committees or joint committees in the absence of specific delegated authority to do so
- iii) create or approve new policies or strategies, in the absence of specific delegated authority to do so
- iv) take decisions to withdraw public services, in the absence of specific delegated authority to do so
- v) take decisions to significantly modify public services without consulting the appropriate committee chairman/woman and vice-chairman/woman before exercising the delegated power.

Consultation

Where an officer takes a decision under delegated authority on a matter which has significant policy, service or operational implications or is known to be politically sensitive, the officer shall first consult with the appropriate committee chairman/woman and vice-chairman/woman before exercising the delegated powers.

When exercising delegated powers, officers shall ensure that local Members are kept informed of matters affecting their divisions.

3. Specific Delegations

CHIEF EXECUTIVE:

To act as Head of Paid Service for the purposes of the Local Government and Housing Act 1989.

To exercise in cases of urgency, those functions delegated to the Executive Directors, Corporate/Service Directors or Heads of Service and in cases of emergency all powers of the Council.

To act as controller in war and to exercise all the powers of local government in the event of circumstances arising in which the County Council, or the committee to which emergency powers have been delegated, is unable to act.

To take all operational decisions necessary to secure the provision of services and/or the discharge of statutory functions, including the power to enter into contracts, in accordance with approved policies and Financial Regulations across the County Council.



CHIEF EXECUTIVE:

In accordance with the Procedure for taking urgent decisions contained in Part 4.4(a) of the Constitution to make any decision normally reserved to committee or another officer. To hold to account Executive and Corporate Directors for the performance of their departments.

To place items of business on agendas for formal member meetings.

Authority for the approval of pay, terms and conditions of service and training of employees except for approving the annual Senior Officer Pay Policy Statement which is reserved to the Full Council.

Authority to determine the number, grade, title and nature of staff employed within the County Council.

ALL EXECUTIVE DIRECTORS AND DIRECTORS INCLUDING THE CHIEF FINANCE OFFICER / SECTION 151 OFFICER:

1. To make applications for planning permission in pursuance of Regulation 3 of the Town and Country Planning General Regulations 1992.
2. To incur expenditure in emergencies under Section 138 of the Local Government Act 1972.
3. To make all staff appointments below the level of Service or Corporate Director and to determine the remuneration and conditions of service of each post within any guidance or instructions issued by the LGSS: Director of HR and OD.
4. To dispense with any provision of the Contract Regulations, but only in accordance with the detailed requirements for Exemptions set out in the Procurement Rules and/or Scheme of Financial Management up to a fixed sum (A7 below) or up to the EU threshold, and in consultation with the relevant committee Chairman/woman and Vice-Chairman/woman.
5. To approve, with the agreement of the Chief Finance Officer, new revenue or capital schemes by Trading Units at no net cost to the Council.
6. To exercise corresponding powers and duties as already delegated to officers of the Council within the Scheme of Delegation where these or similar powers and duties are included in revised Acts, Orders or Regulations.
7. To take all operational decisions necessary to secure the provision of services and/or discharge of statutory functions, including the power to enter into contracts, in accordance with approved policies and Financial Regulations or the purpose of this Scheme of Delegation, this shall include the power to authorise the sealing of contract documents including plans and schedules in the absence of specific committee authority.



ALL EXECUTIVE DIRECTORS AND DIRECTORS INCLUDING THE CHIEF FINANCE OFFICER / SECTION 151 OFFICER:

8. Authority to determine the number, grade, title and nature of staff within their Directorate and all other terms and conditions.

Subject to budget and in consultation with the Director of HR.

9. To hold officers to account for the performance of their service areas

10. The following table identifies the finance limits of delegated powers that Full Council has issued to all Executive and Corporate Directors for specific finance-related decisions.

	£
A1 Capital virement	250,000
A2 Revenue virement (including operational savings)	160,000
A3 Debt write-off	5,000
A4 Loans to other persons or organisations	5,000
A5 Property transaction - capital value	500,000
A6 Property transaction - annual rental	150,000
A7 Loans and expenditure from Funds	300,000

CHIEF FINANCE OFFICER / SECTION 151 OFFICER

	Delegation	Condition
1.	Authority to approve any changes to the Scheme of Financial Management as may be necessary from time to time to reflect and take account of changes in legislation, guidance, Council policy, decisions of the Council and any drafting changes or improvements. This shall not include any changes of substance.	In consultation with the Chairman/ woman of the General Purposes Committee (GPC). Not to be exercised if the Chairman/woman of the GPC objects to the proposed change.
2.	The management of trust funds on behalf of CCC.	
3.	The Treasury Management function including the management of debt and the borrowing and investment of money (excluding the Superannuation Fund).	
4.	Approval of CCC's banking facilities; arrangements for the signing and security of cheques, etc.	
5.	Capital financing determinations under the Local Government and Housing Act 1989 where these may be made by an officer.	



	Delegation	Condition
6.	Approval of supplementary estimates of expenditure under Section 138 of the Local Government Act 1972 (emergencies or disasters affecting.	
7.	To approve any detailed schemes of local financial management.	
8.	To approve the implementation of local financial systems.	
9.	Responsibility for the proper administration of the Pensions Service to safeguard the financial position of the Pension Fund (LGPS) in consultation with the Chairman (or Vice-Chairman if the Chairman is not available) of the Pension Fund Committee where possible.	
10.	To write off bad or irrecoverable debts or deficiencies relating to stores or property up to a maximum amount set out in the Council's constitution or unlimited if the debtor is bankrupt/insolvent; unable to be traced; in prison and has no means to pay; or there is no, or uncertain liability.	
11.	To make loans in furtherance of service objectives to other persons or organisations up to a maximum amount set out in the Council's constitution.	
12.	To approve loans and expenditure financed from the Invest to Transform Fund, Partnership Fund, Capital Financing Fund and Environmental Fund subject to certain financial limits set out in the Council's constitution.	
13.	To determine requests for CCC to act as co-guarantor for leases held by voluntary organisations and charities, in consultation with the appropriate Committee Chairman/ woman (or in his/her absence the Vice-Chairman/woman).	
14.	To authorise, in consultation with the Executive Director: People and Communities, schools to plan for a deficit budget to finance exceptional purchases/ projects.	
15.	To review and increase financial limits on an annual basis, taking account of inflation, subject to consultation with the appropriate Committee Chairman/woman (or in his/her absence the Vice-Chairman/woman).	
16.	To sign off grant claims.	



EXECUTIVE DIRECTOR: PEOPLE AND COMMUNITIES

The exercise of the responsibilities set out below is delegated by the County Council:

- (a) To be the designated Director of Children Services in accordance with Section 18(1) of the Children's Act 2004
- (b) Taking all operational decisions necessary to secure the provision of services and/or discharge of statutory functions, including the power to enter into contracts, in accordance with the approved policies and Financial Procedure Rules in relation to the following areas:

Adult Social Care

- Safeguarding
- Mental Health
- Disability
- Older People
- Residential services
- Day Services
- IT systems
- Partnership and Planning

Children's Social Care

- Education
- Special educational needs and disability
- Safeguarding and protection
- Children's social care
- Youth services
- Early Years
- IT systems
- Partnership and Planning

- (c) Approving school governor appointments for which the Council has responsibility and reporting these decisions quarterly to the Children and Young People's Committee
- (d) Holding officers to account for the performance of their service areas



EXECUTIVE DIRECTOR: PLACE AND ECONOMY

The exercise of the responsibilities set out below is delegated by the County Council:

- (a) Taking all operational decisions necessary to secure the provision of services and/or discharge of statutory functions, including the power to enter into contracts, in accordance with the approved policies and Financial Procedure Rules in relation to the following areas:

- Major infrastructure Delivery
- Waste Disposal
- Growth and Economy
- Transport and infrastructure Policy and Funding
- Highway
- Assets and Commissioning
- Traffic and Road Safety
- Policy Co-ordination
- Trading Standards
- Archaeology and Conservation
- Strategic Planning
- Libraries, Archives and Information
- Registration and Coroners Services
- Planning
- Cultural and Parking Services

- (b) Holding officers to account for the performance of their service areas

DIRECTOR OF PUBLIC HEALTH

The exercise of the responsibilities set out below is delegated by the County Council:

Public Health Services	Delegated to:
Responsible person for ensuring that the Council complies with statutory requirements relating to complaints made to the Council about its public health functions and, where necessary, action is taken in light of the outcome of such complaints. Part 4, Regulation 22(1)(a), The NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.	Chief Executive
Responsibility for preparing an annual report on the health of the people of Cambridgeshire under Section 31, Health and Social Care Act 2012.	Director of Public Health



Public Health Services	Delegated to:
Responsibility for preparing an annual health protection report to the Health and Wellbeing Board to cover a summary of relevant activity and the multi-agency health protection plans in place, establish how the various health protection responsibilities are discharged, and identify their relationship to the Joint Strategic Needs Assessment and Health and Wellbeing Strategy priorities.	Director of Public Health
Responsibility for exercising the Council's powers and duties to improve the health of the people in the Council's area under Section 30, Health and Social Care Act 2012 and Section 2B, NHS Act 2006. In exercising this duty, the steps that may be taken include: a) providing information and advice; b) providing services or facilities designed to promote healthy living (whether by helping individuals to address behaviour that is detrimental to health or in any other way); c) providing services or facilities for the prevention, diagnosis or treatment of illness; d) providing financial incentives to encourage individuals to adopt healthier lifestyles; e) providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment; f) providing or participating in the provision of training for persons working or seeking to work in the field of health improvement; and g) making available the services of any person or any facilities.	Director of Public Health
Responsibility for exercising the Council's powers and duties that relate to planning for, or responding to, emergencies involving a risk to public health. Under Section 30, Health and Social Care Act 2012 and Section 73A, NHS Act 2006.	Director of Public Health
Responsibility for exercising the Council's powers and duties that relate to arrangements for assessing etc risks posed by certain offenders. (Section 30, Health and Social Care Act 2012. Section 325, Criminal Justice Act 2003)	Director of Public Health
Power to conduct, commission or assist the conduct of research for any purpose connected with the exercise of the Council's functions in relation to the health service and to obtain data, information or advice from persons with professional expertise pursuant to conducting such research. (Section 17, Health and Social Care Act 2012. Section 5, NHS Act 2006.)	Director of Public Health



Public Health Services	Delegated to:
<p>Power to discharge those functions of the Council arising from the requirement that a licensing authority, when determining and publishing a licensing statement pursuant to section 5(3)(bb) (statement of licensing policy) of the Licensing Act 2003, must consult an authority with responsibility for public health.</p> <p>(Section 5(3)(bb) (statement of licensing policy) of the Licensing Act 2003,)</p>	<p>Director of Public Health</p>
<p>In relation to the Licensing Act 2003:</p> <ul style="list-style-type: none">• authority to make representations on behalf of the Council to a licensing authority in relation to the determination of an application for, or a variation or minor variation of, a premises licence.• authority to make representations on behalf of the Council to a licensing authority in relation to the determination of an application for a provisional statement.• authority to make an application or representations on behalf of the Council to a licensing authority for and/or in relation to the review of a premises licence.• authority to make representations on behalf of the Council to a licensing authority in relation to the summary review of a premises licence.• authority to make representations on behalf of the Council to a licensing authority in relation to the determination of an application for, or a variation or minor variation of, a club premises certificate.• authority to make an application or representations on behalf of the Council to a licensing authority for and/or in relation to the review of a club premises certificate.• authority to make representations on behalf of the Council to a licensing authority in relation to the inspection of premises prior to the grant of a club premises certificate.• authority to make representations on behalf of the Council to a licensing authority in relation to the review of a club premises licence following a closure order.• authority to make representations on behalf of the Council to a licensing authority in relation to the determination of an application for an early morning alcohol restriction order. <p>(Sections 18, 35 and 41B and Sections 31, 51, 52, 53, 53C, 72, 85, 86B, 87(d), 88, 89, 96, 167(e) and 172B(f) of the Licensing Act 2003)</p>	<p>Director of Public Health</p>



Public Health Services	Delegated to:
<p>Responsibility for exercising the Council's powers and duties to provide, or secure the provision of, oral health promotion programmes to the extent that the Council considers appropriate.</p> <p>Responsibility for exercising the Council's powers and duties to provide, or secure the provision of oral health surveys to facilitate:</p> <ul style="list-style-type: none"> • The assessment and monitoring of oral health needs; • The planning and evaluation of oral health promotion programmes; • The planning and evaluation of the arrangements for the provision of dental services as part of the health services; and • Where there are water fluoridation programmes affecting Cambridgeshire, the monitoring and reporting of the effect of water fluoridation programmes. <p>(The NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012 and Section 87 (1) of the Water Industry Act 1991.)</p>	<p>Director of Public Health</p>
<p>Responsibility for exercising the Council's powers and duties to respond to oral health surveys conducted or commissioned by the Secretary of State under paragraph 13(1) of Schedule 1 to the National Health Service Act 2006 where the survey is conducted within Cambridgeshire.</p> <p>(The NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012)</p>	<p>Director of Public Health</p>
<p>Responsibility for exercising the Council's powers and duties relating to the making of, and consultation on, water fluoridation proposals to the Secretary of State.</p> <p>(Section 36, Health and Social Care Act 2012 and Section 88B, Water Industry Act 1988)</p>	<p>Director of Public Health</p>
<p>Responsibility for exercising the Council's powers and duties to provide for the medical inspection at appropriate intervals of pupils in attendance at schools maintained by the Council as local education authority and for the medical treatment of such pupils.</p>	
<p>Responsibility for exercising the Council's powers and duties to provide for the medical inspection or treatment of:</p> <ol style="list-style-type: none"> a) senior pupils in attendance at any educational establishment, other than a school, which is maintained by the Council and at which full-time further education is provided (subject to the prior agreement of the governing body of the establishment); or b) any child or young person who, in pursuance of section 19 or 319 of the Education Act 1996 (c. 56), is receiving primary or secondary education otherwise than at a school. 	



Public Health Services	Delegated to:
<p>Responsibility for exercising the Council's powers and duties to provide for the medical inspection or treatment of pupils in attendance at any educational establishment which is not maintained by a local education authority by arrangement with the proprietor of that establishment.</p> <p>(Section 17, Health and Social Care Act 2012 and Section 5, NHS Act 2006.)</p>	
<p>Responsibility for exercising the Council's powers and duties to provide for the weighing and measuring of pupils in attendance at any school which is maintained by the authority and, by arrangement with the proprietor, at any school which is not maintained by the Council.</p> <p>(Section 17, Health and Social Care Act 2012, Section 5, NHS Act 2006. Part 2, Regulation 3 of The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2012 (DRAFT).)</p>	Director of Public Health
<p>Responsibility for exercising the Council's powers and duties to provide, or make arrangements for the provision of, health checks to eligible persons within the Council's area, pursuant to the requirements set out in the legislation below.</p> <p>(Section 2B, National Health Service Act 2006. Part 2, Regulations 4 and 5 of The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2012 (DRAFT).)</p>	Director of Public Health
<p>Responsibility for exercising the Council's powers and duties to provide, or make arrangements for the provision of, open access sexual health services within the Council's area, including:</p> <ul style="list-style-type: none">a) contraceptive services; andb) services related to the prevention and treatment of sexually transmitted infections. <p>pursuant to the requirements set out in the legislation referred to below</p> <p>(Section 2B and Schedule 1 (para. 8), National Health Service Act 2006. Part 2, Regulation 6 of The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2012 (DRAFT).)</p>	Director of Public Health



Public Health Services	Delegated to:
<p>Responsibility for exercising the Council's powers and duties to provide, or make arrangements for the provision of, a public health advice service to any clinical commissioning group whose area falls wholly or partly within the Council's area.</p> <p>(Section 2A and 2B, National Health Service Act 2006. Part 2, Regulation 7 of The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2012 (DRAFT).)</p>	Director of Public Health
<p>Responsibility for reviewing the range of matters to be covered by any such public health advice service, having had regard to the needs of the people in the Council's area and in agreement with the clinical commissioning group(s) to which the service is provided.</p> <p>(Section 2A and 2B, National Health Service Act 2006. Part 2, Regulation 7 of The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2012 (DRAFT).)</p>	Director of Public Health
<p>Responsibility for exercising the Council's powers and duties relating to independent mental health advocate services.</p> <p>(Section 130, Mental Health Act 1983 and Section 43, Health and Social Care Act 2012.)</p>	Director of Public Health
<p>Responsibility for exercising the Council's powers and duties relating to the provision of direct payments for healthcare.</p> <p>(Section 12A, NHS Act 2006 and Schedule 4, Part 1, Health and Social Care Act 2012.)</p>	Director of Public Health
<p>Responsibility for exercising the Council's powers and duties relating to independent mental capacity advocates.</p> <p>(Section 35, Mental Capacity Act 2005 and Schedule 4, Part 1, Health and Social Care Act 2012.)</p>	Director of Public Health



Public Health Services	Delegated to:
<p>Statutory functions of the Director of Public Health relating to protecting the health of the local population</p> <p>Responsibility for exercising the Council's powers and duties to provide information and advice to responsible persons and relevant bodies within, or which exercise functions relating to, the Council's area, with a view to promoting the preparation of appropriate local health protection arrangements.</p> <p>(Section 2A and 2B, National Health Service Act 2006. Part 2, Regulation 8 of The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2012 (DRAFT).)</p>	Director of Public Health
<p>Statutory functions of the Director of Public Health relating to charges in respect of the Council's functions under Section 2B of the NHS Act 2006</p> <p>Responsibility for exercising the Council's powers and duties to make and recover charges in respect of:</p> <ul style="list-style-type: none">a) providing information and advice;b) providing services and facilities designed to promote healthy living;c) providing or participating in the provision of training for persons working or seeking to work in the field of health improvement; andd) making available the services of any person or facilities. <p>Subject to the restrictions set out in the legislation referred to below</p> <p>(Section 2B, National Health Service Act 2006 and Part 3, Regulation 9 of The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2012 (DRAFT).</p>	Director of Public Health
<p>Statutory functions relating to joint working with the prison service under Section 249 of the NHS Act 2006.</p> <p>Responsibility for exercising the Council's powers and duties to enter into prescribed arrangements with the prison service insofar as those arrangements relate to securing and maintaining the health of prisoners.</p> <p>(Section 249, National Health Service Act 2006 and Section 29, Health and Social Care Act 2012.)</p>	Director of Public Health



DIRECTOR: CORPORATE AND CUSTOMER SERVICES

The exercise of the responsibilities set out below is delegated by the County Council:

(a) Taking all operational decisions necessary to secure the provision of services and/or discharge of statutory functions, including the power to enter into contracts, in accordance with the approved policies and Financial Procedure Rules in relation to the following areas:

- Chief Executive's Support team, including support for Lord Lieutenant, Chairman/woman and Director
- Communications and Information, including press and media, council-wide campaigns, council brand and website
- Customer Services, including the Contact Centre and corporate reception sites
- IT and Digital Service, including council-wide strategy and support for all business systems
- Emergency and Business Continuity Planning
- Business Intelligence, including Information Governance, Information Management, Records Management, Research, and Management & Performance Information

(b) Holding officers to account for the performance of their service areas

DIRECTOR OF GOVERNANCE AND LEGAL SERVICES

The exercise of the responsibilities set out below is delegated by the County Council:

Monitoring Officer - Cambridgeshire County Council

Power or Duty	Condition
To make such amendments to the CCC Constitution and related Documents, as may from time to time become necessary to reflect and take account of changes in legislation, guidance, Council Policy, decisions of the Council and any drafting changes or improvements. This shall not include any changes of substance.	In consultation with Group Leaders. Not to be exercised if any Group Leader objects to the proposed change.
The Monitoring Officer will maintain an up-to- date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.	



In order to ensure lawfulness and fairness of decision-making and after consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the Council if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.	
To act as the Solicitor to the Council and in consultation with the Head of Paid Service and the Chief Finance Officer, to provide advice on the scope of powers and authority for the Council to take decisions, maladministration, probity and governance issues, to all Councillors and to support and advise Councillors and officers in their respective roles.	
To act as the Proper Officer for the purposes of the Local Government Act 2000 and regulations made there under, except where legislation or the Scheme of Delegation names another officer.	
In cases of dispute, to decide upon a Member's "need to know".	
The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Constitution and Ethics Committee. This will include making arrangements for the hearing of allegations against Members concerning breaches of the Code of Conduct. The Monitoring Officer shall also support the Constitution and Ethics Committee in ensuring the Council's Constitution is fit for purpose and in this role, shall keep it under review and make recommendations as to how it might be amended to better achieve the purposes set out in Article 1 or in response to changes in law.	
In the case of allegations that a Councillor has breached the Members' Code of Conduct, the Monitoring Officer and the Council's Independent Person shall conduct an initial assessment of complaint and make a decision as to whether the complaint warrants investigation or any other action.	
Where allegations of breaches of the Members' Code of Conduct are referred for investigation, the Monitoring Officer shall make arrangements for the conduct of such investigations and report the findings to the Constitution and Ethics Committee.	
The Monitoring Officer shall act as the Proper Officer for Access to Information and shall ensure that decisions of the Council and its committees, together with the reasons for those decisions, and	



relevant officer reports and background papers are made publicly available as soon as possible.	
The Monitoring Officer will advise whether decisions of the Council and its committees are in accordance with the Budget and Policy Framework.	
The Monitoring Officer shall provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors.	
The Monitoring Officer shall determine whether information should be exempt from disclosure under the provisions of Section 36 of the Freedom of Information Act 2000.	
To agree procedures for the conduct of all appeals heard by the Council's Service Appeals Sub-Committee.	
To agree procedures for the conduct of Council's Education Admission and Exclusion Appeals and the selection and appointment of members to Council's appeals panels.	

GUIDANCE FOR MEMBERS AND OFFICERS ON OUTSIDE BODIES

To: **Constitution and Ethics Committee**

Meeting Date: **27th September 2018**

From: **Acting Monitoring Officer**

Purpose: **To consider the draft guidance, amend if necessary and recommend to Full Council if considered appropriate**

Recommendation: **a) To consider and note the draft guidance for members and officers and propose amendments as necessary**

b) To decide whether it should be issued once agreed by the committee or if it should go to Full Council for ratification

<i>Officer contact:</i>		<i>Member contact:</i>	
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1. BACKGROUND

- 1.1 This guidance has been drafted as part of the Council's consideration of actions flowing from the investigation into complaints involving the community transport organisations FACT, HACT & ESACT. The Audit & Accounts Committee agreed that the council's officer code of conduct should be reviewed to ensure correct declarations of interests in relation to outside bodies.
- 1.2 The action plan agreed by the Audit & Accounts Committee at the meeting on 31st July 2018 states that Council "accepts that its processes and advice for employees and Cllrs regarding potential conflicts of interest could be improved". No current guidance is in place regarding this issue.
- 1.3 The actions agreed (action point 50) were that:
 - "The Code of Conduct for Employees shall be reviewed to ensure it is sufficiently explicit that any CCC role represents the Council and any other role that may conflict with the Council must be disclosed either annually or as and when an incident provokes a potential conflict"
 - "Cllrs will be invited annually to discuss their roles (both CCC and other) to be provided with advice from the Monitoring Officer and ensure their formal declaration of interests is up to date."

2. MAIN ISSUES

- 2.1 The council's acting Monitoring Officer has reviewed the council's officer code of conduct and considers that its section on "declaring relevant interests" is sufficient. It advises officers on potential conflicts of interest, giving examples such as "involvement with clubs and societies that we work with or fund"; "involvement with organisations that provide similar services to the Council"; and "Directorships including with companies that are involved with or funded by the council". It advises offices to declare any such interests, discuss them with their line manager and agree how any conflicts can be avoided.
- 2.2 However as there is currently no guidance in place for either members or officers who are appointed onto outside bodies this guidance note (Appendix 1) has been prepared to offer more detailed information and help.
- 2.3 Due to the high profile nature of the community transport investigation and the need to ensure all members of council are aware of the guidance the Committee is asked to consider whether the guidance should be ratified by Full Council, once agreed by the committee, as part of Full Council's remit is to appoint representatives to outside bodies. Alternatively it could be issued to all members by the Chief Executive & Acting Monitoring Officer and included in new members and officers induction packs.

SOURCE DOCUMENTS GUIDANCE

It is a legal requirement for the following box to be completed by the report author.

Source Documents	Location
None	



GUIDANCE FOR MEMBERS & OFFICERS WHO SERVE ON OUTSIDE BODIES

**A guide to the law for members and officers who are appointed
to represent Cambridgeshire County Council on another body**

September 2018

- 1.1. The County Council appoints members and, less often, officers to serve on a wide range of organisations outside the council, including as directors of companies, trustees of charities, members of management committees and other roles on public bodies and voluntary organisations. These roles on outside bodies may give rise to occasional uncertainty about responsibilities and sometimes lead to conflicts of interest. For example, if an outside body comes into conflict with the Council and the member is a director or on the management committee of the outside body it is likely that the member's prime duty would be to the outside body in the conduct of the outside body's affairs.
- 1.2. The purpose of this guidance is to summarise the legal position and responsibilities of members and officers who are appointed by the council to serve on outside bodies. It is not intended to be an exhaustive explanation of the law and if further advice is required the Monitoring Officer should be contacted.
- 1.3. This guidance does not cover any situation where a member or officer who chooses to sit on an outside body in their own private capacity – in this case they should ensure there is no conflict of interest with their position as a member or officer.
- 1.4. Members and officers may be appointed by the Council to be an "observer" or to undertake a monitoring role at an outside body, facilitating exchanges of views or information as an extension of their council duties but taking no part in the outside body's management or governance other than to attend and vote at annual or general meetings, or simply to attend. In this type of role members and officers will be mainly concerned with representing the council and will not have responsibility for the governance of the body. Care should be taken to ensure such attendance is minuted/recorded each time to correctly reflect this.

2. GENERAL

- 2.1 Before accepting the directorship or trusteeship of an external organisation, the member or officer should consider how onerous the responsibilities are likely to be and should only accept the office if satisfied that they have the time and capacity to undertake them.
- 2.2 Consideration should also be given to whether there is likely to be any significant conflict of interest between the role as a director or trustee and their role as a member or officer. If such a conflict is likely to arise to a significant degree then the role should not be taken on.

2.3 The member or officer should also assess the risks of things going wrong which might raise the prospect of a personal liability. Matters to be taken into account include the nature of the functions of the outside body and the amount of money it holds or deals with. For example, some external companies handle considerable sums of money in the course of each year and have major functions. On the other hand, the risks associated with relatively small local charities are much less.

2.4 Members and officers who serve on outside bodies must exercise independent judgement in the interests of the organisation in which they are involved. Whilst it is recognised that they may have a commitment to representing the County Council on the outside organisation, they must also be aware that it is their responsibility to decide what view to take on any question before the organisation. Where a member or officer serves on the outside body in a representative capacity, this should be made clear to that body. There will be a fine line to tread between the duty to the outside body and to the County Council.

2.5 Ultimately the member or officer in acting as a Director or Trustee or member of a Management Committee of an outside body, must act in accordance with that body's interests, and not those of the Council or even the council tax payers at large. A mandate from the Council to vote one way or the other would put the member or officer in breach of the duty to the organisation. It is permissible to take account of the County Council's wishes, but not to vote simply in accordance with them. The overriding duty in considering an item before the outside body is to vote in accordance with the interests of that organisation.

2.6 A member or officer serving on an outside body must also ensure that avoidable loss is not incurred in managing that body. Individual responsibility cannot be avoided by not reading the papers or failing to ask for appropriate reports. Professional advice should also be sought where appropriate.

2.7 If there is a major dispute between the County Council and the outside body then the Council's representative can be placed in an untenable position. In these circumstances, the appointee should take advice from either the Chief Executive, the Monitoring Officer or the relevant Chief Officer.

2.8 At the end of the day, it is possible that a representative on an outside body may find themselves unable to adequately carry out their responsibilities properly, both as a member or officer of the County Council and as a Director/Trustee/Committee Member of the outside body. That would be an exception, and should not deflect those appointed to outside bodies from being prepared to participate in the management and running of outside organisations.

2.9 Finally, it is recommended that:-

- (a) Upon being appointed to an outside body, appointees obtain essential documents such as the outside body's governing document and the latest annual report and accounts
- (b) Clarify if there are any insurances or indemnities in place
- (c) Ensure the organisation has sound financial practices and procedures – take an interest in the business plan and other financial reports
- (d) Understand how decisions are made in the organisation including delegations of powers
- (e) Appointees to outside bodies should take advice from the s151 Officer or the Monitoring Officer (as appropriate) if they have any financial or other concerns about the body to which they have been appointed.

3. COMPANY DIRECTORS

3.1 The management of a company is generally the responsibility of a board of directors and the powers of the directors are usually set out in the company's Articles of Association (rules which govern the company's internal management). Directors are those who are appointed by the company to act in that capacity.

3.2 **Company Directors** have the following duties:-

- **A fiduciary duty** to the company (not individual shareholders) to act honestly and in good faith and in the best interests of the company as a whole. This means taking proper care of the assets of the company.
- **A general duty of care and skill** to the company. This means that Directors must exercise a degree of skill as may reasonably be expected from someone with that individual's particular knowledge and experience. However, Directors are not deemed to be experts, but are expected to use due diligence and to obtain expert advice if necessary.
- Directors must **exercise independent judgement**, although they may take account of the interests of any third party whom they represent. This may well require interests to be declared (see below). However Directors cannot vote simply in accordance with the Council's mandate.
- Directors are **not allowed to make a profit** from their position. They must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the company's Articles of Association.

- Directors must **ensure compliance with the Companies Act** in relation to the keeping of accounts and making of returns to the Registrar of Companies and the information to be shown on stationery.
- There is a **duty to have regard to the interests of the company's employees**, particularly, for example, in respect of health and safety.
- Directors also have a range of **accounting and financial responsibilities**, including the preparation of accounts for each financial year, ensuring accounting records are maintained sufficiently to demonstrate the company's day to day transactions, approving the annual accounts and laying them before a general meeting and ensuring that annual accounts and reports are sent to shareholders and anyone else entitled to receive them.

3.3 Individual Directors can also be liable in certain circumstances, including the following:-

- A company can only act within the scope set out in its Memorandum of Association, and those Directors who knowingly cause the company to act beyond these activities will be liable personally.
- Directors may also be liable for breach of trust, if they misapply the money or property of the company. Directors may also be liable if they fail to take action to prevent the breach of a Co-Director of which they are aware.
- In the event of a failure to act in accordance with the best interests of the company, or if Directors use their powers improperly or make a personal profit from their position as a Director, then they may be personally liable for loss to the company and may be required to give to the company the personal profit made.
- If the level of skill and care shown by a Director falls below that which could reasonably be expected and the company suffers loss, the Director will be liable for the loss incurred. However, if it believes the Director acted honestly and reasonably, a Court may excuse the Director from this liability.
- If a Director knows or ought to know that there is no reasonable prospect of the company avoiding liquidation, the Court may require the Director to contribute to the company's assets on liquidation if the company continues to trade. This is known as wrongful trading. No such order will be made if the Court is satisfied that the Director took all reasonable steps to minimise the loss to the creditors.
- Directors will also be liable if to their knowledge the company carried on business with intent to defraud creditors or any other person, or for any other fraudulent purpose.
- Where a company fails to pay National Insurance contributions and this is due to fraud or neglect on the part of any director(s) of the company, they may be held personally responsible for the outstanding contributions.

3.4 Finally, information (apart from confidential information) must be given to other councillors about their activities as required by the local authority.

4. CHARITY TRUSTEES

4.1 Trustees of a charity are responsible for the control and administration of a charity and retain personal liability. Trustees must acquaint themselves with the terms of the Trust. In the case of a charity which is also a company, these terms will be found in the Memorandum and Articles of Association. Other Trusts will be found in the document under which the charity was established, such as a will or deed of gift or constitution.

4.2 **Charity Trustees** have the following duties:-

- Trustees must act in accordance with the terms of the Trust.
- The property of the charity must be used for the purposes for which the charity was set up. It must also be applied fairly between those properly entitled to benefit from it.
- Trustees have a duty to exercise such care and skill as is reasonable in the circumstances having particular regard to any special knowledge or experience that they have or holds themselves out as having. In addition, where a Trustee acts in the course of a business or profession, particular regard must be had to any special knowledge or experience which it is reasonable to expect of a person acting in the course of that kind of business or profession.
- Trustees must always act in the interests of the charity and of its beneficiaries or potential beneficiaries and without regard to their own private interests. This means that Charity Trustees must not put themselves in a position where their interests and duties conflict.
- The work must generally be unpaid. Trustees may be paid for their expenses from the charity's income and, very occasionally, the Charity Commission may allow wider remuneration where this is in the interests of the charity.
- Trustees cannot benefit either directly or indirectly from the charity.
- They must act reasonably and prudently in all matters relating to the charity and must always bear in mind the interests of the charity. They should manage the charity as carefully as if they were running their own business. Although they may delegate certain of their functions under the Trustee Act 2000 and also under any powers in the trust document, they remain legally responsible and must supervise and control the work of officers.
- Trustees must act in accordance with all relevant legislation.

- They have a duty to provide information to the Charity Commissioners. Most charities (except small ones with an annual income under £1000 a year) are required to register under the charities legislation. The Charity Commissioners rely on this information when making a decision about a charity, so it is very important that it is accurate. It is an offence to give the Charity Commissioners false or misleading information, or to alter, conceal or destroy charity documents which may be required by the Commissioners.
- All registered charities are subject to a number of accounting and reporting requirements, depending on their income and expenditure. These involve maintaining proper accounts, preparing the annual statement of accounts and an annual report and in some cases submitting them to the Charity Commission; and where the charity's gross income and total expenditure exceeds £10,000, making an annual report to the Charity Commission. Charity trustees are under a duty to ensure that these accounting and reporting requirements are carried out and to approve the annual report and accounts.
- The accounts of registered charities with a gross income or total expenditure exceeding £10,000 must, at the option of the trustees, be either audited or independently examined. In addition if either income or expenditure has been more than £250,000 in either of the previous two financial years then accounts must be audited by a registered auditor.
- Retaining accounting records and statements of account for at least 6 years.

5. MANAGEMENT COMMITTEES

5.1 Groups which are not charitable trusts or limited companies are "unincorporated associations" and have no separate legal identity from their members. The rules governing the members' duties and liabilities will be set out in a constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for a management committee to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and registerable as a charity.

5.2 Broadly, management committee members must act within the terms of the constitution, and must take reasonable care in exercising their powers.

5.3 Generally, members of management committees are liable for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the committee members are personally liable for the shortfall. If one person is appointed by the constitution to act as the agent of the organisation for certain

purposes, then that person acts as the agent of all the members, who have joint liability for the agent's actions. Members of the management committee will have a personal liability if they act outside the authority given them or if they do not comply with the law.

5.4 Exceptions apply to certain consultative/advisory bodies such as EELGA & LGA where the representative will normally be expected to act in the Council's interests.

6. REGULATED COMPANIES

6.1 A company that is influenced by the Council (20% shareholding or more) or controlled by the Council (50% shareholding or more) will be a regulated company under the Local Authorities (Companies) Order 1995. This piece of legislation has a number of restrictions for members that sit on the board of regulated local authority companies, referring to them as "regulated directors".

6.2 These restrictions include:

- The maximum amount of remuneration is the greatest amount which would be payable by the Council in respect of a comparable duty performed on behalf of the Council, less any amount paid by the Council to the regulated director for duties to the Company;
- The maximum amount of travelling or subsistence allowance which would be payable to that director by the Council of which he is a member if the relevant duty were an approved duty for the purposes of s174 of the Local Government Act 1972
- When a regulated director becomes disqualified for membership of the Council, he/she must be removed as a director of the regulated company.

6.3 Where members sit on the board of an influenced or regulated company there will be an inherent conflict of interest in their roles as the Companies Act 2006 requires Directors to consider the best interests of the company and not the shareholders. However due to the restrictions on the remuneration and expenses of members in relation to such companies members are unlikely to have a disclosable pecuniary interest. Members should nonetheless declare their conflict of interest at Council meetings and avoid voting on or taking Council decisions in relation to such companies.

7. OTHER PUBLIC BODIES

7.1 There are bodies created by an Act of Parliament to carry out particular functions and whose constitution is set out in the legislation relating to that specific body. Examples include the Broads Authority, Internal Drainage Boards and school governing bodies.

7.2 The powers of the members of the body and duties and liabilities of those members individually and collectively depend upon the wording of the legislation in question. In general terms, however, the position of a member is similar to that of a councillor. It is therefore wise for a member of any of these bodies to obtain information for themselves from that body on its powers and duties, its Standing Orders and other procedures which they must follow and financial or other regulations which govern the conduct of its business.

7.3 In addition, conflicts of interest can occasionally arise for such appointees. In this respect, the general provisions described in Section 2 above will apply.

7.4 Finally, there is the developing area of partnerships and partnership boards. Generally, these are not legal entities in their own right and members are appointed purely to represent the County Council. In these circumstances the specific duties referred to above will not therefore tend to apply nor will there be a potential for a conflict of interest. On the other hand, the position may well be different if a separate legal entity is formed as part of the partnership working.

8. DECLARATION OF INTERESTS

8.1 If you have a **Disclosable Pecuniary Interest** in a matter to be considered at the meeting and that interest is on your Register of Interests you must not speak or vote on the matter. In many case (but not all) cases a Member will not have a Disclosable Pecuniary Interest (and therefore need not make any declaration)) if the matter relates to an outside body to which the County Council have appointed the Member as its representative.

8.2 Members do however need to pay particular attention to whether a body on which they have a beneficial interest (which includes a body corporate of which they are a director – NB. “director” includes being a member of the committee of management of an industrial and provident society) has or is likely to have a contractual relationship with the council (NB. which includes grant agreements). If this is the case then this is a specific disclosable pecuniary interest under the Localism Act 2011 as set out in the council’s code of conduct and it need to be declared as such and the member must not take part in any decision making.

8.3 If you do not have a Disclosable Pecuniary Interest you may nevertheless have a “**non-statutory disclosable interest**” in a matter to be discussed if it affects:

- your well-being or financial position
- that of your family or close friends
- that of a club or society in which you have a management role
- that of another public body of which you are a member to a greater extent than others in your ward.

If that is the case then you must declare such an interest but can speak and vote on the matter, **unless** the interest is “*one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest*” (s.10.2(b) of the council’s code of conduct sets out what action should be taken). Please seek the advice of the council’s Monitoring Officer if unsure about what needs to be declared in order to help avoid the appearance of bias.

8.4 When members discuss at Council meetings matters relating to an outside body on which they serve, they may take account of that outside body’s interest. However, they must not vote simply in accordance with the mandate of that outside body. In short, the primary consideration is the public interest.

8.5 Officers should have regard to the Officer’s Code of Conduct and discuss all potential conflicts of interest with their line manager, seeking advice from the council’s Monitoring Officer where appropriate. Written file notes should be made and kept of all advice given and action taken.

9. INDEMNITIES

9.1 An outside body can provide indemnities for its members as follows:

- a) Companies can now give their Directors indemnities. However, such indemnities cannot cover:-
 - (i) the Director’s liability to the company itself or to other companies within the same group;
 - (ii) fines imposed on a Director in criminal proceedings or in respect of a sum payable to a Regulatory Authority by way of penalty for non-compliance with any requirement of a regulatory nature; or

(iii) Liabilities incurred by a Director in defending criminal proceedings where convicted, or in defending any civil proceedings brought by the company, or an associated company in which judgement is made against such Director.

- (b) With regard to Charitable Trusts, an indemnity can be given from the Trust Fund provided the Trustee has acted properly and within their powers. Trustees may take out insurance to protect themselves against personal liability, but not for criminal acts, fraud etc. There will be no problem if the Trustees themselves pay the premiums but if they are paid out of the Charitable Funds the Trustees will need to consent to the Charity Commission unless the Trust Deed specifically allows it.
- (c) With regard to Management Committees, members will be entitled to an indemnity if they act in accordance with the Constitution and are not at fault. It is also possible to obtain insurance but if the organisation is to pay the premium it must be permitted by the Constitution.

10. RELATED ISSUES

- a) Occasionally, the County Council will be represented on outside bodies by third parties, rather than members or officers. This guidance applies in principle to these representatives, although some parts of it will necessarily not apply.
- b) From time to time, officers are, as a result of their position with the County Council, appointed to serve on an outside body by the body itself, rather than by the County Council. Examples include serving on the managing body of a professional association or appointment to a national body as a local authority representative. Again, most of the principles contained in this guidance will apply to that situation, depending on the nature of the outside body.
- c) Finally, officers may from time to time be asked to serve in their private capacity on outside bodies funded by the Council. This can often give rise to a conflict of interest for the officer, particularly in the situation where the officer is employed within the funding department. In these circumstances, the County Council takes the view that there will be circumstances where an officer should not serve on the outside body because of the potential for a conflict of interest.

11. FURTHER INFORMATION

If you require any further information about the issues raised in this Guidance Note please contact the Council's Monitoring Officer.

COUNCIL – PUBLIC QUESTION TIME

To: **Constitution and Ethics Committee**

Meeting Date: **27th September 2018**

From: **LGSS Director of Law & Governance
and Monitoring Officer**

Purpose: **To consider proposed changes to rules relating to public
questions to Council and Committees/Sub-Committees.**

Recommendation: **The Constitution and Ethics Committee is asked to
consider amendments to the Constitution, as set out in
bold in Appendices 1 and 2, and recommend any changes
to full Council, if appropriate.**

<i>Officer contact:</i>	
Name:	Michelle Rowe
Post:	Democratic Services Manager
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Tel:	01223 699180

1. Background

- 1.1 Section 9.3 of the Council's Procedure Rules, as contained within the Constitution, provide an opportunity for up to four members of the public to ask questions at meetings of the County Council, excluding extraordinary or special meetings of the Council and the first annual meeting of a new Council, to the Leader of the Council and the Chairman/woman of any Committee.

Repeat Questions

- 1.2 Neither Section 9.3 of the Council's Procedure Rules, nor Section 9.1 of the Procedure Rules for Committee and Sub-Committee meetings provide any restrictions on repeat questions.
- 1.3 The Petitions Scheme, set out in Section 9.4 of the Council's Constitution, makes clear that petitions will not normally be considered within six months of another petition on the same matter having been considered by a committee of the Council.

Number of Questions Exceeding Limit Set for Council

- 1.4 There are occasions when the number of requests from the public to ask questions exceeds the set limit of four. One such occasion was the Council meeting of 17 October 2018 where twelve questions were submitted in relation to the item on Children's Centres. In that instance, the Chairman exercised her discretion and allowed the limit to be exceeded.

1.5 Scope of Public Questions

The Council Procedure rules do not provide any grounds for the Monitoring Officer to accept or reject a public question.

2. Proposed Change to Constitution

Repeat Questions

- 2.1 Many Councils have restrictions relating to repeat questions within in a specific timeframe. It is therefore proposed to add the following to the Council Procedure Rules:

A question which is substantially the same as a question which has been put at a meeting of the Council in the past six months will not be allowed.

The wording, as amended for Committees and Sub-Committees, will also be added to that procedure.

Number of Questions Exceeding Limit Set for Council

- 2.2 It is proposed to amend the Constitution to confirm that if more than four members of the public apply to speak, questioners will be invited to defer their question to the next meeting. It is also proposed that the Council adopt the provision for excess speakers as detailed in Section 9.2 of the Procedure Rules for Committee and Sub-Committee meetings:

“the Democratic Services Officer will ensure that all steps are taken to inform the “unsuccessful” speakers in advance and a written reply will be sent within ten working days after the meeting.”

The discretion available to the Chairman/woman to exceed the limit in exceptional circumstances remains unchanged. It is proposed to add the following wording to Council Procedure Rules:

(Any decision to exceed the limit, in exceptional circumstances, will be at the discretion of the Council Chairman/woman.)

Scope of Public Questions

- 2.3 There may be occasions when it is not appropriate to accept a public question. It is therefore proposed to add the following wording to the Council Procedure Rules:

If the Monitoring Officer considers a question:

- is not about a matter for which the local authority has a responsibility or which affects the County;
- is illegal, improper, defamatory, frivolous or offensive; or
- requires the disclosure of confidential or exempt information.

he or she will inform the Chairman/woman who will then decide whether or not to reject the question.

Source Documents	Location
Council's Constitution	http://tinyurl.com/Constitution-CCC



Appendix 1

EXTRACT OF COUNCIL PROCEDURE RULES

These rules are designed to ensure meetings of the Full Council run smoothly and are conducted properly.

9.3 Public Question Time

There will be an opportunity for up to four members of the public to ask questions at meetings of the County Council, excluding extraordinary or special meetings of the Council and the first annual meeting of a new Council, to the Leader of the Council and the Chairman/woman of any Committee.

If more than four members of the public apply to speak, questioners will be invited to defer their question to the next meeting. The Democratic Services Officer will ensure that all steps are taken to inform the “unsuccessful” speakers in advance and, where they either choose not to defer their question or do not reply, a written reply will be sent within ten working days after the meeting.

(Any decision to exceed the limit, in exceptional circumstances, will be at the discretion of the Council Chairman/woman.)

Members of the public wishing to ask a question at the Council meeting should provide the following details to the Council’s Democratic Services by no later than 12.00 noon, five working days before the meeting:

- Name and address and contact details of the person asking the question.
- The name of the organisation if the question is being asked on their behalf.
- Details of the question to be asked.
- The name or position of the member of the Council to whom it is to be put.
- Brief information about how the subject of the question relates to the person asking the question (e.g. as a resident of the area, as a recipient of a service, as the owner of a property affected by a proposal).

Only one question may be asked by each member of the public or organisation and the question must relate to a single topic. **A question which is substantially the same as a question which has been put at a meeting of the Council in the past six months will not be allowed.**

If the Monitoring Officer considers a question:

- **is not about a matter for which the local authority has a responsibility or which affects the County;**
- **is illegal, improper, defamatory, frivolous or offensive; or**
- **requires the disclosure of confidential or exempt information.**

he or she will inform the Chairman/woman who will then decide whether or not to reject the question.

Members of the public shall have up to two minutes in which to ask the question.



The named member will respond to the question which may take the form of:

- (a) a direct oral response of up to a maximum of two minutes;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written response circulated later to the questioner and made available to all members of Council and to the public.

After the response has been given, the questioner has up to a further minute in which to put one supplementary question or seek clarification of the response to the original question. The supplementary question must arise directly out of the original question or the reply and must not introduce new material.

The recipient of the original question then has up to a further two minutes in which to reply to the supplementary question.

No debate will be allowed on any question or the response.

If the questioner cannot be present at the council meeting to pose her/his [sic] question, a written question will be accepted and answered in writing.



Appendix 2

EXTRACT OF PROCEDURE RULES FOR COMMITTEE AND SUB-COMMITTEE MEETINGS

9. PUBLIC SPEAKING AT COUNTY COUNCIL COMMITTEES

9.1 Public Speaking at County Council Committee Meetings

The County Council recognises the value that can be added by enabling contributions by the public to meetings of council committees and in order to facilitate this, the Chairman/woman or the person presiding at a meeting of a council committee may, at their absolute discretion, grant permission to a member of the public to speak during the meeting.

Speakers will usually only be permitted to speak once in any debate and speeches will usually be time limited to three minutes. Permission to speak may be refused in circumstances where this is not conducive to the orderly conduct of council business including where it is likely, in the opinion of the Chairman/woman, that defamatory, vexatious, discriminatory or offensive language will be used.

Permission to speak may also be declined if the anticipated contribution is not relevant to the agenda items of the meeting **and where a question is substantially the same as a question which has been put at a meeting of a Committee or Sub-Committee in the past six months.**

In order to assist meeting organisers members of the public* wishing to speak at a Committee meeting** are asked to make a request in writing no later than 12.00 noon three working days before the meeting via letter to the Democratic Services Officer, Democratic and Members' Services, SH1102, Cambridgeshire County Council, Shire Hall, Cambridge CB3 0AP or via e-mail (this information is available at the bottom of the agenda front sheet) and provide the following details:

- **Name, address and contact details** of the person making a comment or asking a question
- **Details of the request to speak:** The full text of the question to be asked or a list of the main points regarding a comment about a matter on the agenda.

(Requests to speak received after the three day deadline may be permitted, at the discretion of the relevant Committee Chairman/woman.)

9.2 Participating in a Committee Meeting

If registered to speak, members of the public should arrive at the venue (usually Shire Hall) at least 15 minutes before the start of the meeting and report to the Democratic Services Officer present. The register of speakers will be kept by Democratic Services and provided to the Chairman/woman in advance of the



meeting. No more than three speakers will normally be permitted per subject at a meeting (subject to the Chairman/woman's discretion). Only one question or comment may be allowed per speaker.

When the meeting reaches the agenda item, the Chairman/woman will ask the member of the public to speak. The member of the public is asked to behave appropriately for the nature of the meeting, and show courtesy and respect to everyone present. He/she should not make any remarks which are offensive, defamatory, insulting or discriminatory. The time limit to pose a question or make a comment will be three minutes for each speaker. The Democratic Services Officer will time each speaker to ensure that he/she does not exceed three minutes. The member of the public must cease speaking when so instructed by the Chairman/woman. The Chairman/woman may allow questions from Committee members to the speaker for clarification only.

The Chairman/woman will deal with the question or statement, or request that an appropriate Member or Officer reply orally. If this is not possible, the member of the public will be provided with a written answer using the contact details provided within ten working days.

If there should be a large number of requests for public speaking regarding one or more items on the agenda, the Chairman/woman may take steps to ensure that the meeting can be conducted in an appropriate fashion; for example, move the agenda item to the beginning of the meeting or limit the number of speakers. If the Chairman/woman should decide to limit the number of speakers, the Democratic Services Officer will ensure that all steps are taken to inform the "unsuccessful" speakers in advance and a written reply will be sent within ten working days after the meeting.

This process does not apply to County Councillors as their speaking rights as non-Committee members are covered under 'Attendance of other County Councillors' below. It also does not apply to employees of the Council except when acting as Trades Union representatives or private individuals, as they have sufficient channels of communication, both internally and through their representative bodies.

** For the purposes of this guide a "member of the public" is defined simply as anyone who lives or works in Cambridgeshire or is affected by a decision made in Cambridgeshire.*

*** This procedure does not apply to meetings of Full Council and Planning Committee as these meetings have their own procedures.*

**TRANSFER OF DELEGATED RESPONSIBILITY FOR THE COUNCIL'S
WHISTLEBLOWING POLICY**

To: **Constitution and Ethics Committee**

Meeting Date: **27 September 2018**

From: **Acting Monitoring Officer**

Purpose: **Consider the transfer of its current constitutional responsibility for the council's whistleblowing policy to the council's Audit & Accounts Committee**

Recommendation: **To recommend to Full Council that the constitution is amended to pass the delegated responsibility for the council's whistleblowing policy and oversight from the Constitution & Ethics Committee to the Council's Audit & Accounts Committee.**

<i>Officer contact:</i>		<i>Member contact:</i>	
Name:	Fiona McMillan	Name:	Councillor Mac McGuire
Post:	Acting Monitoring Officer	Chairman:	Constitution and Ethics Committee
Email:	fiona.mcmillan@peterborough.gov.uk	Email:	mac.mcguire@cambridgeshire.gov.uk
Tel:	01733 452361 (office)	Tel:	01223 706398 (office)

1. BACKGROUND

- 1.1 There is currently an overlap in the Council's constitution regarding responsibility for whistleblowing reports and oversights of the whistleblowing policy.
- 1.2 The Constitution and Ethics Committee has **'Authority to approve any changes regarding the Council's Whistle-Blowing policy and arrangements'** (Part 3B-8) whilst the Audit and Accounts Committee's delegated authority includes (following revision last July, Part 3B-7) **'To maintain an overview of the Council's Constitution in respect of contract procedure rules, financial regulations, codes of conduct etc.'** and **'To monitor council policies on "raising concerns at work" and anti-fraud and anti-corruption policies, including the Council's complaints process'**.
- 1.3 In 2017 revisions to the Whistleblowing Policy were required and it was sent to the Audit and Accounts Committee along with revised draft Anti-Fraud and Corruption and Anti-Money Laundering policies. In July 2017 the General Purposes Committee approved the revised Anti-Fraud and Corruption and Anti-Money Laundering policies and in September 2017 the Constitution and Ethics Committee approved the revised Whistleblowing Policy, noting that it had been 'endorsed'.
- 1.4 The Chief Internal Auditor presented the annual Whistleblowing Report to the Audit and Accounts Committee on 29 May 2018 and the report includes the statement that "as part of the new policy, Internal Audit is due to produce an annual report to the Audit and Accounts Committee" ([Link to Audit & Accounts report](#)). This report aims to identify any patterns of concern and assess the effectiveness of the policy.
- 1.5 It appears there is an overlap between the remit of two committees on 'raising concerns at work' and 'whistleblowing'. Internal Audit hold the council's whistleblowing records and the Chief Internal Auditor is responsible for the policy so it would seem logical for reports to be made to Audit & Accounts Committee instead of Constitution & Ethics Committee. This will reflect the new policy and procedures and the current working practice and avoid an overlap of roles in future.

2. MAIN ISSUES

- 2.1 If the Committee is in agreement the recommendation is to delete the delegated authority in Part 3B Responsibility for Functions in the constitution relating to the Constitution and Ethics Committee's in relation to "Authority to remove any changes regarding the Council's Whistle-blowing policy and arrangements".
- 2.2 The delegation can then be added to the delegated authority for Audit & Accounts Committee in section 2.4 after "to monitor council policies on "raising concerns at work".

Source Documents	Location
None	

Agenda Item No: 7

A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT TO 18 SEPTEMBER 2018

To: **Constitution and Ethics Committee**

Meeting Date: **27 September 2018**

From: **Acting Monitoring Officer**

Electoral division(s): **All**

Purpose: **To brief the Constitution and Ethics Committee on the number and nature of the complaints received about Members under the Code of Conduct from 13 April 2018 to 18 September 2018.**

Recommendation: **It is recommended that the Constitution and Ethics Committee note the contents of this report.**

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1. INTRODUCTION

- 1.1. The Localism Act ("the Act") places a statutory duty on the County Council to promote and maintain high standards of conduct amongst its Members and co-opted Members. This includes the obligation on the County Council to have in place a Code of Conduct setting out the standard of conduct expected of Members when acting in their capacity as County Councillors.
- 1.2. The requirements of the Act are supported by Article 2 of the Constitution, Members of the Council, and by Part 5.1, Members' Code of Conduct. The Constitution and Ethics Committee's terms of reference give it authority to monitor the operation of the Code of Conduct and the complaints received under it.
- 1.3. This report serves to provide the Constitution and Ethics Committee with an overview of the complaints received under the Code of Conduct from 13 April 2018 to 18 September 2018.

2. OVERVIEW OF COMPLAINTS

- 2.1. Since 13 April 2018 three new complaints against Members have been received by the council's Acting Monitoring Officer, two of which have not yet concluded.
- 2.2. Details of the complaint which has been concluded since 13 April 2017 are set out in Appendix 1.
- 2.3. The publication of details of complaints only takes place after conclusion of the complaint to reduce speculation on limited information, ensure there is no compromise of any assessment or investigation, and that the Data Protection Act 1998 is complied with.

Source Documents	Location
Decision Notices	Held by LGSS Law Limited and published on the Council's website at https://www.cambridgeshire.gov.uk/council/contact-us/complain-about-a-councillor-or-co-opted-member/

INITIAL ASSESSMENT OF COMPLAINT **DECISION NOTICE**

Subject Member: Cllr David Connor – Cambridgeshire County Council

1. Background

- 1.1 On 15 February 2018 the Monitoring Officer received a formal complaint from Mr James Tribe, (“the Complainant”), which was subsequently clarified, which alleged that Cllr David Connor (“the Subject Member”) had taken a photograph of his company’s business premises (‘the Site’), held a telephone conversation with the Complainant in which the Subject Member made inappropriate comments and chaired subsequent planning committee meetings when the Site was discussed and he failed to disclose any interest.

2. Evidence Considered

- 2.1 The following documents and information were considered for the purposes of this complaint:
- 2.1.1 Original complaint letter dated 7 February 2018 from the Complainant to Ms Pledger of Cambridgeshire County Council which amongst other things includes the complaint against the Subject Member;
 - 2.1.2 Email dated 22 May 2018 from the Complainant to Stephen Rix (Initial Assessment Officer) clarifying and expanding on his complaint;
 - 2.1.3 Subject Member’s response;
 - 2.1.4 Members Code of Conduct (at page 1 of the Council’s Code and Protocols);
 - 2.1.5 Various Council Enforcement Update Reports and Minutes.

3. Jurisdiction

- 3.1 For a complaint to be considered in connection with the Member’s Code of Conduct, the following test must be satisfied:

- a) the complaint was made against a person who, at the time the alleged action took place, was a member of Cambridgeshire County Council; and
- b) the Subject Member had signed up to the Members’ Code of Conduct in force at the time the alleged action took place; and
- c) the Subject Member was conducting the business of their authority or acting, claiming to act or giving the impression of acting as a representative of the authority.

- 3.2 The Deputy Monitoring Officer and the Independent Person has concluded all three limbs of this test are satisfied in this matter.

4. Initial Assessment Decision

4.1 The Independent Person and Deputy Monitoring Officer have considered whether the actions of the Subject Member summarised in paragraph 1.1 above constitute a breach of the following provisions of the Members' Code of Conduct:

4.1.1. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute (paragraph 2.2(e));

4.1.2 You must not use or attempt to use your position as a member to confer on, or secure for yourself or any other person, an advantage or disadvantage (paragraph 4.1).

4.2 With regard to the Subject Member's visit to the Site and taking a photograph, the Council does not have a separate code of conduct for planning committee members so the Deputy Monitoring Officer considered the Local Government Association/Planning Advisory Service guidance on "Probity in Planning - for councillors and officers", which normally forms the basis for such codes, which states: "Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the councillor is no longer impartial." The Subject Member stated in his response that he stopped on the public highway and was not on private property at any time. The Deputy Monitoring Officer considers the Subject Member has not breached any protocol or law in respect of the Site visit.

4.3 In respect of the Subject Member chairing subsequent planning committee meetings when the Site was discussed and not disclosing any interest, the Independent Person considers the Subject Member had no interest to declare. The Code of Conduct contains sections on Disclosable Pecuniary Interests (DPI) and Non Statutory Disclosable Interests and does not contain a section on other personal interests. Any interest the Subject Member had in the Site is not a DPI and does not fall within the definition of a Non Statutory Disclosable Interest as defined at paragraph 10. However, members are legally obliged not to predetermine or be biased in their decision making. As no decisions were made in respect of the planning enforcement update reports the Independent Person considers the Subject Member's participation in the committee when the enforcement update reports were presented is not capable of being a breach of the code of conduct.

4.4. In respect of the alleged comments made by the Subject Member, the Independent Person's view is that there is a potential breach of the Code. The Deputy Monitoring Officer and Independent Person were unclear from the Subject Member's response, whether the Subject Member refuted them completely or just the terminology used. However, the Independent Person considered it would be very difficult to prove the alleged comments were made.

4.5 In summary, the Independent Person's view is that there is a potential breach of the Code in relation to the alleged comments made, but insufficient evidence to support them. The Independent Person noted the Subject Member's decision, as contained in his response, that he would recuse himself from any future vote on the matter, as appropriate.

4.6 The Independent Person advised that this matter therefore should not proceed.

4.7 The Deputy Monitoring Officer concurs and has decided that no further action should be taken.

Approved by: Gill Holmes (Independent Person)
Fiona McMillan (Deputy Monitoring Officer)

Dated: 14 August 2018

<p>CONSTITUTION AND ETHICS COMMITTEE</p> <p>AGENDA PLAN</p>

DATE 29.11.18	AGENDA ITEMS		
		Apologies and declarations of interest	N Mills
		Minutes and Action Log	N Mills
		Quarterly report on investigation of complaints*	M McMillan
		Agenda Plan	N Mills

DATE 31.01.19	AGENDA ITEMS		
		Apologies and declarations of interest	N Mills
		Minutes and Action Log	N Mills
		Appointment of Independent Person(s) (current appointment is to 30 October 2019; see Council Minutes and Action Log for 10 May 2016)	F McMillan
		Summary of activity in relation to the Regulation of Investigatory Powers Act 2000**	S Edge
		Quarterly report on investigation of complaints*	M McMillan
		Agenda Plan	N Mills

DATE 28.02.19	AGENDA ITEMS – reserve date		
		Apologies and declarations of interest	
		Minutes and Action Log	

DATE 04.04.19	AGENDA ITEMS		
		Apologies and declarations of interest	N Mills
		Minutes and Action Log	N Mills
		Request by Health and Wellbeing Board to establish a closer formal relationship with the Peterborough HWB (provisional; HWB still to consider detail, or whether any change to current arrangements is needed at all)	L Robin
		Annual report on whistleblowing incidents	F McMillan
		Quarterly report on investigation of complaints*	M McMillan
		Agenda Plan	N Mills

* Council report on agenda item 7, July 2012, refers (?? *Standards Committee*)

** Extract from Minutes and Action Log of Standards Committee 3rd July 2009:
The Committee noted that the Council had approved a number of changes to procedures relating to the exercise of powers under the Regulation of Investigatory Powers Act (RIPA) 2000. This included presenting an annual monitoring report on the use of the powers to the Standards Committee. The Committee's terms of reference had been amended to facilitate this.

