

CONSTITUTION AND ETHICS COMMITTEE: MINUTES

Date: Thursday 26th January 2017

Time: 2.00pm – 3.50pm

Place: Kreis Viersen Room, Shire Hall, Cambridge

Present: Councillors M Smith (Chairwoman), R Hickford, J Hipkin, M McGuire, L Nethsingha, P Reeve, K Reynolds, P Sales and J Scutt

Apologies: Councillors D Brown and E Cearns

135. DECLARATIONS OF INTEREST

None

136. MINUTES – 24th NOVEMBER 2016

The minutes of the meeting held on 24th November 2016 were confirmed as a correct record and signed by the Chairman.

137. AMENDMENTS ARISING FROM CHANGES TO LOCAL GOVERNMENT PENSION SCHEME GOVERNANCE ARRANGEMENTS

The Committee received a report setting out changes to the Council's Constitution required to reflect recent amendments to the Local Government Pension Scheme (LGPS) Investment Regulations, which require all administering authorities to enter into joint (pooled) arrangements for the management of their investment assets. As a result of this requirement, eleven fund managers had decided to collaborate, and to ensure robust oversight of the joint pension fund investment pool, it was proposed to establish a joint committee under section 102 of the Local Government Act 1972.

Members noted that the administering authority had no choice in the matter; it was required to enter into joint arrangements; the matter would be brought to Full Council in March 2017. It was proposed to redistribute the responsibilities currently delegated to the Pension Fund Committee and the Pension Fund Committee Investment Sub-Committee between the new joint committee (the LGPS ACCESS Joint Committee) and the two existing committees. Councillor Hickford, speaking as Chairman of the Pension Fund Committee, said that the joint committee was already meeting in shadow form; new directives on implementing the revised regulations were being received constantly.

In discussion, members

- looking at the criteria for membership of the Joint Committee, queried the circumstances in which a council might choose a member of another authority as its member on the Joint Committee. The Head of Pension Services reminded members that the Pension Fund Committee had non-County Council members, representing other employers and scheme members; there was no bar on such a member substituting for the Chairman/woman on the Joint Committee

- pointed out that these non-County Council members of the Pension Fund Committee were not co-opted, as they were described in the report and in Appendix A, but full members of the Committee
- in response to a suggestion that the word 'co-opted' be removed, members noted that much of the wording had been taken directly from the Inter-Authority Agreement, and to change it unilaterally would cause difficulty for other member funds; it would however be possible to adjust the wording to make it clear that any member, not just a member of another employing authority, could be named as the substitute for the substantive member of the Joint Committee.

The Head of Pension Services advised members that, as a result of fine-tuning of the Inter-Authority Agreement and of the information received from the Government, it was likely to become necessary to change some of the draft amendments to the Constitution set out in the report appendices. He therefore proposed adding a further report recommendation, to give the Monitoring Officer, in consultation with an identified member, authority to make any necessary adjustments to these drafts before the matter was submitted to Council for decision. Members accepted this proposal, and took the view that the Monitoring Officer should act in consultation with the Chairman of the Pensions Committee.

It was resolved unanimously

a) to recommend to Council that:

- i. the Constitution Part 2 – Articles, Article 8 – Committees be amended to include the LGPS ACCESS Joint Committee in the list of Joint Committees at 8.04.
- ii. the Constitution Part 3C – Responsibility for Functions Joint Committees be amended to include reference to the new joint committee, as set out in Appendix A of the report before Committee
- iii. the Constitution Part 3B – Responsibility for Functions Committees of Council Pension Fund Committee be amended (additions in bold and deletions in strikethrough) to reflect the creation of the new Joint Committee as set out in Appendix B

b) to authorise the Monitoring Officer, in consultation with the Chairman of the Pensions Committee, to make such amendments to the recommendations to Council for constitutional change as might become necessary to reflect any adjustments required by further changes in the Inter-Authority Agreement and in the directives on implementing the revised regulations.

138. OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014

The Committee received a report inviting it to consider the response from Strategic Management Team (SMT) to the points made by the Constitution and Ethics Committee in relation to the threshold of £250,000 to determine materiality under the Openness Regulations.

Members noted that it had proved difficult to examine transactions under £50k because their range and volume were so great; existing data sources showed that the volume of transactions was higher at lower values. It was already Council

policy to publish all contracts over £25k, but the system used to publish that information did not currently include everything required under the Openness Regulations. It might however prove possible to modify the system for maintaining the Contract Register to enable it to report this additional information when the new financial management system was introduced.

Discussing the report, members

- in reply to a question of clarification, noted that analysis had suggested that it would require approximately an extra person-day per month just within Finance to produce the required information using a £50k threshold, excluding the very considerable amount of work that would have to be done for anonymization and commercial value redaction
- commented that the case had been made for leaving the threshold as it was because it seemed that much effort would be required for little return, given that contracts over £25k were already in the public domain, and that the contract register recording mechanisms had been greatly improved, with the result that the register was now more up to date
- noted that the list of exemptions outlining circumstances in which records of decision must not be published had been taken directly from legislation.

It was resolved unanimously to

- a) Maintain the existing regulations and threshold at £250,000 for using the Openness Regulations form
- b) Note that the Contract Register enabled all contracts over the value of £25k to be reported publicly.

139. CAMBRIDGESHIRE AND PETERBOROUGH COMBINED AUTHORITY - PROTOCOL

The Committee received a report inviting it to consider proposed arrangements to require the Council's appointee to the Combined Authority to provide a briefing report to each meeting of full Council setting out the activities and decisions of the Combined Authority. Members noted that Council would be also asked to appoint two representatives to the Overview and Scrutiny Committee of the Combined Authority, so it was necessary to consider whether they too should be required to report to Council; the Council's representatives on the Cambridgeshire and Peterborough Fire Authority already reported to full Council. The protocol setting out arrangements for the Fire Authority report had been used as the basis for the draft Combined Authority protocol.

Discussing the proposed protocol, members

- expressed concern that County Council meetings could become the scene for further debate on devolved issues that should properly be confined to meetings of the Combined Authority. Members noted that suggestion that requiring a report to be written in advance and restricting questions to the report might overcome this potential difficulty

- voiced differing views on whether the protocol for Fire Authority questions was or was not an appropriate model for a Combined Authority protocol
- suggested that the report should be restricted to matters of fact and decision, and exclude any discussion of views; any questions should be limited to two minutes and be confined to questions of fact which could be answered by facts, with answers limited to one minute. It was also suggested that an answer could need two minutes to set the position out fully.
- queried why there were to be no questions at extraordinary and special meetings of Council; if a special meeting were to be called about the Combined Authority, would the Council's representatives on the Authority then be unable to deliver their report. Officers advised that there were no questions at the Annual Meeting because no members had yet been appointed to any bodies, and no questions at an extraordinary or special meeting because the exact business for the meeting had to be specified on the agenda. Were there to be a special meeting about the Combined Authority, then questions on it would be permitted, because they would be relevant to the specified business of the meeting
- objected to having a 60-minute limit on the time for questions and answers, suggesting instead that the Chairman/woman should have discretion to extend this; even though the Council had two representatives on the Overview and Scrutiny Committee, it would still be necessary for full Council to exercise a scrutiny role
- suggested that a 30-minute limit on the time for questions and answers would be entirely adequate, as there were other ways of accessing the actions and decisions of the Combined Authority, such as its meetings
- welcomed the report and proposed protocol; it was important to scrutinise the work of the Combined Authority because many of the Council's powers were being delegated to it, and having only two members on the Overview and Scrutiny Committee meant that not all the Council's political groups would be represented on it
- noted that the political balance of the Overview and Scrutiny Committee would reflect proportionality across the whole area of the Combined Authority; the County Council would have two members on the Overview and Scrutiny Committee whatever the proportionality might be
- expressed support for the suggestions that questions should be limited to two minutes, with one minute for the reply, and that the overall length of the question time should be at the Chairman/woman's discretion. Keeping questions and answers short would encourage members to stick to the point
- noted that the wording considered by Full Council in November 2016, referring to 'the Council's appointee and the Chairman/woman of the relevant Overview and Scrutiny Committee' being required to report to Full Council, had been taken from a standard template report devised for all seven participating authorities, most of which had a Cabinet and Scrutiny model of governance; this should be adjusted for Cambridgeshire to refer to 'its appointees to the Overview and Scrutiny Committee'

- noted that the number of reports to Council being proposed was three rather than two, because it was entirely possible that the two members on the Overview and Scrutiny Committee might be from different political groups
- raised the question of whether the members providing the written reports should speak to those reports, and concurred with the suggestion that they should not.

Members noted that a revised version of the published Committee report had been produced, including the Council's appointees to the Overview and Scrutiny Committee as providers of a briefing report to full Council. To meet the concern that the questions could reopen old Combined Authority debates, the following amendment to the revised recommendation was proposed by Councillor McGuire and seconded by Councillor Reeve (deletions struck through, additions in bold):

The Constitution and Ethics Committee is asked to recommend a protocol for inclusion in the Council's Constitution:

- i) to enable the Council's appointee to the Combined Authority, and its appointees to the Combined Authority Overview and Scrutiny Committee, to provide a ~~briefing~~ **written** report to each meeting of full council ~~setting out the activities and decisions of the Combined Authority and its Overview & Scrutiny Committee, and~~
- ii) to enable Councillors to ask questions for a response by the Council's appointee on the Combined Authority and/or the Council's appointees on the Combined Authority Overview and Scrutiny Committee ~~or simply comment on concerns or issues.~~

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

It was resolved by a majority

to recommend to full Council a protocol for inclusion in the Council's Constitution:

- i) to enable the Council's appointee to the Combined Authority, and its appointees to the Combined Authority Overview and Scrutiny Committee, to provide a written report to each meeting of full council, and
- ii) to enable Councillors to ask questions for a response by the Council's appointee on the Combined Authority and/or the Council's appointees on the Combined Authority Overview and Scrutiny Committee.

140. SELECTION AND APPOINTMENT OF INDEPENDENT REMUNERATION PANEL (IRP) MEMBERS

The Committee received a report inviting it to consider the interview process for the selection and appointment of Independent Remuneration Panel (IRP) members, and the proposed rate of remuneration. It was reported that the position had been advertised, with 25 expressions of interest and three completed application forms having been received to date. If necessary, HR advice would be sought on shortlisting procedures.

Members noted that the rates of remuneration paid by other authorities varied widely, from nothing to several hundred pounds, with some panels meeting far more frequently than others. By way of update, it was reported that Staffordshire County Council paid IRP members £600 plus expenses, but the panel was asked to meet three times a year. Discussing rates of remuneration, one member said that not to provide some remuneration would restrict the range of people to those who could afford to do it for nothing. Another member pointed out that anybody in receipt of disability benefits would have their benefit cut if they were to receive remuneration.

The Committee thanked the Democratic Services Officer for her diligence in compiling the table of rates of remuneration, and the Democratic Services Manager was thanked for advertising the post in such an exciting way that it had been picked up by local newspapers and had attracted so many enquiries.

Asked to consider the interview process, the Committee decided that, rather than all eleven members conducting the interviews, a panel of five Committee members should do so. The panel would have one member from each political group, with the names of the panel members being finalised outside the meeting.

Turning to the question of the amount of remuneration, it was proposed by Councillor Reeve and seconded by Councillor Hipkin that the Peterborough model be adopted, with no payment being made apart from lunch and travel expenses. On being put to the vote, this proposal was defeated by a majority.

It was then proposed by Councillor Sales and seconded by Councillor Hickford that the rate of remuneration for the new panel remain the same as that for the current panel. On being put to the vote, this proposal was carried by a majority.

It was resolved by a majority that:

- i) interviews for the selection and appointment of Independent Remuneration Panel (IRP) members would be conducted by a panel of five members drawn from the membership of the Constitution and Ethics Committee, with one member from each political group
- ii) the rate of remuneration for IRP members should remain unchanged, at £20 per hour for each member, with a maximum of £150 per day
- iii) the Monitoring Officer, in consultation with the interviewing panel, be given authority to appoint the members of the IRP.

141. A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT TO 15 NOVEMBER 2016

The Committee received a report setting out the number and nature of the complaints received about Members under the Code of Conduct from 16 November 2016 to 17 January 2017. Members noted that one Councillor, the subject of two complaints reported to the previous meeting of the Committee, had not followed the Independent Person's recommendation that the Councillor apologise.

In answer to a question, members were advised that there was no geographical limit on the jurisdiction of the Code. Any members misconducting themselves anywhere in the world and letting it be known that they were County Councillors would potentially be in breach of the Code.

Looking at the four complaints relating to alleged failure to disclose interests reported on in Appendix 1, all of which had been made by the same two members, members

- suggested that the complainants had been wasting the Council's time
- pointed out that the matters complained about had been related to other quite complex complaints; no member should ever be discouraged from making a complaint
- said that the members complained about should be given advice about conflict of interests and what they should declare; the members who had made the complaints would also benefit from clarification on these points
- pointed out that all members received this information when they joined the Council, and it would be repeated again to all members after the local government elections in May.

Turning to the matter of one member's refusal to follow the Independent Person's recommendation that he write and apologise to the two people who had lodged the complaint, members

- said that no account had been taken of the member's acknowledged disability of dyslexia; he had felt discriminated against by the wording of the recommendation that he should write
- commented that somebody could have given him help to write the letter
- suggested that it might nevertheless be appropriate for the Committee to express its disappointment that the member had failed to apologise
- recalled the discussion about support for members who were subjects of complaints at the Committee's previous meeting; the Chairwoman apologised that she and the Monitoring Officer had not pursued the matter.

It was resolved by a majority

- a) to note the report
- b) that the Monitoring Officer on behalf of the Committee would write to Councillor Clapp to express the Committee's disappointment at the way he had behaved, and would write to the complainant and to the Parish Council concerned to say that the Committee had discussed the matter, had expressed its disappointment to Councillor Clapp, and would not be taking any further action.

142. FORWARD AGENDA PLAN

The Committee considered its forward agenda plan. One member expressed concern at the lack of clarity between the role of Committee Chairman and that of Group Leader which had become apparent at a recent meeting of the General Purposes Committee. He suggested that the Committee needed to look at the role of the Leader of the Council at its next meeting, rather than waiting until after the

local government elections, so that any changes required in the light of experience could be put into effect in time for the new Council. Others suggested that the situation that had arisen at General Purposes Committee had been dealt with using existing procedures; it was impossible to have concrete arrangements in place for every conceivable eventuality.

The Committee noted its agenda plan.

143. DATE OF NEXT MEETING

The Committee noted that the next meetings were scheduled to take place at 2pm on Thursday 2nd March 2017 (reserve date) and Thursday 20th April 2017. It was decided that the reserve date would not be required; the next meeting would therefore be at 2pm on 20th April 2017.

Chairman