

**CONSTITUTION AND ETHICS COMMITTEE: MINUTES**

**Date:** Thursday 28th February 2019

**Time:** 2:00pm – 3:35pm

**Place:** Kreis Viersen Room, Shire Hall, Cambridge

**Present:** Councillors M McGuire (Chairman), K Reynolds (Vice-Chairman), I Bates (substitute for Cllr D Connor), L Dupre, R Hickford, L Nethsingha and J Scutt.

**Apologies:** Councillor D Connor

**54. APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

Apologies were received from Councillor Connor, who was substituted by Councillor Bates.

There were no declarations of interest.

**55. MINUTES – 29TH NOVEMBER 2018**

The minutes of the meeting held on 29th November 2018 were confirmed as a correct record and signed by the Chairman.

**56. TRANSFER OF DELEGATED RESPONSIBILITY TO RECEIVE AND APPROVE PROPOSALS REGARDING THE COUNCIL'S EXERCISE OF POWERS COVERED BY THE REGULATION OF INVESTIGATORY POWERS ACT**

The Committee received a report recommending that the delegated responsibility to receive and approve proposals regarding the Council's exercise of powers covered by the Regulation of Investigatory Powers Act (RIPA) should be moved to the Council's Audit & Accounts Committee. Members were informed that other councils, including Peterborough City Council with whom the Council operates a shared service on Trading Standards, which comprised the majority of work related to RIPA, have this responsibility delegated to their respective Audit committees. It was noted that a joint inspection by the Investigatory Powers Commissioner's Office of the RIPA arrangements at both Cambridgeshire and Peterborough at the end of November had been a success and the inspector had approved a new joint policy for both councils which would go to each Audit Committee for approval.

It was resolved unanimously to:

Recommend to Full Council that the Constitution is amended to pass the delegated responsibility for oversight of the Council's exercise of powers under the Regulation of Investigatory Powers Act to the Council's Audit & Accounts Committee.

## 57. PUBLIC QUESTIONS

The Committee received a report proposing changes to rules relating to public questions to Council and Committees/Sub-Committees. Members were reminded that only four questions were accepted at each Council meeting and therefore the intention was to ensure that these allocations were not taken up by inappropriate questions. It was also noted that the proposals contained within the report allowed for Members to select some changes while discarding those with which they did not agree.

In discussing the proposals laid out in the report, Members:

- Expressed concern that the changes would be construed by the public as a restriction on debate and public participation, although it was acknowledged that the more explicit guidance would make the requirements clearer to members of the public and officers.
- Acknowledged that the Chairman would maintain the discretion to accept or reject questions on the basis of advice provided by the Monitoring Officer.
- Noted that although some questions were considered inadmissible for submission, it was important for the Council to still provide assistance on such enquiries outside of the meeting and to advise members of the public on the correct procedure to resolve their issue.
- Considered how the Council's ability to influence an issue could be defined, given that the phrase "something the Council is able to influence" was subjective and open to different interpretations. It was noted that while there were areas that the Council could not directly influence, it would still be able to provide indirect influence, for example through lobbying Government on national issues. It was suggested that examples on what the Council would or would not be able to influence might have given clearer guidance to those wishing to submit a question. A proposal was accepted to change the text in section 2.1 of the report to become an addition to the current version, rather than a replacement.
- Noted that although public questions were accepted at Cambridgeshire and Peterborough Combined Authority meetings, they were restricted to items included on the agenda and that therefore Public Question Time in Council meetings provided a forum for the public to present questions on other issues. Some Members also expressed concern that the Combined Authority meetings were held all over the County and therefore it was difficult for many members of the public to attend meetings.
- Considered clarifying that planning applications would have to be ongoing or current in order to have a question turned down, but it was argued that the judicial process involved in planning was complex and it was hard to define when a project was current or ongoing. Members expressed concern that there were legitimate questions related to planning applications which should be considered by Council and it was acknowledged that the Chairman would accept such questions if the monitoring officer judged that they did not impact on the planning application in question.
- Clarified that members of staff would be able to present questions on personal issues that were unrelated to professional matters.

- Expressed concern about restricting providers from submitting questions although it was acknowledged that the proposal was based on legal considerations. A clause was added to the text proposed on the issue raised in section 2.7 of the report to clarify that providers could submit a question that was unrelated to specific contract issues with the Council.
- Clarified that restricting questions that consisted of multiple parts was a means to avoid questions covering multiple areas, although it was accepted that some questions were on one area while covering multiple issues.

It was resolved to:

Approve the amendments to the Constitution, as set out in the amended Appendices 1 and 2 attached to these minutes and recommend the changes to Full Council.

## 58. MOTIONS TO COUNCIL

The Committee received a report containing proposed changes to the rules relating to motions to Council. Attention was drawn to section 2.2 of the report and Members were informed that the proposal was for motions to be submitted in their intended final form, although adjustments could then be made at a later date if required.

In discussing the report, Members:

- Agreed that the Constitution should be updated to accommodate the widespread tendency towards digital correspondence alongside written correspondence.
- Acknowledged that the current practice of considering motions during the meeting in the order in which Democratic Services had been informed of the simple intention to submit a motion without any detail of the wording, proved impractical and unfair. Members were informed that officers were not aware of any other council interpreting standing orders in this way.
- Raised the point that there were occasions when it was clear from an early date that a motion would be submitted at the next meeting, although the actual content could not be determined until closer to the time. It was suggested that a draft or rough summary should be considered sufficient for the motion to be accepted and added to the agenda, although it was noted that it needed to include sufficient information for the Monitoring Officer to be able to determine whether it could be moved. It was agreed to amend the text in the constitutional change, as indicated in **Appendix 3** of these minutes, to clarify this.
- Members expressed concern about sharing the content of a motion before it was published but it was clarified that motions were kept confidential and not shared beyond the Monitoring Officer until they were discussed by Group Leaders in meetings before Council meetings.
- Agreed that setting a time limit for motions in Council would not benefit the flow or quality of debate and would potentially encourage time-wasting to prevent further consideration of motions.

- Discussed a limit of one motion per Councillor, but there were concerns that this favoured the political groups with a higher number of Members. After discussing distributing a set limit along party proportionality lines, it was agreed to implement a simple limit of 5 motions for each Council meeting, noting that the Chairman had discretion to accept further motions if deemed appropriate. It was noted that any backlog of motions rejected from previous meetings should be avoided.
- Observed that some issues affected more than just the one committee that usually dealt with them, with an example being given of the Council relocation from Shire Hall. Although such matters had been delegated to committees, it was agreed that this should not necessarily exclude them from being considered by Council.
- Suggested that the proposal to include points of accuracy in the rules of procedure would actually prove counter-productive by encouraging Members to interrupt opponents in their speeches with subjective accusations of inaccuracy.
- Agreed that officers should be able to address the Council, although only when necessary and only when requested to do so by the Chairman.

It was resolved to:

Approve the amendments to the Constitution, as set out in the amended Appendix 3 attached to these minutes and recommend the changes to Full Council.

## **59. COMPLAINTS REVIEW REPORT 18.02.19**

The Committee received a review on the number and nature of complaints received about Members under the Code of Conduct from 29th November to 18th February. It was noted that of the two complaints raised during this time period, one had been withdrawn. The second complaint was still ongoing and the Committee was informed that it would receive details upon conclusion of the complaints process. Members noted the Monitoring Officer's comments on a delay in processing complaints due to her absence on sick leave.

It was resolved unanimously to:

Note the contents of the report.

## **60. AGENDA PLAN**

The Committee considered its agenda plan.

Chairman  
4th April 2019

**Extract from Constitution**

**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 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 **and is something the Council is able to influence**;
- is illegal, improper, defamatory, frivolous or offensive; or
- requires the disclosure of confidential or exempt information;
- **is within the remit of the Cambridgeshire and Peterborough Combined Authority**;
- **relates to a planning application**;
- **is from an employee of the Council except when acting as Trade Union representatives or private individuals, as they have sufficient channels of communication, both internally and through their representative bodies**;
- **is from a provider the Council contracts with or chooses not to contract with unless unrelated to those specific contracts**;
- **relates to separate appeal, adjudication, litigation, mediation or dispute resolution**;
- **is about the conduct of individual Councillors or employees; or**

- **is in multiple parts.**

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.

**Extract from Constitution**

**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 **if the anticipated contribution:**

- **is not relevant to the agenda items of the meeting;**
- **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;**
- **is illegal, improper, defamatory, frivolous or offensive;**
- **requires the disclosure of confidential or exempt information;**
- **is from a provider the Council contracts with or chooses not to contract with unless unrelated to those specific contracts;**
- **relates to separate appeal, adjudication, litigation, mediation or dispute resolution;**
- **is about the conduct of individual Councillors or employees; or**
- **is in multiple parts.**

~~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.*

**Extract from Constitution**

**10. MOTIONS ON NOTICE**

**10.1 Notice**

Except for motions which can be moved without notice under Rule 11, written **or electronic** notice of motions for discussion at Council meetings, excluding extraordinary or special meetings **and the annual budget meeting** of the Council or the first annual meeting of a new Council, must be delivered to the Proper Officer not later than 12.00 noon 14 days before the date of the meeting. The Proper Officer will maintain a public record of all motions submitted. **Any Councillor may give notice of not more than one motion for consideration at an ordinary meeting.**

**Other than at the annual budget meeting for which no notices of motions shall be accepted, a maximum of five motions shall be accepted for debate at an ordinary meeting of the Council under this standing order.**

**10.2 Motion set out in Agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice **of the full written motion in its draft form** was received, unless the member giving notice states, in writing, that he/she proposes to move it to a later meeting or withdraw it.

**10.4 Motions affecting Councillor or persons employed by the Council**

**Motions will not be permitted to raise the competence or performance of a councillor or officer, nor any matter involving exempt information or normally considered 'confidential'. A motion cannot make any abusive or defamatory comments.**

**11. MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) To appoint a Chairman/woman of the meeting at which the motion is moved.
- (b) In relation to the accuracy of the minutes.
- (c) To change the order of business in the agenda.
- (d) To refer something to an appropriate body or individual.
- (e) To appoint a committee or member arising from an item on the summons for the meeting.
- (f) To receive reports or adoption of recommendations of committees or officers and any resolutions following from them.
- (g) To withdraw a motion.
- (h) To amend a motion.
- (i) To proceed to the next business.
- (j) That the question be now put.
- (k) To adjourn a debate.
- (l) To adjourn a meeting.
- (m) To suspend a particular Council Procedure Rule.

- (n) To exclude the public and press in accordance with the Access to Information Rules.
- (o) To not hear further a member named under Rule 19.3 or to exclude him/her from the meeting under Rule 19.4.
- (p) To give the consent of the Council where its consent is required by this Constitution.

## **12. RULES OF DEBATE**

### **12.1 No Speeches Until Motion Seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

### **12.2 Right to Require Motion or Amendment In Writing**

Unless notice of the motion or amendment has already been given, the Chairman/woman may require it to be written down and handed to him/her before it is discussed.

### **12.3 Secunder's Speech**

When seconding a motion or amendment, a member may reserve his/her speech until later in the debate.

### **12.4 Content and Length of Speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Chairman/woman.

### **12.5 When a Member may Speak Again**

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) To speak once on an amendment moved by another member.
- (b) To move a further amendment if the motion has been amended since he/she last spoke.
- (c) If his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried).
- (d) In exercise of a right of reply.
- (e) On a point of order.
- (f) By way of personal explanation.

### **12.6 Amendments to Motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) To refer the matter to an appropriate body or individual for consideration or reconsideration.
  - (ii) To leave out words.
  - (iii) To leave out words and insert or add others.

(iv) To insert or add words.

~~(v)~~ As long as the effect of (ii) to (iv) is not to negate the motion.

- (b) An amendment to a motion must be delivered to the Monitoring Officer and Democratic Services Manager in its intended final form not later than noon one working day before the date of the meeting at which the motion is to be considered. If more than one amendment is received, amendments will be taken at the meeting in the order in which they were received by the Democratic Services Manager

If no withdrawal, confirmation or change is received by the Monitoring Officer, it will be assumed that the amendment is to be considered in its initial form.

No other amendment may be moved at the meeting except where the Chairman/woman of Council may permit, at his or her absolute discretion, in exceptional circumstances and to ensure the efficient or proper discharge of the Council's business, a further amendment or amendments to be moved.

- (c) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (d) If an amendment is not carried, other amendments to the original motion may be moved.
- (e) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (f) After an amendment has been carried, the Chairman/woman will advise the meeting of the content of the amended motion before accepting any further amendments, or if there are none, put it to the vote.

## **12.7 Alteration of Motion**

- (a) A member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations to the motion which could be made as an amendment may be made.

## **12.8 Withdrawal of Motion**

A member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

## 12.9 **Right of Reply**

- (a) The mover of a motion, whether amended or not, has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his/her amendment.

## 12.10 **Motions which may be Moved During Debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) To withdraw a motion.
- (b) To amend a motion.
- (c) To proceed to the next business.
- (d) That the question be now put.
- (e) To adjourn a debate.
- (f) To adjourn a meeting.
- (g) To exclude the public and press in accordance with the Access to Information Rules.
- (h) To not hear further a member named under Rule 19.3 or to exclude him/her from the meeting under Rule 19.4.

## 12.11 **Closure Motions**

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
  - (i) to proceed to the next business.
  - (ii) that the question be now put.
  - (iii) to adjourn a debate.
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman/woman thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman/woman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman/woman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### **12.12 Point of Order**

A member may raise a point of order at any time. The Chairman/woman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman/woman on the matter will be final.

#### **12.13 Personal Explanation**

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chairman/woman on the admissibility of a personal explanation shall be final.

#### **12.14 Officers Addressing the Council**

**Officers will not normally be called upon to address the Council or to answer questions unless specifically requested to do so by the Chairman/woman of the Council. This rule shall not apply to the provision of procedural advice by the Monitoring Officer or to the Head of Paid Service and Chief Finance Officer when acting in their statutory roles.**

### **13. STATE OF COUNTY DEBATE**

- 13.1 The Chairman/woman, in consultation with the Leader, may convene meetings of the Council to discuss matters relating to the state of the County. The application of these Rules to such meetings may be varied in accordance with a detailed protocol agreed by the Council.

### **14. PREVIOUS DECISIONS AND MOTIONS**

#### **14.1 Motion to Rescind a Previous Decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least a third of members.

#### 14.2 **Motion Similar to One Previously Rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least a third of members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.