

COUNTY COUNCIL – PROPOSED CHANGES TO THE CONSTITUTION

To: **Constitution and Ethics Committee**

Meeting Date: **26th September 2017**

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

Purpose: **To consider amendments to the Council's Constitution.**

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. COMBINED AUTHORITY BOARD & OVERVIEW AND SCRUTINY COMMITTEE

- 1.1 At its meeting on 14th February 2017, Council approved the protocol attached at **Appendix 1** to the report, for inclusion in the Council's Constitution, 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.
- 1.2 Full Council has received reports from the Combined Authority Board and Overview and Scrutiny Committee at its meetings in March and July. At the last meeting, questions were directed solely at the Council's representative on the Board and did not always cover what had been considered by the Board at its recent meetings.
- 1.3 It is therefore proposed to reduce the time allocated for questions to 40 minutes and divide the time between the Council's representatives on the Board and Overview and Scrutiny Committee. There will therefore be 20 minutes for Councillors to ask questions for a response by the Council's appointee on the Combined Authority, and 20 minutes to ask questions for a response by its appointees to the Combined Authority Overview and Scrutiny Committee. The proposed revised protocol is attached at **Appendix 2**.
- 1.4 The Combined Authority has agreed to prepare a generic report summarising the decisions made by all its formal committees for use by all local authorities within its area.
- 1.5 It is proposed that the content of the questions should be relevant to the decisions of the Combined Authority Board and Overview and Scrutiny Committee, as set out in the generic report provided.
- 1.6 The Committee may wish to consider whether to require questions to be notified in advance in order to ensure this session is as effective as possible.

2. ARTICLE 4 – THE FULL COUNCIL

- 2.1 The Council's Policy Framework is set through the Business Plan and the following statutory and local plans, as set out in the Constitution at **Appendix 3**.
- 2.2 The adoption or approval of a number of plans is by law reserved to Full Council. However, the Committee is asked to consider whether General Purposes Committee is the most appropriate committee to make the recommendation to Council. For example, the Cambridgeshire and Peterborough Minerals and Waste Development will be considered by Economy and Environment Committee. The current wording in the Constitution would mean General Purposes Committee considering it at the end of the process, which would duplicate the work already carried out by Economy and Environment Committee. It is proposed that the following wording should be added – or relevant Policy and Service Committee (see bold in Appendix 3).

3. PROTOCOL ON MEMBER/OFFICER RELATIONS

- 3.1 A provision in the Council's Constitution has the potential to create obstacles to the effective operation of the Council. The provision in question is found in the Protocol on Member/Officer relations which in turn is found in Part 5.3 of the constitution.

In summary the provision relates to the circumstances in which officers may attend meetings of elected members to which only members from one party have been invited. These provisions are contained within Paragraph 6 of the protocol. Paragraph 6.2, set out below, includes a condition that officers may only attend such meetings on condition that they are held '*on County Council Premises*'. It also states that on the invitation of a Group Leader, an Executive or Corporate Director or his/her nominee may attend an approved political party group meeting to give factual information about an issue which is currently or will shortly be debated by a Council body.

3.2 This paragraph has been in the protocol for many years but may well have been overlooked in successive constitutional reviews. The condition relating to Council premises is problematic for the following reasons;

- i) Firstly, due to the programme to dispose of Council property over the years it is becoming increasingly difficult to comply with this condition in a technical sense because the amount of meeting space owned by the Council is diminishing.
- ii) Secondly, the wording is ambiguous in that it does not clearly differentiate between ownership and control. The Monitoring Officer is of the view that a building that was leased or hired by the Council would fulfil this condition.

It is proposed to amend this condition so as to provide greater flexibility to reflect changing circumstances

3.3 The condition relating to the attendance of officers is also problematic. The Monitoring Officer is of the view that the Chief Executive or Deputy Chief Executive or Monitoring Officer should be present when any other officer is invited to attend a political party group meeting. This is to ensure that condition 6.3 as detailed below is adhered to.

6.3 Officer support in these circumstances must not extend beyond providing information in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present when matters of party business are discussed.

3.4 The proposed changes outlined above are as set out in **Appendix 4**.

4. DECISION REVIEW PROCEDURE RULES

4.1 The Council, at its meeting, on 23 May 2017, agreed to remove Section 6.1 Decision Review and Part 4.5 - Decision Review Rules. It also agreed to add the following to the delegated authority list:

- Authority for eight members of General Purposes Committee to initiate a review of a decision taken by a Policy and Service Committee by submitting a request for review to the Monitoring Officer or Chief Executive before the expiry of 3 full working days from the date on which the decision notice was published *[final detailed wording for inclusion in the Constitution will be provided following the meeting under the authorisation to the LGSS Director Law and Governance]*.

- 4.2 There is a need to set out in the Constitution how the new decision review process will operate. The section underlined in **Appendix 5** explains the process of decision review. **Appendix 6** is a new addition and explains the Decision Procedure Rules.
- 5. CAMBRIDGESHIRE COUNTY COUNCIL APPROACH TO PUBLIC CONSULTATION ON THE BUSINESS PLAN**
- 5.1 General Purposes Committee, at its meeting on 19 September, will be considering a proposal for the 2018/19 Business Planning consultation as recommended by the Communities and Partnership Committee.
- 5.2 It will also be considering a recommendation to Council (via Constitution and Ethics Committee) that the terms of reference of the Communities and Partnership Committee be amended to give it responsibility for the Council's Consultation Strategy and its approach to future Business Planning consultation
- 5.3 If the recommendation at 5.2 is agreed by General Purposes Committee, Constitution and Ethics Committee will need to consider the amendment to the terms of reference of the Communities and Partnership Committee as set out in **Appendix 7** in bold italics.

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

CAMBRIDGESHIRE AND PETERBOROUGH COMBINED AUTHORITY AND OVERVIEW AND SCRUTINY COMMITTEE – ORAL QUESTIONS AT COUNTY COUNCIL MEETINGS

1. Members will have an opportunity to ask questions and comment on Cambridgeshire and Peterborough Combined Authority issues at meetings of the County Council except extraordinary or special meetings of the Council and the first annual meeting of a new Council.
2. The Council's appointee on the Combined Authority, and its two appointees to the Combined Authority Overview and Scrutiny Committee, will each prepare a short paper for inclusion in the agenda. These three reports shall be noted as read with no introduction from the report authors.
3. Councillors may ask questions for a response by the Council's appointee on the Combined Authority, and its appointees to the Combined Authority Overview and Scrutiny Committee, or simply comment on concerns or issues.
4. If Members wish to raise questions or issues requiring a detailed response, it will usually be helpful if they give advance notice so that the necessary information can be obtained in advance of the meeting.
5. Members will have two minutes in which to ask a question and one minute for a supplementary with up to a maximum of two minutes for a direct oral answer to both.
6. The Chairman/woman of Council will exercise discretion over the amount of time allocated to the discussion of this item or the maximum time allowed for these questions and answers will be 60 minutes.

CAMBRIDGESHIRE AND PETERBOROUGH COMBINED AUTHORITY AND OVERVIEW AND SCRUTINY COMMITTEE – ORAL QUESTIONS AT COUNTY COUNCIL MEETINGS

1. Members will have an opportunity to ask questions and comment on Cambridgeshire and Peterborough Combined Authority ~~issues~~ **decisions** at meetings of the County Council except extraordinary or special meetings of the Council and the first annual meeting of a new Council.
2. **The Combined Authority will prepare a generic report summarising the decisions made by its formal committees for use by all local authorities within its area.** ~~The Council's appointee on the Combined Authority, and its two appointees to the Combined Authority Overview and Scrutiny Committee, will each prepare a short paper for inclusion in the agenda. These three~~ **This** reports shall be noted as read with no introduction ~~from the report authors.~~
3. Councillors may ask questions for a response by the Council's appointee on the Combined Authority, and its appointees to the Combined Authority Overview and Scrutiny Committee, ~~or simply comment on concerns or issues.~~ **which relate to the decisions of the Combined Authority Board and Overview and Scrutiny Committee, as set out in the generic report provided.**
4. If Members wish to raise questions or issues requiring a detailed response, it will usually be helpful if they give advance notice so that the necessary information can be obtained in advance of the meeting.
5. Members will have two minutes in which to ask a question and one minute for a supplementary with up to a maximum of two minutes for a direct oral answer to both.
6. The Chairman/woman of Council will exercise discretion over the amount of time allocated to the discussion of this item or the maximum time allowed for these questions and answers will be ~~640 minutes~~ **(20 minutes for questions to the Council's appointee on the Combined Authority, and 20 minutes for questions to its appointees to the Combined Authority Overview and Scrutiny Committee).**

ARTICLE 4 – THE FULL COUNCIL

4.01 Meanings

- (a) **Policy Framework:** The Council's Policy Framework is set through the Business Plan and the following statutory and local plans.

Adoption or approval of the following plans is by law reserved to Full Council, which will take into account the recommendation of the General Purposes

Committee **or relevant Policy and Service Committee:**

- Annual Library Plan
- Annual Review of Pay Policy
- Business Plan (budget)
- Cambridgeshire and Peterborough Minerals & Waste Development Plan
- Crime and Disorder Reduction Strategy
- Joint Municipal Waste Strategy
- Sustainable Community Strategy
- Youth Justice Plan

Adoption or approval of the following plans is by local choice reserved to Full Council, which will take into account the recommendation of the General Purposes Committee:

- Enforcement Policy
- Long Term Capital Strategy
- Procurement Strategy
- Single Equality Strategy
- Workforce Strategy

Adoption or approval of the following plans is by local choice delegated to the relevant service committee:

- Cambridgeshire Rural Strategy
- Corporate Asset Management Plan
- Greater Cambridge Sub-regional Economic Strategy
- Local Flood Risk Management Strategy for Cambridgeshire
- Strategic Asset Development Strategy
- Transformation of Adult Social Care strategy.

- (b) **Business Plan:** The Business Plan (budget) includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax, decisions relating to the control of the Council's borrowing requirement, Treasury management functions and the control of its capital expenditure.

4.02 **Council Meetings**

There are three types of Council meeting:

- (a) The Annual Meeting
- (b) Ordinary meetings
- (c) Extraordinary meetings

Meetings will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.03 **Responsibility for Functions**

Part 3 of this Constitution sets out the responsibilities for the Council's functions, both those that are reserved to Full Council and those that are delegated to committees, to officers, and to other local authorities.

6. Officers and Political Party Groups

- 6.1 There is statutory recognition for political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of consideration by the relevant Council body.
- 6.2 On the invitation of a Group Leader, an Executive or Corporate Director or his/her nominee may attend an approved political party group meeting to give factual information about an issue which is currently being or will shortly be debated by a Council body, provided that:
- ~~the meeting is held on County Council premises;~~
 - notice of attendance is given to the proper officer and made available on request to the other Group Leaders.
- 6.3 **The Chief Executive or Deputy Chief Executive or Monitoring Officer will be in attendance.** Officer support in these circumstances must not extend beyond providing information in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present when matters of party business are discussed.
- 6.4 Political party group meetings, while they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings are not Council decisions and it is essential that they are not interpreted or acted upon as such.
- 6.5 Similarly where officers provide information and advice to a political party group meeting in relation to a matter of Council business, this cannot act as a substitute for the officer providing all necessary information and advice to the relevant Council body when the matter is considered.
- 6.6 Officers will not normally attend and provide information to any political party group meeting which includes non-County Council members (e.g. MPs). Exceptions to this may be approved by the Chief Executive who shall do so in writing and copy the correspondence to all the political Group Leaders.
- 6.7 In all dealings with members, in particular when giving advice to political party groups, officers must demonstrate political impartiality and must not suppress their professional advice in the face of political views.
- 6.8 Officers must respect the confidentiality of any political party group meeting at which they are present. They must not relay the content of any such discussion to another party group.
- 6.9 Any particular cases of difficulty or uncertainty in this area of officer advice to political party groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

ARTICLE 6 – THE DECISION REVIEW PROCESS AND THE STATUTORY SCRUTINY FUNCTION

6.01 Decision Review

The decision-making powers of each committee are specified in their terms of reference in Part 3B, Responsibility for Functions: Committees of Council.

In the case of decisions made by one of the seven Policy and Service Committees (Adults; Children and Young People; Commercial and Investment; Communities and Partnership; Economy and Environment; Health; and Highways and Community Infrastructure) there is a process by which particularly controversial decisions may be reviewed by the General Purposes Committee which shall be known as Decision Review.

The decision review procedure is set out in Part 4.7, Rules of Procedure: Decision Review Procedure Rules.

6.02 The Council's Statutory Scrutiny Function

There is a statutory requirement for Council to make arrangements for scrutiny of certain matters, as specified in the following legislation:

- Section 21 of the Local Government Act 2000 and Section 7 of the Health and Social Care Act 2001 as amended by the Health and Social Care Act 2012, and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (SI 2013/218).

These powers shall be exercised by the Health Committee.

- The Flood and Water Management Act 2010.

These functions shall be exercised by the Economy and Environment Committee.

DECISION REVIEW PROCEDURE RULES

1. Overview

As set out in Part 3B – Responsibility for Functions, Committees of Council, General Purposes Committee, eight members of General Purposes Committee may initiate a review of a decision taken by a Policy and Service Committee by submitting a request for review to the Monitoring Officer or Chief Executive before the expiry of three full working days from the date on which the decision notice was published.

Due to the costs and delay caused by review, it is intended that it should only be used in exceptional circumstances as a last resort.

Where the review process is initiated the implementation of the decision subject to the review shall be suspended until the process is complete or the review withdrawn.

2. Decisions which may be subject to review

As provided in Article 6 and subject to the exceptions set out below, the Decision Review procedure shall apply to any decisions made by Policy and Service Committees (Adults, Children and Young People, Commercial and Investment, Communities and Partnership, Economy and Environment, Health and Highways and Community Infrastructure).

The General Purposes Committee may not review its own decisions.

3. Decisions which may not be reviewed

The following categories of decision are exempt from the decision review process:

- i) A decision in respect of which no decision review request was received within the requisite timescales prescribed in these Rules and has therefore come into effect.
- ii) A decision which satisfies the criteria for urgent decisions as set out in the Council's Rules of Procedure.
- iii) A decision by Full Council or subject to Full Council approval.
- iv) A decision by General Purposes Committee.
- v) Decisions made by regulatory committees and/or decisions of a quasi-judicial or regulatory nature.
- vi) A decision which has been rescinded by the relevant committee or decision maker prior to the determination of any request for a decision review in accordance with Rule 4.2.

vii) A decision which has been made in accordance with Rule 17 of the Committee and Sub-Committee Procedure Rules, Previous Decisions and Motions.

4. Decision Review Process

4.1 Publication of Decision Statement

Where a decision has been made by a Policy and Service Committee, the decision shall be published in the form of a decision statement, within two working days of the decision being made, on the Council's public website. The decision statement shall also be sent to members of the relevant committee within the same timescale.

The decision statement will bear the date on which it is published and will specify that the decision will be effective on the expiry of three full working days after the publication of the decision statement and may then be implemented, unless the subject of a decision review request under this provision within that three full working day period. The deadline for a decision review request shall be specified in the decision statement.

4.2 Review by General Purposes Committee

Where at least 8 *full* members of the General Purposes Committee wish to initiate a review of a decision which falls within the remit of the procedure, they may do so by submitting a written request for review to the Monitoring Officer or Chief Executive.

Such a request must be received by the Monitoring Officer or Chief Executive before the end of three full working days from the date on which the decision notice was published.

Where this criterion is met, the matter shall be referred to the General Purposes Committee for consideration as to whether the review request should be dismissed or upheld.

If the request is dismissed, those members requesting the review will be notified and the original decision shall take effect by 9.30am the next working day following the day of the General Purposes Committee meeting which reviewed the request.

If the review is upheld the matter shall be referred back to the relevant committee with a recommendation from the General Purposes Committee. The relevant committee shall reconsider the matter, taking into account any concerns and recommendations of the General Purposes Committee, and decide whether to amend the decision or not before reaching a final decision. The decision of the relevant committee will take effect at 9.30am on the fourth full working day from the date on which the decision notice was published.

A decision may be subject of a decision review by the General Purposes Committee once only. Once the review has been considered by the General Purposes Committee, the decision may not be subject of a further decision review by that Committee.

5. The Decision Review Procedure Timescales

Where a valid review request is received, the Monitoring Officer shall convene a meeting of the General Purposes Committee as appropriate, to take place within 10 working days or as soon as is practically possible thereafter.

In setting the date of the review hearing, all reasonable efforts will be made to enable attendance by Members, relevant Officers and other witnesses. Councillors who have requested the review shall have the right to address the Committee when it deals with the issue subject to the usual limits on speeches.

14. COMMUNITIES AND PARTNERSHIP COMMITTEE**Membership**

Ten members of the Council, subject to proportionality. This will include one Member from each City/District area of the County, i.e. Cambridge City, East Cambridgeshire, Fenland, Huntingdonshire and South Cambridgeshire, to reflect the political control of the respective City/District Councils to undertake an enhanced role. These Members will be Area Community Champions. They will engage closely with their communities and be an advocate for the activity in these communities and the work of this committee and its partners. The Chairman/woman and Vice-Chairman/woman of the Committee shall be appointed by Full Council.

Summary of Functions

The Communities and Partnership Committee is authorised by Full Council to deliver the County Council's ambition to build stronger self-sustaining communities as expressed in its Community Resilience Strategy, and to work together with the Mayor, combined authority, district councils and other partners to design and deliver services which best meet the needs of those communities. The committee will develop plans, in this regard, with the Mayor, combined authority, district councils and other partners to deliver or jointly commission services for communities where it makes sense to do so, aligning resources and expertise around an agreed set of outcomes in order to make the most of public sector funds.

The Communities and Partnership Committee will work together with other bodies to deliver against our shared ambition to build stronger self-sustaining communities, such as those supporting Parish and Town Councils, our commissioning partners such as the Cambridgeshire and Peterborough Clinical Commissioning Group and the Cambridgeshire Peterborough Communities Network – a network of senior officers drawn from all local authorities across Cambridgeshire and Peterborough, the Office of the Police and Crime Commissioner, Cambridgeshire Fire and Rescue Service, Cambridgeshire Constabulary, Support Cambridgeshire (the Voluntary and Community Infrastructure partnership), Cambridgeshire Community Services NHS Trust and Cambridgeshire and Peterborough NHS Foundation Trust.

Delegated Authority	Delegation/Condition
<p>Authority to deliver the Community Resilience Strategy and services working with the Mayor, the combined authority, district councils and other partners and in particular to -</p> <ul style="list-style-type: none"> • develop and implement joint plans with the combined authority, district councils and other partners for the delivery of community place based services in accordance with the agreed outcomes; • in consultation with the combined authority, district councils and other partners in services within communities approve joint investment in projects, within available resources, that are designed to help manage the demand for high cost services in accordance with the agreed outcomes; • develop and approve business case and plans to devolve services, budgets and assets, and implement subject to Council's approval of the associated business case in accordance with the agreed outcomes; 	<p>Subject to confirmation from the S.151 of the availability of sufficient resources.</p>

Delegated Authority	Delegation/ Condition
<ul style="list-style-type: none"> decide on funding to be made available for community initiatives through the Innovation Fund. 	
<p>Authority to develop, with the Mayor, combined authority, district councils and other partners plans to enhance customer services, including the better use of assets in communities such as libraries and other community buildings for approval by the relevant committee(s) in the County Council.</p>	
<p>Authority to advise the County Council on opportunities to create a shared workforce or shared arrangements (such as joint ventures) to deliver services across the combined authority, district councils and other partners for approval by the relevant committee(s) in the County Council.</p>	
<p><i>Authority to approve the Council's Consultation Strategy and its approach to future Business Planning consultation</i></p>	