

**RESCISSION OF PREVIOUS RESOLUTIONS**

**To:** Constitution and Ethics Committee

**Date:** 19<sup>th</sup> November 2015

**From:** LGSS Director of Law, Property and Governance

**Purpose:** To consider proposed changes to the Committee Procedure Rules in respect of rescission of a previous resolution.

- Recommendation:**
1. It is recommended that the Committee:
    - (a) Recommends revision of Rule 17 of the Committee and Sub-Committee Procedure Rules (Previous Decisions and Motions) to include a requirement that, in order to request that a decision made within the past six months be rescinded, a notice of motion must be signed by at least one third of the Members of the relevant Committee.
    - (b) Recommends that a decision to rescind a previous resolution should be exempt from the decision review process.
  2. That, subject to any amendments recommended above, the Committee recommend to full Council the amendment of Rule 17 of the Committee and Sub-Committee Procedure Rules as set out in Appendix A.
  3. That the Committee recommends to full Council the amendment of Part 4.1 (Council Procedure Rules) and Part 4.4 of the Constitution (Committee and Sub-Committee Procedure Rules) to include authority for the Monitoring Officer, in consultation with the Chairman/woman of the Council or Committee, to cancel a Council or Committee meeting.
  4. That the Monitoring Officer, in consultation with the Chairwoman of the Constitution and Ethics Committee, be authorised to make any other minor or consequential amendments to the Constitution necessary for, or incidental to, the implementation of these proposals.

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## 1. BACKGROUND

- 1.1. At its meeting held on 15<sup>th</sup> September 2015, the Committee considered a report regarding changes to the Decision Review Procedure Rules and whether any changes should be made to the provisions of the Committee Procedure Rules in respect of rescission of decisions.
- 1.2. In discussing the report, Members agreed to recommend to Council that Rule 3 of the Decision Review Rules (Decisions which may not be reviewed) be revised to include where a decision is rescinded prior to the consideration of decision review request. This recommendation was approved by Council at its meeting held on 13<sup>th</sup> October 2015.
- 1.3. The committee also noted that the constitution contained a slight inconsistency in the way in which it dealt with rescission of Full Council decisions and those of a committee. Members agreed to defer further consideration of this issue until after the Cambridge Library Enterprise Centre (CLEC) review had been published.

## 2. RESCINDING DECISIONS Made within the past six months

### 2.1. Current Arrangements

- 2.1.1. The current rules for rescinding Council decisions made within six months of the proposed decision to rescind impose the condition that the motion must be signed by at least one third of Members.

In contrast, the same rule in the committee procedure rules omits any requirement that a proportion of the Committee Members support the motion but does contain the requirement that there must be information before the Committee which was not available when the original resolution was passed.

- 2.1.2. It is suggested that in the interests of consistency, this anomaly should be addressed.

### 2.2 Cambridge Library Enterprise Centre (CLEC) Review

- 2.2.1. There is one reference to the issue of rescinding decisions contained in the final bullet point of item 5 of the CLEC review action plan (Engagement with Members) approved by the Council on 13<sup>th</sup> October 2015, as follows (relevant section denoted in **bold** text below):
  - This review has identified that members require a common understanding of key processes for challenge, including the process by which they may submit items for consideration at Spokes and Committee meetings, how to initiate a call-in, **and the question of whether a decision may be rescinded by a Committee or whether this is the responsibility of Full Council**. Democratic Services are requested to provide additional training and resources for members to address these points.

## 2.3 Revision of Committee Procedure Rules

- 2.3.1. In general, it is considered appropriate to have some restriction on the ability of decision-making bodies to rescind decisions previously made. This is intended to avoid reactive decision making creating uncertainty of decisions. The current rules provide a time limited restriction in the first 6 months following the making of a decision.

However, it is also recognised that there are circumstances when a decision making body may quite reasonably wish to rescind a previous decision, for example where new information emerges or where the public reaction is such that it is appropriate to change course. As such it is important that any rule restricting elected Members' powers must also provide a mechanism to enable rescission, albeit with some safeguards and in the light of appropriate advice.

- 2.3.2. The CLEC review action plan seeks clarification on whether a decision may be rescinded by a committee or whether this is the responsibility of Full Council. As explained above, the current committee procedure rules enable a committee to rescind a decision within six months, subject to the submission of information which was not available when the resolution was originally passed. Rescission of decisions is not therefore presently reserved to Council.
- 2.3.4. The question remains as to whether the existing rules contain the appropriate balance between of restriction versus empowerment and whether consistency between the two would be beneficial.
- 2.3.5. The current Procedure Rule provides that a motion to rescind a decision made within the last six months (or a motion similar to one previously rejected) cannot be moved unless "information which was not available when the resolution was passed is placed before the Committee or Sub-Committee". The intention was that this provision would apply in circumstances where information comes to light which was not available to the committee at the time of making the decision.
- 2.3.6. At the last meeting, it was suggested that it might be helpful to qualify the reference to information by providing that it should be "**material**". However, there are problems with introducing a new term such as "Material information" because this would need to be defined and applied by somebody and this is likely to be an unenviable task if undertaken by an officer. Experience from the interpretation of legislation amply demonstrates that there may be different interpretations of words such as 'Material'.
- 2.3.7. Therefore it is suggested that Elected Members are the best placed to make the judgement of whether it is appropriate to rescind a decision or not and as such it is suggested that the most straightforward approach to limiting the power is that of the requirement contained in the Full Council procedure rules, to have the agreement of at least one third of the Members of the relevant Committee. Revisions to Rule 17 of the Committee and Sub-Committee Procedure Rules are set out in Appendix A, with additions shown in underline text and deletions shown in strikethrough.

## **2.4. Rescinded Decision – Decision Review**

- 2.4.1 The Council at its meeting on 13<sup>th</sup> October 2015, and on the recommendation of this Committee, agreed that the Constitution should be amended so that the decision review process should not continue in circumstances where a decision which has already been called in, is rescinded prior to the decision being reviewed either by General Purposes Committee or Council, as appropriate.
- 2.4.2 Members may now wish to consider whether the Constitution should also provide that a decision to rescind a resolution should be excluded from the decision review process. This should not however preclude any new or changed decision from being subject to the decision review process.

## **2.5 Authority to Convene and Cancel Meetings**

- 2.5.1. At the Council meeting on 13<sup>th</sup> October 2015, a question was raised around the authority to convene and cancel meetings. Meetings ordinarily take place in accordance with a meetings card approved annually. Extraordinary meetings of the Council or special meetings of a committee can also be convened in line with Rule 3.1 of the Council Procedure Rules.
- 2.5.2 Rule 2 of the Committee and Sub-Committee Procedure Rules provides that a special meeting is arranged if the Chairman/woman of the relevant committee, or any six of its members, request such a meeting, or by the Monitoring Officer if he/she considers it necessary.
- 2.5.3 Neither the Council nor Committee Procedure Rules currently include reference to cancellation of meetings. In practice, the normal convention is for the Monitoring Officer, or his nominated representative, to consult the Chairman/woman of the committee on whether to cancel a meeting, which would generally arise in circumstances where there is insufficient business to transact.

<b>SOURCE DOCUMENTS</b>	<b>LOCATION</b>
Constitution	<a href="http://www.cambridgeshire.gov.uk/info/20050/council_structure/288/councils_constitution">http://www.cambridgeshire.gov.uk/info/20050/council_structure/288/councils_constitution</a>

## **Appendix A**

### **The Constitution**

#### **Part 4 – Rules of Procedure**

##### **Part 4.4 – Committee and Sub-Committee Meetings**

### **17. PREVIOUS DECISIONS AND MOTIONS**

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

A motion or amendment to rescind a decision made at a meeting of the Committee or Sub-Committee within the past six months cannot be moved unless ~~information which was not available when the resolution was passed is placed before the Committee or Sub-Committee~~ the notice of motion is signed by at least a third of members of the relevant Committee or Sub-Committee.

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

A motion or amendment in similar terms to one that has been rejected at a meeting of the Committee or Sub-Committee in the past six months cannot be moved unless the notice of motion or amendment is signed by at least a third of members of the relevant Committee or Sub-Committee ~~information which was not available when the motion or amendment was rejected is placed before the Committee or Sub-Committee~~. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.