

# CONSTITUTION AND ETHICS COMMITTEE



**Date: Tuesday, 20 June 2017**

**Democratic and Members' Services**  
Quentin Baker  
LGSS Director: Law and Governance

**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**

**Election of Vice-Chairman/woman**

**Apologies for absence and declarations of interest**

*Guidance on declaring interests is available at*  
<http://tinyurl.com/coc-conduct-code>

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### **Date of Next Meeting**

26th September 2017

The Constitution and Ethics Committee comprises the following members:

Councillor Mac McGuire (Chairman)

Councillor Anna Bradnam Councillor David Connor Councillor Lorna Dupre Councillor Roger Hickford Councillor Kevin Reynolds Councillor Jocelyne Scutt and Councillor Peter Topping

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

Clerk Name: Ruth Yule

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The County Council is committed to open government and members of the public are welcome to attend Committee meetings. It supports the principle of transparency and encourages filming, recording and taking photographs at meetings that are open to the public. It also welcomes the use of social networking and micro-blogging websites (such as Twitter and Facebook) to communicate with people about what is happening, as it happens. These arrangements operate in accordance with a protocol agreed by the Chairman of the Council and political Group Leaders which can be accessed via the following link or made available on request: <http://tinyurl.com/ccf-film-record>.

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 <http://tinyurl.com/cambs-constitution>.

The Council does not guarantee the provision of car parking on the Shire Hall site and you will need to use nearby public car parks <http://tinyurl.com/ccc-carpark> or public transport



**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:

- 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~~
- 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:

- 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
- 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

**A CHANGE TO THE COUNCIL'S CONTRACT PROCEDURE RULES FOR WHEN THE COUNCIL RECEIVES FEWER THAN THREE BIDS BACK FROM A COMPETITIVE PROCESS**

*To:* Constitution and Ethics Committee

*Meeting Date:* 20th June 2017

*From:* Supply Chain and Commercial Development Manager, LGSS Procurement

*Purpose:* A change to the Council's Contract Procedure Rules for when the Council receives fewer than three bids back from a competitive process.

*Recommendation:* The Constitution and Ethics Committee is asked

- a) to support the proposal that whenever a competitive procurement receives fewer than three bids, written approval to read and evaluate the responses is obtained from the following three senior officers without the need for the relevant Committee to grant approval:
  - 1) The Chief Officer for the area conducting the procurement
  - 2) The Monitoring Officer
  - 3) The Chief Finance Officer
- b) to recommend to Council that paragraph 4.7 of Part 1 of the Contract Procedure Rules be amended to read (additional text in bold):

4.7 Exemptions over the Council's Key Decision Threshold

Exemption requests cannot be sought for exemptions equal to or above the Council's Key Decision threshold, **except where the minimum number of bids cannot be obtained following a competitive process (tender/call off from a framework etc.).** In that case, written approval to read and evaluate the responses must be obtained from the Chief Officer for the area conducting the procurement and the Monitoring Officer and the Chief Finance Officer.

<b><i>Officer contact:</i></b>	
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## **1. BACKGROUND**

- 1.1 The Contract Procedure Rules set out rules for all staff and Members to follow the Council's position on contracting and procuring goods, services and works on behalf of the organisation. This includes behaviour according to spend and according to types of procurement decisions.
- 1.2 These rules are available to staff on the intranet and are included in the Council's Constitution as Annex 2 to Part 4.6 – Financial and Contract Rules.
- 1.3 In any instance where the rules are not followed, an exemption process is used and documented to justify the rationale. Often there may be exceptional circumstances where it is in the best interest of the Council to deviate slightly from the rules. This exemption process and approval route is documented in the Contract Procedure rules. The exemption process operates solely up to the Council's Key Decision limit (£500,000). Thereafter it must go to the relevant Committee appropriate to the nature of the contract via the Committee process.
- 1.4 Following a recent audit of tendering and procurement processes conducted by various service areas in the council it was noted that on occasions a competitive tender process was conducted following EU laws, which include EU and national advertising and awarding the opportunity and set minimum times to keep an opportunity open for interest, but nonetheless the outcome was that fewer than three bidders responded.
- 1.5 There are various reasons this could happen, such as lack of interest, market conditions and appetite, or niche supply for the services.
- 1.6 In these scenarios it was difficult for Audit to evidence that permission had been given from Committee to move forward with fewer than three bids. In some instances there was no evidence at all and in other instances the premise was discussed for approval but not necessarily this point.
- 1.7 It is also difficult to determine the likely number of responses until the deadline has passed. Strict EU procurement rules ensure that responses cannot be reviewed until the closing date has passed.

## **2. MAIN ISSUES**

- 2.1 If fewer than three tenders are received the exemption process must be followed. However when the contract/procurement is over the key decision threshold this means going to Committee specifically for this reason. This can delay the tender process, its timelines, and notice to those bidders who did take the time to formally respond to a tender under such circumstances. Tender responses are often only valid for 30 to 60 days and seeking specific Committee approval to read and evaluate the bids in the event than fewer than three bids are received can cause delay. ,.
- 2.2 Seeking permission to procure goods, services or works will and must always go to Committee for approval if it is a key decision, and there is no proposal to change this.

- 2.3 Seeking permission to award to the preferred bidder of procured goods, services or works will and must always go to Committee for approval if it is a key decision, and there is no proposal to change this.
- 2.4 What is being asked is that if the response to the number of bids is low, then the Officer does not need to go to Committee to seek approval to read and evaluate the responses.
- 2.5 From an audit point of view it becomes difficult to track which committee papers have this question raised and answered amongst the other decisions raised at Committee.
- 2.6 In terms of scrutiny the proposal is to change the Contract Procedure Rules (specifically paragraph 4.7 of Part 1) to include the **bold** addition to the existing clause:

4.7 Exemptions over the Council's Key Decision Threshold

Exemption requests cannot be sought for exemptions equal to or above the Council's Key Decision threshold, **except where the minimum number of bids cannot be obtained following a competitive process (tender/call off from a framework etc.). In that case, written approval to read and evaluate the responses must be obtained from the Chief Officer for the area conducting the procurement and the Monitoring Officer and the Chief Finance Officer.**

Source Documents	Location
Contract Procedure Rules	Part 4.6 Annex 2 of the Constitution at <a href="https://cmis.cambridgeshire.gov.uk/ccclive/Documents/PublicDocuments.aspx">https://cmis.cambridgeshire.gov.uk/ccclive/Documents/PublicDocuments.aspx</a>





**REVISION OF THE TERMS OF REFERENCE FOR THE AUDIT AND ACCOUNTS COMMITTEE**

**To:** Constitution and Ethics Committee

**Date:** 20th June 2017

**From:** LGSS Chief Internal Auditor

**Electoral Division(s):** All

**Purpose:** The Committee is asked to consider proposed revised Terms of Reference for the Audit and Accounts Committee; these were endorsed by the Audit and Accounts Committee at its meeting on 30th May 2017.

**Recommendation:** That the Committee recommend to Council that

the Terms of Reference for the Audit and Accounts Committee be modified in accordance with the draft Terms of Reference set out at report Annex B.

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## 1. BACKGROUND

- 1.1 The current Audit and Accounts Terms of Reference have been in place since May 2014 when the Council Committee system was established.
- 1.2 The June 2016 meeting of the Audit and Accounts Committee agreed to cease oversight of the Assurance Framework as this was deemed to duplicate the information provided in the risk register update.
- 1.3 The oversight responsibility for the Assurance Framework in the terms of reference has therefore been removed. The opportunity was taken to also conduct a complete review and update in line with best practice guidance issued by the public sector accountancy body CIPFA.

## 2. MAIN ISSUES

- 2.1 Attached are two appendices - the revised terms of reference showing the proposed changes from the previous version (Annex A), and a clean copy of the revised terms of reference (Annex B).
- 2.2 The revised terms of reference captures all the previous responsibilities, grouping them under four distinct headings for greater clarity, namely – audit activity, regulatory framework, accounts and risk management. The revision also incorporates header sections addressing the Committee’s specific constitution and statement of purpose.
- 2.3 Following the presentation of the revised terms of reference to the Audit and Accounts Committee on 30th May 2017, several minor amendments were made:
  - Para 1.7 was revised to refer to the “Annual Audit Letter” rather than the “Annual Audit and Inspection Letter”, to correctly reflect the role of the External Auditor;
  - An addition was made to the Summary of Functions, to reflect the role of the Audit & Accounts Committee in considering value for money.

Source Documents	Location
Council Constitution	<a href="http://tinyurl.com/Constitution-CCC">http://tinyurl.com/Constitution-CCC</a>
Report to Audit and Accounts Committee 30 May 2017	<a href="https://cmis.cambridgeshire.gov.uk/ccs_live/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/682/Committee/9/Default.aspx">https://cmis.cambridgeshire.gov.uk/ccs_live/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/682/Committee/9/Default.aspx</a>



## **Annex A**

*This appendix sets out the proposed revised terms of reference, showing changes from the May 2014 version with additions underlined and deletions struck through.*

### **AUDIT AND ACCOUNTS COMMITTEE TERMS OF REFERENCE**

#### **1. Membership:**

Seven members of the Council. The Chairman/woman and Vice-Chairman/woman of the Committee shall be elected by the Audit and Accounts Committee.

The Audit and Accounts Committee shall be entitled to appoint up to three people at any one time as non-voting co-opted members of the Committee. The Committee shall determine whether the co-options shall be effective for a specified period, for specific meetings or for specific items. The Committee may not co-opt any person who is an active member of any political party, defined as any person who engages in political activities which would not be permissible if that person was an officer holding a politically-restricted post within the Council. Co-options may only be made if the person co-opted has particular knowledge or expertise in the functions for which the Committee is responsible.

The Committee will meet at least four times a year, and will maintain the technical capability to discharge the Audit and Accounts Committee responsibilities of the Council.

#### **2. Summary of Functions:**

- To provide independent assurance of the adequacy of the risk management framework and the associated control environment.
- To provide independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakness of the control environment.
- To oversee the financial reporting process.
- To review matters relating to Internal Audit, external audit, risk management, governance, assurance statements, anti-fraud and anti-corruption arrangements.
- To enhance and promote the profile, status and authority of the Internal Audit function and to demonstrate its independence.



- To contribute towards making the authority, its committees and departments more responsive to the audit function.
- To review compliance with the relevant standards, codes of practice and corporate governance policies.
- To consider the extent to which the authority's control environment is successful in achieving value for money.

Delegated Authority	Delegation/ Condition
<p><b><u>1 Audit Activity</u></b></p> <p><del>6. To approve and monitor delivery of the Internal Audit's Strategy and performance and to consider and endorse the Annual Work Programme</del></p> <p><u>1.1 To approve the Internal Audit strategy and monitor its progress</u></p> <p><u>1.2 To approve, but not direct, Internal Audit's annual plan of work and monitor unscheduled work that could potentially divert audit resources away from a plan, and monitor performance against those plans, ensuring that there are no inappropriate scope or resource limitations.</u></p> <p><u>1.3 To consider the Annual Report and opinion of the Head of Audit and a summary of Internal Audit activity and the level of assurance it can give over the Council's corporate governance arrangements [new]</u></p> <p><del>8. To seek assurance that action has been taken to implement the recommendations arising from the findings of significant audit work</del></p> <p><u>1.4 To consider summary Internal Audit reports and the main issues arising, and seek assurance that action has been taken where necessary</u></p> <p><del>4 To consider reports on the provision of internal audit services under S.151 of the Local Government Act 1972 and the Accounts and Audit Regulations 2003 (Regulation 6)</del></p> <p><u>1.5 To consider reports dealing with the management and performance of the Internal Audit function.</u></p> <p><del>8. To seek assurance that action has been taken to implement the recommendations arising from the findings of significant audit work</del></p>	



Delegated Authority	Delegation/ Condition
<p><u>1.6 To consider reports from Internal Audit on agreed recommendations not implemented within reasonable timescales</u></p> <p><del>10. To receive, for information, the Relationship Management Report and Annual Audit Letter and to scrutinise the Council's response to issues raised</del></p> <p><u>1.7 To consider the Annual Audit Letter, relevant reports and the reports of those charged with governance</u></p> <p><u>1.8 To consider specific reports as agreed with the External Auditor to ensure agreed action is taken within reasonable timescales [new]</u></p> <p><del>9. To discuss the Audit Planning Memorandum with external audit</del></p> <p><u>1.9 To comment on the scope and depth of the external audit work and to ensure it gives value for money</u></p> <p><u>1.10 To liaise with Public Sector Audit Appointments Limited over the appointment of the Council's External Auditor [new]</u></p> <p><del>7. To ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted</del></p> <p><u>1.11 To consider the reports of inspection agencies relevant to the Council</u></p> <p><u>1.12 To suggest work for Internal and External Audit [new]</u></p> <p><del>17. To oversee the annual review of the effectiveness of the system of internal audit</del></p> <p><u>1.13 To undertake an annual review of the effectiveness of the system of Internal Audit</u></p>	
<p><b><u>2 Regulatory Framework</u></b></p> <p><del>13. To make recommendations as to the wording and content of revisions to the County Council's Financial and Contract Procedure Rules (NB changes to the Financial and Contract Procedure Rules must be approved by Full Council in order to become effective.)</del></p> <p><u>2.1 To maintain an overview of the Council's Constitution in respect of contract procedure rules, financial regulations, codes of conduct etc.</u></p>	



Delegated Authority	Delegation/ Condition
<p><u>2.2 To review any issue referred to it by the Chief Executive or Executive Director or any Committee of the Council [new]</u></p> <p><del>12. To advise on the content of revisions to the Council's risk management policy</del></p> <p><u>2.3 To monitor the effective development and operation of risk management and corporate governance throughout the Council</u></p> <p><del>2. To consider the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements</del></p> <p><u>2.4 To monitor council policies on "raising concerns at work" and anti-fraud and anti-corruption policies, including the Council's complaints process</u></p> <p><del>11. To ensure that the Council's Annual Governance Statement properly reflects the risk environment and any actions required to improve it</del></p> <p><del>1 (d) to review annually the Council's system of internal control and to agree an Annual Governance Statement for inclusion in the statement of accounts</del></p> <p><u>2.5 To oversee the production of the Council's Statement of Internal Control/Governance Statement and recommend its adoption</u></p> <p><del>16. To approve and maintain the Council's Code of Corporate Governance</del></p> <p><u>2.6 To consider the arrangements for corporate governance and to agree necessary actions to ensure compliance with best practice</u></p> <p><u>2.7 To consider the Council's compliance with its own and published standards and controls</u></p> <p><del>14</del> <u>2.8</u> To report as appropriate to Full Council, relevant Policy and Service Committees and the Constitution and Ethics Committee on issues which require their attention or further action</p> <p><del>15</del> <u>2.9</u> To bring to the attention of the General Purposes Committee any issue which may warrant further consideration or review</p>	
<p><b><u>3 Accounts</u></b></p> <p><del>1 (a) to consider and approve the annual statement of accounts</del></p> <p><u>3.1 To review and approve the annual Statement of Accounts</u></p>	



Delegated Authority	Delegation/ Condition
<p>5. <del>To review the financial statements, external auditor's opinion and reports to members, and monitor management actions in response to the issues raised by external audit</del></p> <p>3.2 <u>Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council</u></p> <p>3.3 <u>To consider the External Auditor's report to those charged with the governance issues arising from the audit of the accounts</u></p>	
<p><b><u>4 Risk Management</u></b></p> <p>2. <del>To consider the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements</del></p> <p>4.1 <u>To consider the effectiveness of the Council's risk management arrangements</u></p> <p>4.2 <u>To seek assurances that action is being taken on risk-related issues</u></p> <p>11. <del>To ensure that the Council's Annual Governance Statement properly reflects the risk environment and any actions required to improve it</del></p> <p>4.3 <u>To be satisfied that the Council's assurance statements, including the Statement of Internal Control, properly reflect the risk environment and any actions required to improve it</u></p>	



## **Annex B**

*This appendix sets out the proposed revised terms of reference, without showing changes from the May 2014 version.*

### **AUDIT AND ACCOUNTS COMMITTEE TERMS OF REFERENCE**

#### **3. Membership:**

Seven members of the Council. The Chairman/woman and Vice-Chairman/woman of the Committee shall be elected by the Audit and Accounts Committee.

The Audit and Accounts Committee shall be entitled to appoint up to three people at any one time as non-voting co-opted members of the Committee. The Committee shall determine whether the co-options shall be effective for a specified period, for specific meetings or for specific items. The Committee may not co-opt any person who is an active member of any political party, defined as any person who engages in political activities which would not be permissible if that person was an officer holding a politically-restricted post within the Council. Co-options may only be made if the person co-opted has particular knowledge or expertise in the functions for which the Committee is responsible.

The Committee will meet at least 4 times a year, and will maintain the technical capability to discharge the Audit and Accounts Committee responsibilities of the Council.

#### **4. Summary of Functions:**

- To provide independent assurance of the adequacy of the risk management framework and the associated control environment.
- To provide independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakness of the control environment.
- To oversee the financial reporting process.
- To review matters relating to Internal Audit, external audit, risk management, governance, assurance statements, anti-fraud and anti-corruption arrangements.
- To enhance and promote the profile, status and authority of the Internal Audit function and to demonstrate its independence.





- To contribute towards making the authority, its committees and departments more responsive to the audit function.
- To review compliance with the relevant standards, codes of practice and corporate governance policies.
- To consider the extent to which the authority's control environment is successful in achieving value for money.

Delegated Authority	Delegation/ Condition
<p><b><u>1 Audit Activity</u></b></p> <p>1.1 To approve the Internal Audit strategy and monitor its progress</p> <p>1.2 To approve, but not direct, Internal Audit's annual plan of work and monitor unscheduled work that could potentially divert audit resources away from a plan, and monitor performance against those plans, ensuring that there are no inappropriate scope or resource limitations.</p> <p>1.3 To consider the Annual Report and opinion of the Head of Audit and a summary of Internal Audit activity and the level of assurance it can give over the Council's corporate governance arrangements</p> <p>1.4 To consider summary Internal Audit reports and the main issues arising, and seek assurance that action has been taken where necessary</p> <p>1.5 To consider reports dealing with the management and performance of the Internal Audit function.</p> <p>1.6 To consider reports from Internal Audit on agreed recommendations not implemented within reasonable timescales</p> <p>1.7 To consider the Annual Audit Letter, relevant reports and the reports of those charged with governance</p> <p>1.8 To consider specific reports as agreed with the External Auditor to ensure agreed action is taken within reasonable timescales</p> <p>1.9 To comment on the scope and depth of the external audit work and to ensure it gives value for money</p> <p>1.10 To liaise with Public Sector Audit Appointments Limited over the appointment of the Council's External Auditor</p>	



Delegated Authority	Delegation/ Condition
<p>1.11 To consider the reports of inspection agencies relevant to the Council (such as Ofsted, the Information Commissioner's Office, etc.)</p> <p>1.12 To suggest work for Internal and External Audit</p> <p>1.13 To undertake an annual review of the effectiveness of the system of Internal Audit</p>	
<p><b><u>2 Regulatory Framework</u></b></p> <p>2.1 To maintain an overview of the Council's Constitution in respect of contract procedure rules, financial regulations, codes of conduct etc.</p> <p>2.2 To review any issue referred to it by the Chief Executive or Executive Director or any Committee of the Council</p> <p>2.3 To monitor the effective development and operation of risk management and corporate governance throughout the Council</p> <p>2.4 To monitor council policies on "raising concerns at work" and anti-fraud and anti-corruption policies, including the Council's complaints process</p> <p>2.5 To oversee the production of the Council's Statement of Internal Control/Governance Statement and recommend its adoption</p> <p>2.6 To consider the arrangements for corporate governance and to agree necessary actions to ensure compliance with best practice</p> <p>2.7 To consider the Council's compliance with its own and published standards and controls</p> <p>2.8 To report as appropriate to Full Council, relevant Policy and Service Committees and the Constitution and Ethics Committee on issues which require their attention or further action</p> <p>2.9 To bring to the attention of the General Purposes Committee any issue which may warrant further consideration or review</p>	
<p><b><u>3 Accounts</u></b></p> <p>3.1 To review and approve the annual Statement of Accounts</p> <p>3.2 Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the</p>	



Delegated Authority	Delegation/ Condition
<p>financial statements or from the audit that need to be brought to the attention of the Council</p> <p>3.3 To consider the External Auditor's report to those charged with the governance issues arising from the audit of the accounts</p>	
<p><b><u>4 Risk Management</u></b></p> <p>4.1 To consider the effectiveness of the Council's risk management arrangements</p> <p>4.2 To seek assurances that action is being taken on risk-related issues</p> <p>4.3 To be satisfied that the Council's assurance statements, including the Statement of Internal Control, properly reflect the risk environment and any actions required to improve it</p>	



**COUNTY COUNCIL – PROPOSED CHANGES TO THE CONSTITUTION**

**To:** Constitution and Ethics Committee

**Meeting Date:** 20th June 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.

<b><i>Officer contact:</i></b>	
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## **1. BACKGROUND**

- 1.1 At its annual meeting on 23rd May 2017, Council approved a number of changes to the Constitution. It also authorised the Chief Finance Officer, in consultation with the Commercial and Investment Committee, to amend the committee's terms of reference to incorporate commercialisation within its remit, and the LGSS Director Law and Governance to take all steps necessary or incidental to implement the changes to the Constitution detailed in the report.
- 1.2 The Vice-Chairman of Council, Councillor Mac McGuire, who is also chair of the Constitution and Ethics Committee, met with the Democratic Services Manager to propose a number of further changes to the Constitution for consideration. These are detailed in Section 2.
- 1.3 Although the Chief Finance Officer was authorised to amend the Commercial and Investment Committee's terms of reference to incorporate commercialisation within its remit. It is proposed, for openness and transparency, to ask Council to agree the amended terms of reference.
- 1.4 There is one further change relating to the Combined Authority. It now has statutory responsibility for the adoption of, and any amendment or withdrawal to the Transport Plan (Local Transport Plan).

## **2. FURTHER CHANGES TO THE CONSTITUTION**

### **Substitutes**

- 2.1 The Council, together with many other councils, has a substitute system. Details of the Council's system are set out in the Constitution at Part 4 – Rules of Procedure, Part 4.1 – Council Procedure Rules, as detailed below:

“As well as allocating seats on committees and sub-committees, the Council will allocate seats in the same manner for up to four members of each political group as substitute members.

### **Powers and Duties**

Substitute members, when substituting for an ordinary member of the committee, will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

### **Substitution**

Substitute members may attend meetings in that capacity only:

- (i) To take the place of the ordinary member for whom they are the designated substitute.
- (ii) After notifying the relevant Democratic Services Officer of the intended substitution before the start of the meeting.

In the event of the ordinary member of the committee being present at the start of the meeting, the ordinary member may advise that the substitution shall not take effect. The membership of the committee shall be as constituted at the start of the meeting and substitution will not be permitted during the course of the meeting.

Substitute members are eligible for allowances in accordance with the Council's scheme of allowances as if they were appointed members of that committee."

- 2.2 The Chairman of the Constitution and Ethics Committee is proposing that instead of allocating up to four members of each political group as substitute members, the number of substitutes should reflect the proportionality of the Committee. It is proposed as a general rule to use "two-thirds, rounded up as appropriate" i.e. 1 Member = 1 sub, 2 Members = 2 subs, 3 Members = 2 subs. For General Purposes Committee it would be 6 Conservatives, 2 Liberal Democrats, 2 Labour, 1 Independent. For a 'regular' Committee like Highways and Community Infrastructure Committee, it would be 4 Conservatives, 2 Liberal Democrats, 1 Labour and 1 Independent.
- 2.3 There would need to be an exception for Staffing and Appeals Committee where the substitute members can be used to make up the Service Appeals Sub-Committee. It is therefore proposed that the substitutes for this Committee also be allocated proportionately, on the same basis as above, with the minimum number of substitutes being four.

### **Policy and Service Committees**

- 2.4 It is proposed that the two new committees, Commercial and Investment Committee and Communities and Partnership Committee, be classified as policy and service committees. These committees will therefore have Lead Members and be subject to review of decision by General Purposes Committee.
- 2.5 The Council Procedure Rules state that the Annual Meeting will
- "Receive a short (two sides of A4) report on each Policy and Service Committee. The report to be prepared by the relevant Service and not open for discussion at the meeting."

The Committee may wish to consider whether this action is still necessary, as it is time-consuming for officers to prepare this report, and all agendas and minutes are published online.

### **Deputy Council Leader**

- 2.6 Part 2 – Articles, Article 7 – The Leader, Chairmen/women and Vice-Chairmen/women of Committees and Lead Members, of the Council's Constitution states the following:

#### **"7.01 Council Leader**

The Chairman of the General Purposes Committee shall be, ex-officio, Council Leader and shall hold office unless and until:

- (a) He/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (b) He/she ceases to be Chairman/woman of the General Purposes Committee.”

2.7 It is already in other parts of the Constitution that the Council will appoint the Chairman/woman and Vice-Chairman/woman of the General Purposes Committee who will also fulfil the role of Leader and Deputy Leader of the Council respectively. It is therefore proposed that the Vice-Chairman/woman of General Purposes Committee shall be, ex-officio, Deputy Council Leader, be reflected within Article 7, paragraph 7.03 of the Council's Constitution.

### **Lead Members**

2.8 The Council's Constitution states the following:

#### **“7.05     Lead Members**

Each of the Council's political groups may designate one of their group members as lead member for each service committee.

The Chief Executive, Executive Directors, and Directors shall hold briefing meetings with their relevant service committee Chairman/woman and Vice-Chairman/woman to plan the agenda for future service committee meetings and consider any other issues the officer may think appropriate. They will also hold briefing meetings with opposition lead members to brief them on the agenda for future service committee meetings and consider any other issues the officer may think appropriate. All these meetings will be confidential subject to any relevant legal requirements to the contrary.”

It is proposed that all opposition lead members should be briefed together on the agenda for future service committee meetings and any other issues the officer may think appropriate. This does not prevent lead members from asking for individual private and confidential briefings from Executive Directors, Directors, Service Directors, and LGSS Directors on any relevant policy matter within the remit of that Director.

### **Council Functions**

2.9 There is a need to amend the following in Part 3A – Responsibility For Functions, Section 2(f) to reflect the fact that Council also appoints the Chairman/woman and Vice-Chairman/woman of Commercial and Investment Committee, Communities and Partnership Committee and the Health and Wellbeing Board:



## **Training**

2.10 Part 2 – Articles, Article 7 of The Council’s Constitution states the following:

### **“7.06 Training**

The Council will hold an annual training day for Chairmen/women, Vice-Chairmen/women and lead members with a focus on their roles and remits individually and collectively.”

Given the changes following the election, the Committee may wish to consider delivering training in a different way.

## **Timing of Council Meetings**

2.11 Following a mini review of the Council’s governance procedures, it was agreed that from March 2016 full Council should start at 1.30pm instead of 10.30am (except for meetings when the Business Plan is being considered, which remain at 10.30am). It is now proposed to revert to the original time of 10.30am for all full Council meetings.

## **3. COMMERCIAL AND INVESTMENT COMMITTEE AMENDMENTS TO TERMS OF REFERENCE**

3.1 The terms of reference of the Commercial and Investment Committee have been re-drafted in light of the change of emphasis agreed by Council. The proposed terms of reference are attached as **Appendix A** to this report. These have been drafted in consultation with the Chairman of the Committee and will be considered by the Committee on 30th June.

3.2 The Chief Finance Officer has shared his suggestions with the Chair and Vice Chair of Commercial and Investment Committee but these changes will not be presented to the Committee until after the meeting of Constitution & Ethics Committee. It is therefore proposed that the Constitution and Ethics Committee agrees these changes subject to agreement by Commercial and Investment Committee.

3.3 Article 2 – Articles, Article 4 – The Full Council states the following:

“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:

- Corporate Asset Management Plan
- Enforcement Policy
- Long Term Capital Strategy
- Procurement Strategy
- Single Equality Strategy
- Strategic Asset Development Strategy
- Workforce Strategy”

3.4 It is proposed that in relation to the Corporate Asset Management Plan and the Strategy Asset Development Strategy, Full Council should take into account the recommendation of Commercial and Investment Committee rather than of General Purposes Committee.

#### **4. LOCAL TRANSPORT PLAN**

- 4.1 The Cambridgeshire and Peterborough Combined Authority is now responsible for the adoption of, and any amendment or withdrawal to the Transport Plan (Local Transport Plan).
- 4.2 The Cambridgeshire and Peterborough Combined Authority Order 2017 states that decision on a question relating to the following matters (transport plan) requires a vote in favour at a meeting of the Combined Authority, at which all members of the Combined Authority are present, by a majority of at least two-thirds of all members appointed by the constituent councils to include the members appointed by the councils for the local government areas of Cambridgeshire and Peterborough, or substitute members acting in place of those members, present and voting on that question to be carried—
- (a) the transport plan; and
  - (b) any spending plans or plans for the allocation of transport-related funding.
- 4.3 Reference in the Constitution to approving the Local Transport Plan therefore needs to be removed. Consideration does need to be given as to how the Council can contribute to the development of the Plan.

<b>Source Documents</b>	<b>Location</b>
Council's Constitution	<a href="http://tinyurl.com/Constitution-CCC">http://tinyurl.com/Constitution-CCC</a>

**13. COMMERCIAL AND INVESTMENT COMMITTEE****Membership**

Any ten members of Council, subject to political proportionality.

**Summary of Functions**

The Committee has delegated authority to exercise the County Council's functions in respect of the following:

- Creating a commercially focused organisation through the development and implementation of innovative, growth focused, commercial strategy.
- Providing strong leadership which builds a robust commercial culture.
- Encouraging the development of new opportunities through establishing a risk appetite that stimulates the evaluation of new emerging markets and opportunities.
- Oversight and operation of all property-related and traded service functions.

<b>Delegated Authority</b>	<b>Delegation/ Condition</b>
To systematically review all services to ensure that current delivering vehicles remain fit for purpose. All reviews to review markets, partnership opportunities, other delivery vehicles, rationale for in-house delivery.	
To ensure all traded activities operate within a commercial framework.	
To plan, develop and implement, a commercial strategy and other initiatives in order to maximise the potential of the Council's existing commercial activities, to support the development of a commercial culture within the organisation and to ensure commercial opportunities are maximised.	
To lead the development of new, and growth in existing, income streams that generate sufficient surplus for investment in further opportunities and to help offset costs of other activities.	
To lead the development of key relationships for the Council with external organisations to enable the delivery of effective outcomes through new business ventures and collaborations.	
To lead the planning and design for a variety of services where new partnerships and delivery vehicles can be developed to support the delivery of the best possible outcomes.	
To review the Council's asset portfolio to identify opportunities and develop policies to reduce the financial impact on the Council's operating position and strengthen its financial sustainability.	

<b>Delegated Authority</b>	<b>Delegation/ Condition</b>
To recommend to Council and monitor the Council's Asset Strategy.	
To recommend to Council the Council's Asset Management Plan, annually, and as a consequence:	
<ul style="list-style-type: none"> <li>- Consider and recommend Asset Plans as they fall due for review</li> <li>- Approve annual budget proposals from applicable Asset Plans</li> <li>- Monitor the delivery of the asset plans throughout the year</li> </ul>	
To consider and evaluate investment proposals.	
To monitor all commercial and property investment proposals included within the Business Plan to ensure successful delivery.	
To consider and approve all asset disposals.	
To approve the granting of variations, renewal, and termination of leases, licenses, dedications, and easements.	
To consider and approve the use of Council owned assets by the local community and other interested parties.	
To consider, evaluate, and agree potential property disposals and investment opportunities.	
To consider business cases for the sale of assets to the Council's Property Special Purpose Vehicle (SPV) for inclusion within the Business Plan.	
To exercise all and any of the council's rights as shareholder of the Property SPV CHIC. The committee may authorise its Chairman/woman and Vice-Chairman/woman to exercise these rights in appropriate circumstances including urgency.	
To work with officers to facilitate/promote the development of proposals for sharing property with partner organisations.	
To consider and recommend property rationalisation proposals for inclusion within the Business Plan.	
To approve property rationalisation proposals that are in accordance with the Business Plan.	
To consider and make recommendations to Council for property rationalisation proposals that are outside of the agreed Business Plan.	

**ANNUAL REPORT ON WHISTLEBLOWING INCIDENTS**

*To:* **Constitution and Ethics Committee**

*Date:* **20 June 2017**

*From:* **The Monitoring Officer**

*Electoral division(s):* **All**

*Purpose:* **A brief summary of whistleblowing incidents for the period 2016/17**

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

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## 1. INTRODUCTION AND OVERVIEW

- 1.1. The Monitoring Officer is responsible for monitoring the implementation and effectiveness of Cambridgeshire County Council's Whistleblowing policy (attached as Appendix 1). As part of that process, the Monitoring Officer is required to produce an annual monitoring report to the Senior Management Team and to provide a brief annual summary of the same to Members.
- 1.2. This report serves as the summary for the Members of any reported whistleblowing incidents for 2016/17. The summary is contained in Appendix 2 (to follow).

Source Documents	Location
None	

### **Whistleblowing Policy**

- [Introduction](#)
- [Objective](#)
- [Scope](#)
- [Principles](#)
- [Raising a Concern](#)
- [Responding to a Concern](#)
- [Records](#)
- [Further Advice](#)

#### **Introduction**

The County Council is committed to the highest possible standard of operation, probity and accountability, and recognises that its workers are often the first to realise that there may be something wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council and they may also fear harassment or victimisation. In these circumstances, it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

The Public Interest Disclosure Act 1998 protects workers who raise concerns from victimisation or harassment. In accordance with this Act, the Council encourages its workers with serious concerns about any aspect of the Council's work to come forward and voice those concerns, in confidence, within the Council, rather than overlooking a problem or blowing the whistle outside.

#### **Objective**

This policy has been developed to ensure that an internal mechanism exists to encourage and enable workers to raise serious concerns about any aspect of the Council's work (which do not meet the criteria for being dealt with as a complaint or grievance), in confidence and without fear of reprisals, to ensure that the Council continues to provide the highest standards of service delivery.

#### **Scope**

This policy applies to all Council employees and elected members. It applies also to contractors and suppliers providing services under a contract with the Council. The term 'worker' is used throughout this document as a reference to all of the above.

#### **Principles**

This policy is based on the following fundamental principles:

**All** workers have the right to raise concerns about perceived unacceptable practice or behaviour.

The responsibility for expressing concerns about unacceptable practice or behaviour rests with **all** workers, and under the Council's Health & Safety Policy workers are expected to raise concerns about potential health and safety risks.

The Council will not tolerate harassment or victimisation and will take action to protect workers when they raise a concern in good faith.

The Council will do its best to protect a worker's identity when he/she raises a concern and does not want his/her name to be disclosed. However, if the concern raised needs to be addressed through another procedure, e.g. disciplinary procedure, the worker may be required to provide a signed statement as part of the evidence.

In some circumstances the Council may have to disclose the identity of the worker without his/her consent, although this will be discussed with the worker first.

Appropriate advice and support will be made available to workers who raise concerns.

Workers who raise concerns will be kept informed of the progress and outcome of any investigation.

The Council will not tolerate malicious or vexatious allegations, which may be considered a disciplinary offence.

### **Raising a Concern**

Whilst it can be difficult to raise concerns about the practice or behaviour of a colleague, workers must act to prevent the problem getting worse, to reduce potential risks to the health and safety of others, and to prevent themselves potentially being implicated.

The earlier a worker expresses a concern, the easier and sooner it is possible for the Council to take action.

Workers are encouraged to raise concerns about the actions/behaviours of other Council workers, private contractors and/or elected members, where they think something is:

- unlawful; or
- against the Council's Standing Orders or policies; or
- falls below established standard or practice; or
- amounts to improper conduct.

Concerns about the welfare of children, young people and vulnerable adults should be raised as quickly as possible as a failure to do so could result in a child, young person or vulnerable adult being placed at risk. Sometimes concerns in relation to safeguarding can be minimised, especially when the reporter is not sure of what they may have observed. It is not necessary to be completely sure about the concern – what is important is that concerns are raised that may need further investigation. It is important to remember that often it is the most vulnerable groups that are targeted by individuals who may seek to abuse those in their care. Therefore, these groups rely on responsible individuals to protect them and to safeguard their welfare.

Concerns about money laundering should be raised in accordance with specific guidance provided (see the Council's Internal Audit web pages).

Concerns that fall outside the scope of the Whistleblowing Policy are those raised by workers:

- about their own conditions of service: these should be addressed via the Council's Grievance Procedure or Bullying and Harassment at Work Procedure, depending on the nature/seriousness of the complaint; or
- as or on behalf of a service user\*: these should be addressed via the Council's Complaints and Representations Procedure.

*\*In exceptional circumstances, where the complaint involves a number of service users, or the service user is unable/unwilling to make the complaint personally, the Whistleblowing Procedure may be followed*

### **To Whom**

The Council encourages workers to raise concerns initially with their immediate manager, manager's superior or their Head of Service. This will depend on the nature of the concerns, the seriousness and sensitivity of the issues involved and who is alleged to be involved. Supervision sessions, team meetings and other opportunities can be used to ask questions and to seek clarification on issues that concern them.

Alternatively, workers who feel that they cannot approach any of the managers within their own area may approach the following:



- Janet Maulder, Head of HR Advisory – 01223 699495
- Martin Cox, Head of People - 07921 092743
- Sue Grace, Corporate Director – 01223 699248
- Chris Young, Health and Safety Manager - 01223 699253
- Quentin Baker, LGSS Director of Legal (Council's Monitoring Officer) - 01223 727961

### How

Concerns should be raised in writing and include:

- reference to the fact that it is a whistleblowing disclosure;
- the background and history of the concerns;
- names, dates and places (where possible); and
- the reasons why the worker is particularly concerned about the situation.

Workers who feel unable to put the concern in writing, can telephone or meet the appropriate officer.

### Representation

In some cases it may be appropriate for a worker to ask his/her trade union to raise a matter on his/her behalf.

### **Responding to a Concern**

The action taken by the Council will depend on the nature of the concern. The matters\* raised may:- be investigated internally by an appropriate manager, e.g. H&S Adviser;

- be referred to the Police;
- be referred to the external Auditor; and/or
- form the subject of an independent inquiry.

*\*All issues will be referred to the LGSS Director of Legal, as the Council's Monitoring Officer for record keeping/monitoring purposes.*

### Support and Protection

'Blowing the whistle' can be difficult and stressful. Managers will ensure that they do their best to protect the identity of the worker raising the concern and that he/she is not subjected to harassment or victimisation from others. Workers will be given the contact details of people who can offer support and advice, e.g. HR advisers, trade union representatives and will be offered access to the Staff Counselling Scheme.

The Council will do its best to protect a worker's identity when he/she raises a concern and does not want his/her name to be disclosed. However, if the concern raised needs to be addressed through another procedure, e.g. disciplinary procedure, the worker may be required to provide a signed statement as part of the evidence. Workers may be required to give evidence where legal proceedings arise.

In some circumstances the Council may have to disclose the identity of the worker without his/her consent, although this will be discussed with the worker first.

### Anonymous Allegations

Anonymous allegations will be investigated at the discretion of the Council after an assessment has been made of the nature and seriousness of the concerns, and the ability of the Council to substantiate the allegations from other attributable sources.

### Initial Enquiries

In order to protect individuals and the Council, initial enquiries, (usually involving a meeting with the individual raising the concern), will be made to decide whether an investigation is appropriate and, if so, what form it should take. Normally concerns or allegations that raise issues that fall within the scope of other policies/procedures, (e.g. child protection, health & safety or discrimination issues), will be addressed under those procedures.

Some concerns may be resolved at this initial stage simply, by agreed action or an explanation regarding the concern, without the need for further investigation.

#### Investigation

The appropriate manager will investigate the concerns thoroughly, ensuring that a written acknowledgement can be provided **within ten working days**. A detailed response should follow **within 28 working days**, once the investigation has been concluded.

The detailed response should explain how the matter was investigated, conclusions drawn from the investigation, and whom to contact should the worker be unhappy with the response and wish to raise the matter externally. Investigating Managers should take care when communicating the outcome of an investigation to ensure that confidentiality is maintained where appropriate, e.g. if subsequently, the investigation has led to disciplinary action against another employee.

If the investigation cannot be completed within the 28-day timescale above, the worker should receive a response that indicates:

- progress to date;
- how the matter is being dealt with; and
- how long it will take to provide a final response.

Copies of all correspondence should be sent to the relevant Strategic HR Business Partner for record keeping/monitoring purposes.

#### Untrue Allegations

If a worker makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against that worker. If, however, there is clear evidence that a worker has made malicious or vexatious allegations, disciplinary action may be taken against that individual in accordance with the Council's disciplinary procedures.

#### Unfounded Allegations

Following investigation, if an allegation is confirmed as unfounded this should be notified to the worker who raised the concern, who will be informed that the Council deems the matter to be concluded and that it should not be raised again unless new evidence becomes available.

#### **Records**

The Council is required to monitor the number and types of whistleblowing cases, and the outcomes, including actions taken to resolve the issues raised. Therefore, managers must complete a Whistleblowing Cases Tracking Form for each case, and on a quarterly basis, send copies of all tracking forms to the LGSS Director of Legal (as the Council's Monitoring Officer) for record keeping/monitoring purposes.

#### **Review and Monitoring**

The LGSS Director of Legal Services (as the Council's Monitoring Officer) is responsible for monitoring the implementation and effectiveness of this policy in accordance with agreed performance indicators:

- the number of concerns raised via the Whistleblowing policy;
- the nature and type of concerns raised;
- the number of concerns raised dealt with via the grievance and complaints procedures;
- the number of concerns resolved at the initial discussion stage of the procedure;
- the number of concerns investigated via other procedures, e.g. child protection, disciplinary and health and safety procedures; and
- the number of concerns raised externally.

The LGSS Director of Legal Services will collate the monitoring information and submit an annual monitoring report to the Senior Management Team. A brief summary report will be provided to Members.

The policy/procedures will be reviewed and their effectiveness evaluated annually in the light of learning points/issues raised or identified as part of the monitoring process.

**Further Advice**

Further advice and assistance is available from the HR Advisory Team.

(September 2014)



**A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT TO 12 JUNE 2017**

*To:* **Constitution and Ethics Committee**

*Meeting Date:* **20 June 2017**

*From:* **LGSS Director of Law & Governance and 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 18 January 2017 to 12 June 2017**

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

<b><i>Officer contact:</i></b>	
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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 9 of the Constitution which also requires the Constitution & Ethics Committee to monitor the operation of the Code of Conduct and the complaints received under it.
- 1.3. This report serves to provide the Constitution & Ethics Committee with an overview of the complaints received under the Code of Conduct from 18 January 2017 to 12 June 2017.

## 2. OVERVIEW OF COMPLAINTS

- 2.1. Since 18 January 2017 three new complaints against a Member have been received by the Monitoring Officer. These have all been concluded. In relation to the three complaints open as at 17 January 2017 one has been concluded. The two remaining were investigated and a draft report prepared. The complaints have however been suspended with no further action to be taken as neither of the Members were re-elected.
- 2.2. Details of complaints which have been concluded since 18 January 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 Notice – Complaint against Councillor Lay	Held by LGSS Law Limited Ref L-23036
Decision Notice – Complaint against Councillor Nethsingha	Held by LGSS Law Limited Ref COR002/0078
Decision Notice – Complaint against Councillor Gillick	Held by LGSS Law Limited Ref COR002/0074
Decision Notice – Complaint against Councillor Hoy	Held by LGSS Law Limited Ref COR002/080
Decision notices are also published on the Councils website at <a href="https://www.cambridgeshire.gov.uk/council/contact-us/complain-about-a-councillor-or-co-opted-member/">https://www.cambridgeshire.gov.uk/council/contact-us/complain-about-a-councillor-or-co-opted-member/</a>	

**Report to the Constitution and Ethics Committee****Overview of complaints made against Members****18 January 2017 to 12 June 2017**

<b>Complaint against:</b>	Cllr Lay
<b>Date of Complaint:</b>	3 November 2016
<b>Complainant:</b>	Cllr Harford supported by Cllrs Ashwood and Scutt
<b>Allegation:</b>	Making an inappropriate comment during a public meeting.
<b>Current Status:</b>	Concluded
<b>Outcome:</b>	<p>The Independent Person concluded the comment was inappropriate and disrespectful and constituted a breach of paragraph 2.1 of the Code of Conduct (treating others with respect), a potential breach of paragraph 2.2(a) of the Code of Conduct (may cause the Authority to breach UK equalities legislation) and could engage paragraph 2.2(e) of the Code of Conduct (bringing office or Authority into disrepute).</p> <p>It was recommended that a local resolution was appropriate and training and guidance be provided to Cllr Lay.</p>
<b>Date of final decision:</b>	21 February 2017

<b>Complaint against:</b>	Cllr Nethsingha
<b>Date of Complaint:</b>	24 January 2017
<b>Complainant:</b>	Cllr Count
<b>Allegation:</b>	That Cllr Nethsingha was deliberately misrepresenting the political makeup of the Council.
<b>Current Status:</b>	Concluded
<b>Outcome:</b>	<p>The Independent Person concluded that the Nolan Principles of Honesty, Leadership and Integrity could be engaged. As the Nolan Principles could have been engaged by the Cllr's actions there was a potential breach of paragraph 2.2(e) of the Code of Conduct (bringing office or Authority into disrepute).</p> <p>It was recommended that a local resolution was appropriate by way of an acknowledgement of the political makeup of the Council by the Cllr and guidance on the level of acceptable debate and statements to be provided.</p>
<b>Date of final decision:</b>	23 March 2017



<b>Complaint against:</b>	Cllr Gillick
<b>Date of Complaint:</b>	31 March 2017
<b>Complainant:</b>	Cllr Moghadas
<b>Allegation:</b>	Making comments in a public meeting, the tone and content of which may have breached equalities legislation.
<b>Current Status:</b>	Concluded
<b>Outcome:</b>	<p>The Independent Person concluded that if the content and tone of the comments were as alleged there was a potential breach of paragraph 2.1 (treating others with respect), paragraph 2.2(a) (breaching equalities legislation) and paragraph 2.2(e) (bringing office or Authority into disrepute).</p> <p>As Cllr Gillick was not standing for re-election, the Independent Person recommended a local resolution, by way of guidance on equalities legislation and its seriousness, as appropriate.</p>
<b>Date of final decision:</b>	28 April 2017

<b>Complaint against:</b>	Cllr Hoy
<b>Date of Complaint:</b>	10 May 2017
<b>Complainant:</b>	Ms S Horne
<b>Allegation:</b>	That a 'like' made by Cllr Hoy on a 3 <sup>rd</sup> party's Facebook post was an endorsement of what was alleged to be a hate crime and put the complainant's safety at risk, was disrespectful and brought Cllr Hoy's office and Authority into disrepute.
<b>Current Status:</b>	Concluded
<b>Outcome:</b>	The Independent Person concluded that Cllr Hoy was not representing the Council and the Code of Conduct was not therefore engaged.
<b>Date of final decision:</b>	8 June 2017

<b>CONSTITUTION AND ETHICS COMMITTEE AGENDA PLAN</b>
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DATE 26.09.17	AGENDA ITEMS		
	1.	Declaration of Interests	R Yule
	2.	Minutes	R Yule
	3.		
	4.		
	5.		
	6.	Quarterly report on investigation of complaints*	M Damigos
	7.	Agenda Plan	R Yule

DATE 28.11.17	AGENDA ITEMS		
	1.	Declaration of Interests	R Yule
	2.	Minutes	R Yule
	3.		
	4.		
	5.	Summary of activity in relation to the Regulation of Investigatory Powers Act 2000**	S Edge
	6.	Quarterly report on investigation of complaints*	M Damigos
	7.	Agenda Plan	R Yule

DATE 30.01.18	AGENDA ITEMS		
	1.	Declaration of Interests	R Yule
	2.	Minutes	R Yule
	3.		
	4.		
	5.		
	6.	Quarterly report on investigation of complaints*	
	7.	Agenda Plan	R Yule

DATE 27.02.18	AGENDA ITEMS – reserve date		
	1.	Declaration of Interests	
	2.	Minutes	
	3.		

DATE 24.04.18	AGENDA ITEMS		
	1.	Declaration of Interests	R Yule
	2.	Minutes	R Yule
	3.		
	4.		
	5.	Annual report on whistleblowing incidents	Q Baker
	6.	Quarterly report on investigation of complaints*	
	7.	Agenda Plan	R Yule

**To be programmed:**

Appointment of Independent Persons (current appointments are to 30 October 2019; see Council minutes for 10 May 2016)

\* Council report on agenda item 7, July 2012, refers

\*\* Extract from minutes 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.