

CONSTITUTION AND ETHICS COMMITTEE: MINUTES

Date: Tuesday 3rd March 2015

Time: 2.00pm – 3.25pm

Place: Kreis Viersen Room, Shire Hall, Cambridge

Present: Councillors S Kindersley (Chairman), P Ashcroft (substituting for Cllr Bullen), A Bailey (substituting for Cllr McGuire), D Brown, S Frost, R Hickford, J Hipkin, P Reeve, J Scutt, M Smith and A Taylor

Apologies: Councillors P Bullen and M McGuire

43. DECLARATIONS OF INTEREST

Councillor Taylor declared an interest in agenda item 5 [minute 47] as a member of a trade union.

44. MINUTES – 11th NOVEMBER 2014

The minutes of the meeting held on 11th November 2014 were confirmed as a correct record and signed by the Chairman.

45. REVIEW OF CAMBRIDGESHIRE COUNTY COUNCIL'S COMMITTEE SYSTEM

The Committee received a report on the results of a review of the operation of the Council's Committee System and considered whether it wished to recommend to Council any changes to the detailed governance procedures. Members noted that, as part of the commitment to review the operation of the committee system of governance in its first twelve months, a survey of members and officers had been conducted, and the Constitution and Ethics Committee had held a workshop to consider the responses to the survey. Members at the workshop had given a clear steer on some issues, but not on others.

As a general comment, one member pointed out that the report on the workshop referred to 'the Committee' agreeing various matters, whereas the workshop had no decision-making powers. This point was acknowledged by members and officers.

A member drew attention to the proposal to investigate the establishment of a third committee covering the Economy, Transport and Environment Service (ETE) area. It was pointed out that the political composition of other committees could be affected by the decision on the total number of committees. In response, the Democratic Services Manager offered to pursue the question of a third committee, consulting senior officers and reviewing the distribution of work across the existing two ETE committees. However, no decision was reached pending the outcome of the Committee's further deliberations.

The Committee went on to consider its recommendations to Council in sequence, and agreed unanimously to recommend the first four proposed revisions to be reflected in the Constitution.

Discussing the fifth recommendation, to reduce the number of seats on General Purposes Committee and each Service Committee from 17 to 13, some members expressed strong support for 13-member committees, on grounds including that

- the number of attendances currently required presented a problem to members, particularly those in full-time employment
- the present arrangements were expensive in terms of members' time and travelling expenses
- smaller committees could conduct their business more efficiently
- members could pursue points raised in discussion more freely in a smaller group; the current situation of only being able to speak once inhibited debate.

Speaking as Leader of the Independent Group, Councillor Hipkin confirmed that all four members of the group were willing to support smaller committees, even if it meant that they would no longer have a seat on every Service Committee. Other members expressed reservations about the proposal, pointing out that the whole point of the committee system was to broaden out decision-making and have input from a wider range of members. It was reported that there was some strong support for committees of 17 within the Labour group, as allowing all political groups to be represented on every committee.

The possibility of having Service Committees of 13 while maintaining the General Purposes Committee (GPC) at 17 was raised and found some support, on the grounds that the present size of GPC accommodated the Chairmen/women and Vice-Chairmen/women of the Service Committees as well as other members including Group Leaders. The Monitoring Officer confirmed that it would in principle be possible to keep the present size of the GPC while changing the size of the Service Committees, and the Democratic Services Manager arranged for the implications for political proportionality to be calculated straight away.

The Committee went on to consider further revisions to be reflected in the Constitution while waiting for the proportionality figures. The sixth proposed revision was agreed unanimously.

In relation to the seventh revision, on an annual training day for Chairs, Vice-Chairs and Spokes, it was proposed by Councillor Frost and put to the Committee by the Chairman that the words 'individually and collectively' be added to the recommendation. This amendment was agreed unanimously.

Discussing the eighth revision, to hold recorded votes for Service Committee items which were not unanimous, various views were expressed, including

- such a requirement would be unnecessarily bureaucratic
- such a requirement would provide a level of transparency outside the meeting by ensuring that the minutes would tell people who had not been present how members of the various political groups had voted
- one of the few benefits of the Cabinet system had been that its decisions were clearly those of one party; recorded votes would make it impossible to hide behind a collective committee decision
- it was already possible for five members of a committee (in a committee of 17) to request a recorded vote
- sometimes a member would abstain, perhaps because they felt they had insufficient knowledge of the matter, while the other 16 members supported a recommendation; in those circumstances, a recorded vote would be excessive.

Members noted that the background to the proposal was a request from a member of the public who had become aware that committee members had changed their minds between two occasions when the same matter had been considered.

It was proposed by Councillor D Brown and seconded by Councillor Hickford that the recommended Constitution revision (viii), to hold recorded votes for Service Committee items which were not unanimous, be deleted. On being put to the vote, this proposal was agreed by a majority.

A decision on the ninth recommendation, relating to the establishment of a third ETE Service Committee, was postponed pending the proportionality information.

Discussing the tenth recommendation, concerning training on the current role of the GPC and how it relates to Service Committees, members welcomed the idea of a training session for all members, in addition to the annual day for Chairs, Vice-Chairs and Spokes. It was pointed out, though, that the recommendation appeared to presuppose that the current role of the GPC was what was wanted. Members noted that the view had been expressed at the January workshop that the GPC was not working quite as had been envisaged when the Constitution was drafted.

The eleventh recommendation, on conducting a mini-review in a year's time, was agreed unanimously. It was pointed out that the working of the Committee system of governance was also subject to ongoing review, and current arrangements were not necessarily set in stone.

The Democratic Services Manager reported that the preliminary results of the political proportionality calculations indicated that it would be possible to accommodate a 17-member General Purposes Committee and five 13-member Service Committees. Members noted that the calculations would need to be checked, as they had been done very quickly,

It was proposed by Councillor Hickford and seconded by Councillor Taylor that proposed revision (v) be amended to read [deleted text struck through]
to reduce the number of Member seats on ~~General Purposes Committee and~~
each Service Committee to thirteen.

On being put to the vote, the proposal was carried by a majority. Councillor Scutt asked that her abstention be recorded.

Councillor Hickford then proposed that no further action be taken to investigate the possibility of creating a third ETE Service Committee, and recommendation (ix) was accordingly deleted by common consent.

It was resolved to recommend the following to Council:

Revisions to be reflected in the Constitution

- (i) information reports to not be included on Committee agendas unless they were updating, at the specific request of the Committee, progress of decisions previously agreed by a Committee [agreed unanimously]
- (ii) each Service Committee to consider and approve its own training plan at every meeting. The plan to include figures for attendance for each training session [agreed unanimously]

- (iii) full Council to receive a short (two sides of A4) report at its annual meeting in May. The report to be prepared by the relevant Service and not open for discussion at the meeting [agreed unanimously]
- (iv) to amend the budget setting process to remove the requirement to request the Leader to re-consider [agreed unanimously]
- (v) to reduce the number of Member seats on each Service Committee to thirteen [agreed by a majority]
- (vi) to rename service committees to Policy and Service Committees to better reflect their role [agreed unanimously]
- (vii) to hold an annual training day for Chairs, Vice-Chairs and Spokes with a focus on their roles and remits individually and collectively [agreed unanimously]

Other Proposals

- (viii) to hold training at a future Members' Seminar covering the current role of GPC and how it relates to Service Committees [agreed unanimously]
- (ix) to ask the Constitution and Ethics Committee to conduct a mini review in a year's time in order to consider whether to recommend any changes to the detailed governance procedures to Council [agreed unanimously]

46. ROLE OF THE CHAIRMAN/WOMAN OF CAMBRIDGESHIRE COUNTY COUNCIL

The Committee received a report seeking to clarify the role of the Chairman/woman of the County Council. Members noted that the current Chairman had drawn attention to an apparent diminution in the role in recent years, and to the confusion that had arisen over who should represent the Council at significant events, whether this should be the Chairman, the Cabinet Member (until May 2014) or the Service Committee Chairman/woman.

In the course of discussion, members of the Committee

- expressed support for the report's aims and proposals, recalling past embarrassment when both Cabinet Member and Chairman/woman had been invited to present the same awards
- noted that traditionally the Vice-Chairman/woman had held office for two consecutive years, followed by two years as Chairman/woman, and commented that it was right that this should be a convention rather than a rigid provision
- suggested that the report could go further to strengthen the role of the Chairman/woman as a non-political leader, but pointed out that giving that person the task such as chairing the General Purposes Committee would in practice politicise the role
- commented that part of the problem might be a lack of understanding of the range and variety of the Chairman/woman's duties, and suggested that it would

be helpful if members could be sent a list of the Chairman/woman's engagements before full Council on 24 March 2015.

It was resolved unanimously to

- recommend to Council that Part 2 – Articles, Article 5 – Chairing the Council, Item 6 be revised (as set out in Appendix 1 of the report before Committee) to reflect the types of civic and ceremonial functions the Chairman/woman of the Council should attend and the process for dealing with areas where the type of function is not clear; and
- agree the establishment of a webpage devoted to the role of the Chairman/woman of the Council.

47. LOCAL GOVERNMENT PENSION SCHEME (AMENDMENT) (GOVERNANCE) REGULATIONS 2014 – ESTABLISHMENT OF LOCAL PENSION BOARD

The Committee received a report on proposals to establish a Local Pension Board for Cambridgeshire. The Committee noted that there was a statutory requirement for all Public Service Pension Schemes to establish a Local Pension Board. This would be additional to the existing Pension Fund Board (which would need to be renamed Pension Fund Committee) and the Investment Sub-Committee, and would act as a critical friend to the Committee.

In relation to the composition of the new Board, members noted that

- the Board must be made up of an equal number of employer representatives and scheme member representatives, none of whom could be involved in the administration of the Local Government Pension Scheme (LGPS)
- it was proposed that there should be three representatives from each group on the Cambridgeshire Board, giving a total Board size of six, and that the employer representatives should be two County Councillors and one representative from an organisation such as an admission body or academy
- representations had been received from Unison suggesting that all three member representatives should be drawn from their membership, as non-Trades Union members would not have the supporting structure necessary to enable them to communicate with the scheme membership. Unison had pointed out that it already represents both union members and non-union members in e.g. pay negotiations. The GMB had also written to express an interest in the process.
- two paragraphs of the Guidance on the Creation and Operation of Local Pension Boards in England and Wales were particularly relevant to the question of selecting Board members. Paragraph 15.14 required that all employers and members must have equal opportunity to be nominated for the role of representative, and paragraph 15.20 specified as a key factor in selecting Board members an individual's ability to properly represent the interests of employers or members, and channel information back to them

- proposed amendments to the Constitution included a change to the quorum of the current Pension Fund Board (future Pension Fund Committee) and Investment Sub-Committee, as recommended by a national adviser.

In the course of discussing how scheme member representatives on the Board should be selected, members of the Committee

- queried the proportion of LGPS members who were members of Unison; officers advised that the figure for Cambridgeshire was around 40%, but for Pensions Board purposes, the member representatives would be representing all active members of the pension scheme
- noted that there were unions other than Unison representing Cambridgeshire staff, and suggested that it would be better in that case not to ring-fence member representative positions to members of Unison
- asked how people would be nominated in any election process. Officers advised that they would self-nominate and be supplied with an application pack
- noted that, in the event of there being more nominations than places, member representatives could be selected either through a ballot of all 11,000 to 12,000 Cambridgeshire members of LGPS, which would be expensive to conduct, or through an interview process
- pointed out that if a trade union were to be given places on the Board as a right, this would make it impossible to maintain the equality of opportunity required by Guidance paragraph 15.14
- urged that the requirement to properly represent the interests of and channel information back to employers or scheme members (Guidance paragraph 15.20) be read in the light of paragraph 15.14. The time to consider mechanisms of how to represent member interests and channel information back would be after people had put themselves forward in a process which was equally open to all
- commented that there would be no prohibition on union members putting themselves forward under an open selection process
- noted that the proposal in Northamptonshire was for an open selection process, and suggested that there would be administrative advantages to Cambridgeshire adopting a similar system
- sought clarification of the appointments process. Members were advised that once Full Council had agreed the changes to the Constitution, no further member approval would be required, and noted that there was some urgency to finalise arrangements, as Board members would require training in advance of its first meeting, which had to take place before 1st July 2015.

The Chairman summed up the discussion as concluding that none of the three member representative positions on the Board should be reserved exclusively to trade union members. He proposed with the agreement of the Committee that the selection process should be delegated to the Monitoring Officer in consultation with Group Leaders.

It was resolved unanimously

1) to recommend to Council:

- a) that the three Scheme Member representatives on the Pension Fund Board be selected through an open selection process
- b) that the process of selection be delegated to the Monitoring Officer in consultation with Group Leaders

2) to endorse and recommend to Council:

- a) the changes to Part 3 of the Council's Constitution (Responsibility for Functions, Part 3B: Committees of Council; Paragraph 9: Pension Fund Board) as set out in the report before Committee;
- b) the changes to Part 4 of the Council's Constitution (Rules of Procedure, Part 4.4: Procedure Rules for Committee and Sub-Committee Meetings) as set out in the report before Committee; and
- c) the appointment of two County Councillors to the Local Pension Board as employer representatives.

48. LGSS LAW – DELEGATION AND EXERCISE OF SHAREHOLDER RIGHTS

The Committee received a report on the changes required to the Council's Constitution to enable the exercise of the Council's rights as a shareholder in LGSS Law Ltd. Members noted that the proposal was to nominate one member of each of the two Local Government Shared Services (LGSS) founding authorities, Cambridgeshire County Council and Northamptonshire County Council, to exercise their authority's shareholder rights. It would be impracticable to go to the LGSS Joint Committee every time a decision was required, though few decisions were expected to be needed. LGSS Law Ltd would also be subject to monitoring by the Solicitors' Regulation Authority; each shareholder representative was required to go through a rigorous process of SRA scrutiny.

Examining the recommendation, Councillor D Brown proposed that recommendation 1)c) should be modified to make it clear that the LGSS Joint Committee was required to nominate a member of Cambridgeshire County Council in the event that the Chairman/woman or Vice-Chairman/woman was unable to take up the role of Shareholder Representative. The LGSS Director Law, Property and Governance acknowledged the point and the amendment was accepted.

It was resolved unanimously:

1) to recommend to Full Council that:

- a) The Council nominate the County Councillor who is either Chairman/woman or Vice-Chairman/woman of the Local Government Shared Services Joint Committee to act as its representative shareholder in LGSS Law Ltd
- b) The Council delegate to that elected member all and any rights associated with the ownership of the shares and authorise that member to exercise those rights subject to the following conditions and reservations:

- i) The elected member shall at all times exercise the delegated rights in accordance with the ten Solicitors Regulation Authority (SRA) Principles and Code of Conduct. If in doubt as to the requirements of the SRA Principles and Code of Conduct, the elected member shall take appropriate independent legal advice before exercising the delegated authority.
 - ii) The elected member shall exercise the delegated authority under this provision in accordance with the Code of Conduct for elected members of Cambridgeshire County Council and with all other relevant policies to the extent that those do not conflict with the Solicitors' Regulation Authority (SRA) Code of Conduct and in circumstances where a conflict between the SRA Code of Conduct and any other Code may arise, the SRA Code of Conduct shall take precedence.
 - c) In the event that the Chairman/woman or Vice-Chairman/woman of the LGSS Joint Committee is unable for any reason to take up the role of Shareholder Representative for the Council, the Joint Committee is authorised to nominate another elected member of Cambridgeshire County Council to undertake that role.
- 2) to authorise the Monitoring Officer to draft an appropriately worded section to give effect to the above, for inclusion in Part 3 of the Constitution, and to make any other necessary or incidental changes in order to incorporate the new delegation, and to submit it to Full Council for approval.

49. DELEGATION OF DETERMINATION OF TRAFFIC REGULATION ORDERS

The Committee received a report setting out a proposal to streamline the approach for dealing with Traffic Regulation Orders (TRO) where objections had been received. Under this proposal, for all areas of the county apart from Cambridge City (where the existing arrangements through Cambridge City Joint Area Committee would be retained), the majority of TROs with an objection would be delegated to the Head of Local Infrastructure and Street Management (LISM) to determine in consultation with the local member

Speaking as the Chairman of the Highways and Community Infrastructure Committee, Councillor Hickford explained that the determination of TROs occupied a disproportionate amount of meeting time, and the proposed approach would involve local members much more closely in to TROs, and require them all to receive training on the TRO process. He assured members that if for any reason the local member could not be involved in the matter, or if there was substantial opposition to a proposed TRO, the matter would still go to the Highways and Community Infrastructure Committee for determination.

In the course of discussion, members

- commented that, amongst the examples of proposals with significant or strategic impact (report paragraph 2.5), not every cycle lane would have strategic impact
- enquired what constituted normal and abnormal circumstances for cases where the local member did not support the officer recommendation (paragraph 2.6), and suggested that such cases should always be dealt with by Committee.

The Chairman assured members that officers would tighten up the wording for the Constitution, and that the provision set out in paragraph 2.6 would be omitted, so that in all cases where the local member did not support the officer recommendation the matter would be referred to the Highways and Community Infrastructure Committee for determination.

Councillor Reeve asked that it be recorded that he was opposed on principle to the proposal under consideration. He stated that it was important that even a single objector should have a forum, but said that the omission of paragraph 2.6 meant that the local member would have a role as a sense checker.

It was resolved:

- a) to recommend to Council that the Constitution be revised to reflect the process outlined in Section 2 of the report before Committee
- b) to authorise the Monitoring Officer to draft appropriate wording for inclusion in Part 3 of the Council's Constitution, and to submit it to Full Council for approval.

50. A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT TO 22 FEBRUARY 2015 (MONITORING REPORT)

The Committee received a report setting out the number and nature of the complaints received about Members under the Code of Conduct from 12 November 2014 to 22 February 2015.

The Committee noted the contents of the report.

51. FORWARD AGENDA PLAN

The Committee noted its forward agenda plan.

52. DATE OF NEXT MEETING

The Committee noted that it was next due to meet at 2.00pm on Tuesday 21st April 2015.

Chairman