

CONSTITUTION AND ETHICS COMMITTEE: MINUTES

Date: Tuesday 11th November 2014

Time: 2.00pm – 4.35 pm

Place: Kreis Viersen Room, Shire Hall, Cambridge

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

Apologies: Councillor A Taylor

Also present: Councillor E Cearns

36. DECLARATIONS OF INTEREST

None.

37. MINUTES – 2nd SEPTEMBER 2014

The minutes of the meeting held on 2nd September 2014 were confirmed as a correct record and signed by the Chairman.

38. GREATER CAMBRIDGE CITY DEAL GOVERNANCE: ESTABLISHMENT OF JOINT COMMITTEE

The Committee received a report presenting proposals to establish an integrated governance framework for the Greater Cambridge City Deal and to propose its establishment to Full Council. Members noted that

- two governance bodies were proposed, the Executive Board and the Joint Assembly, on both of which would sit representatives of all five local partners, Cambridgeshire County Council, Cambridge City Council, South Cambridgeshire District Council, the Greater Cambridge Greater Peterborough Enterprise Partnership (LEP) and the University of Cambridge
- the role of the Assembly had been described as to be a critical friend to the Board
- for legal reasons, only the Local Authority representatives on the Board could hold voting powers
- the proposals had already been considered by Cambridge City Council, and would be taken to South Cambridgeshire District Council later in November.

In reply to questions of clarification, members further noted that

- because there was no requirement that their representatives on the Assembly be drawn from the membership of the body represented, it would in theory be possible for LEP or University to nominate a member of the local authority to represent them. However, the intention was to broaden the range of people on the Assembly beyond the local authorities, and the Assembly's draft Standing Orders included a provision that LEP and University nominees would become co-opted members of the Assembly on endorsement by the Executive Board

- the lead role on many projects (Executive Board Terms of Reference [ToR] paragraph 5.3) would be taken by the County Council, because the projects were transport-related, but housing and strategic planning were primarily District and City responsibilities, while Skills was a County responsibility
- the 'Committee' referred to in Board ToR 7.3 was the Executive Board. Members asked for consistency in the use of terminology, and drew attention to reference to alternate and alternative members in Board Standing Orders.

On points of detail, members

- commented that it would remove ambiguity, in paragraph 1.2 of the Assembly's Standing Orders, to refer to 'the political composition of each respective authority' rather than '...of the respective authority'
- drew attention to the discrepancy in the Assembly's Standing Orders between paragraphs 2 (no alternate or substitute members) and 3.1 (where alternate or substitute members were included in 'Term of office' provisions)
- queried the use of the words 'necessary or incidental' in the proposed delegated authority to the Executive Board 'to approve plans and strategies necessary or incidental to the implementation of the City Deal agreement'. The Monitoring Officer explained that this was a legal term with a precise meaning; it was intended to give officers the widest possible ability to act.

The Committee went on to discuss various aspects of the proposals.

In relation to the political and geographical composition of Board and Assembly, a member expressed opposition to the proposals for two reasons. The Board was meant to be representative of the alignments of the county at large, yet in its proposed form the three Councils would be represented on it by two Conservatives and one Labour member, with no Liberal Democrat. In the case of the Assembly, the emphasis was on its being a South Cambridgeshire and City body, so it was odd that one of the members of the Board would come from March. The member said that it could therefore be argued that the County Council nominees to the Assembly should represent the county at large.

The same member went on to say that although City Deal funding was to be allocated to projects in and round Cambridge, the implications for the whole county would be huge, as exemplified by the discussion of the Wisbech-March rail line at that morning's meeting of the Economy and Environment Committee. Similarly, transport plans for the city of Cambridge would affect the county as a whole. Another member expressed concern that the interests of northern Cambridgeshire could be lost sight of within the Assembly.

It was proposed by Councillor Hipkin and seconded by Councillor Bullen that

Recommendation f) be amended to read [deleted text struck through]
To appoint the Council's three representatives on the Assembly, on the basis of political proportionality according to the Council's membership in ~~Cambridge and South Cambridgeshire~~.

In seconding the motion, Councillor Bullen added that it should say that the members should be drawn from other parts of the county, and that all four members

should be politically proportionate. Members noted that there would be a total of four County members involved, one on the Board and three on the Assembly.

In the course of discussing this amendment, members

- pointed out that the member representing March referred to would be on the Executive Board by virtue of his role as Leader of the Council, and that the Leader could come from any part of the county; it was a position, not a person, and where this member was elected from was not important
- received clarification that, while the report proposed that proportionality would be determined by the political composition in the Greater Cambridge area, Standing Orders did not specify that the County Council members of the Assembly would have to be drawn from that area, though that was the spirit of the discussions that had taken place between the three local authorities
- raised the question of whether proposing alterations at this stage could cause delay. Members were advised that the proposals had been developed through a process of consensus with the other two local authorities, through informal boards and meetings. Any changes to the ToR and Standing Orders proposed could therefore result in delay. It was necessary that a meeting of the Assembly precede the first meeting of the Board, and only the Board could determine the allocation of the City Deal funding, so delay could make it impossible to hold these first meetings in January as planned
- noted that, as far as the County Council was concerned, the final decision on the detail of the proposals had not yet been made, and discussions to date were not binding on Full Council, which was due to consider the matter on 16th December 2014
- reported that, although it was not stated in Standing Orders, the understanding among local partners was that the membership of the Assembly would not only be based on political proportionality for the Cambridge and South Cambridgeshire area but would be drawn from the area; this omission from Standing Orders should be rectified.
- pointed out that all members of the County Council were eligible to serve on the Assembly, according to the current draft Standing Orders paragraph 1.2, although that did not reflect the other two authorities' understanding of the position. However, removing this misunderstanding could cause delay.

In the light of the preceding discussion, Councillor Hipkin agreed to withdraw his amendment.

It was then proposed by Councillor Bullen and seconded by Councillor Reeve that

Recommendation f) be amended to read [deleted text struck through]
To appoint the Council's three representatives on the Assembly, on
the basis of political proportionality according to the Council's
membership in ~~Cambridge and South Cambridgeshire~~.

In the course of further discussion, one member suggested that, rather than assuming that the Leader would represent the County Council on the Executive Board, nominees should be sought; although it could be useful, in a governance system with committees and a leader, to defer to the Leader on minor issues, such deference should not be automatic in a case such as the present one. Others

pointed out that the Leader had ably demonstrated that he did represent the Council as a whole, and that the other two participant local authorities were being represented on the Executive Board by their Leaders; it was speculated that the question might not have arisen had the Leader come from a South Cambridgeshire electoral division. The best people to advise the Executive Board were those from the area under discussion; it was not a question of political proportionality, but of trying to get members from the area to provide a steer to the Leaders of the three authorities.

It was proposed by Councillor Hickford and seconded by Councillor Smith that

The wording of Assembly Standing Order 1.2 be amended by the addition, after 'will be proportional to those electoral divisions that fall with the Greater Cambridge area' of the words 'and the Councillors would be drawn therefrom'.

Members went on to raise further points:

- Councillor Hickford's wording represented the original intention of the Standing Orders, that the County Council members be drawn from the City and South Cambridgeshire area
- were the Government to issue a combination order, those outside the area of the combined authority would not be on the Assembly
- it could appear odd to those outside the Council - particularly to Whitehall and the Treasury - if the recommendation were not to be that the Leader of the Council sit on the Executive Board.

Speaking at the Chairman's invitation, Councillor Edward Cearns urged members to bear in mind that years of negotiation had gone in to arriving at the present stage of developing the City Deal. He strongly believed in localism, and that it was important that local councillors serve on the Assembly; the City Deal was about the needs of Greater Cambridge.

The Chairman asked the Committee to vote on the preceding amendments.

It was proposed by Councillor Bullen and seconded by Councillor Reeve that

Recommendation f) be amended to read [deleted text struck through]
To appoint the Council's three representatives on the Assembly, on the basis of political proportionality according to the Council's membership in ~~Cambridge and South Cambridgeshire~~.

On being put to the vote, the amendment was defeated.

It was further proposed by Councillor Reeve and seconded by Councillor Bullen that

Recommendation c) be amended to read [deleted text struck through, additional text in bold]
~~The Leader of the Council be appointed to represent the Council~~ **The Council appoints its representative** on the Executive Board.

On being put to the vote, the amendment was defeated.

It was proposed by Councillor Hickford and seconded by Councillor Smith that

The wording of Assembly Standing Order 1.2 be amended by the addition, after 'will be proportional to those electoral divisions that fall with the Greater Cambridge area' of the words 'and the Councillors would be drawn therefrom'.

Councillor McGuire pointed out that this would also result in the addition of these words to report recommendation f).

On being put to the vote, the amendment to Assembly Standing Order 1.2 and to report recommendation f) was carried by a majority.

The question then arose of alternate or substitute members on the Assembly. It was suggested that it would be helpful to have provision for such members on the Assembly as well as on the Executive Board. Officers advised that such a change would need to be considered by the other two councils as well, and that the question had already given rise to considerable discussion. The rationale behind not having substitutes was that the Assembly had 15 members but a quorum of only five, so substitutes would not be necessary. Officers were also keen to ensure consistency of membership in discussing weighty issues. A member disagreed with the suggestion that three substitutes would be incapable of following the business of the Assembly, and asked whether, to avoid introducing delay, the matter might be revisited in the future. Assurance was given that this would always be possible.

Members then sought clarification of proposals for the quorum for the Assembly, pointing out that a quorum of five out of 15 would not be difficult to achieve, and that there was no requirement that each participating organisation would be represented in the quorum. This would make it possible to hold a meeting at which only two of the five member bodies were represented. Officers advised that the assumption had been that the quorum of five would include one person from each constituent organisation, and that changing standing orders at this stage could introduce delay.

Attention was drawn to the lack of any mechanism for amending standing orders for either the Board or the Assembly. The Monitoring Officer advised that changing standing orders would be a decision for the full councils involved; the two bodies could suspend their own standing orders, but could not amend them.

Although there was considerable support for allowing substitutes for the Assembly and defining its quorum more precisely, rather than relying on intentions, there was no appetite for delaying the whole process of establishing Board and Assembly.

It was proposed by Councillor Nethsingha and seconded by Councillor Scutt that

a seventh resolution be added to the recommendation before Committee,
g) To instruct officers to investigate at the earliest opportunity
arrangements for substitute members on the Assembly.

On being put to the vote, the amendment was carried by a majority.

The question of whether those who were elected members of more than one participating authority should serve on the Assembly was raised. After discussion, it was decided that members were well able to distinguish which authority they were

representing on any one occasion, and there was no need to fetter their ability to serve on the Assembly.

It was resolved to endorse the following and recommend them to Full Council:

- a) The Terms of Reference for the Executive Board;
- b) The proposed delegated authorities set out in paragraphs 2.11 and 2.12 of the report before Committee;
- c) The Leader of the Council be appointed to represent the Council on the Executive Board;
- d) The Chairman of the Economy and Environment Committee be appointed as the Council's substitute representative on the Executive Board;
- e) The Terms of Reference for the Assembly;
- f) To appoint the Council's three representatives on the Assembly, on the basis of political proportionality according to the Council's membership in Cambridge and South Cambridgeshire, and the Councillors would be drawn therefrom.
- g) To instruct officers to investigate at the earliest opportunity arrangements for substitute members on the Assembly.

39. OPERATIONAL REVIEW OF THE COMMITTEE SYSTEM IN ITS FIRST NINE MONTHS

The Committee received a report seeking its views on the proposed methodology and areas of focus for the review of the operation of the committee system at Cambridgeshire County Council over its first nine months. Members noted that it was proposed to devise and circulate a consultation questionnaire at the end of November with a response deadline of 2nd January 2015.

Speaking at the Chairman's invitation, Councillor Cearn's suggested that the review should look at providing an opportunity for members to bring papers to committees. He gave the example of follow-up work to the Safer and Stronger Communities Overview and Scrutiny Committee member-led review on reducing reoffending, the findings of which had been largely endorsed by Cabinet. Despite being mandated to take this forward into the committee system, he was finding it difficult to identify the appropriate officer; as the former Chairman of the review group, he was himself the most appropriate person to introduce the follow-up work to the Economy and Environment Committee. Councillor Cearn's also suggested that the review should look at the role of social media in modern democracy.

Members' comments on and additions to the issues identified in the report included

- clarification of the role of the General Purposes Committee in business planning and timing
- the cost implications of the emerging need for business planning workshops for each Service Committee
- asking other authorities about the impact of Cambridgeshire's change on them
- monitoring of attendance at workshops and spokes meetings

- reviewing the responsibilities of the Committees to ensure that there was no confusion or overlap
- how to overcome the Audit and Account Committee's perception that its recommendations were not always fully acted on
- the quality of decision-making
- whether the committee system had been helpful or detrimental to opportunities for the Council to be innovative
- whether members were making use of working groups in their committee work
- whether the level of delegation to officers was correct
- what the impact had been, if any, on external perception of the Leader's role
- the impact on officers of the move to the committee system
- the level of member satisfaction under the new governance arrangements.

The Committee noted that it was proposed to seek responses from all members, and from officers in the Corporate Leadership Team (which included heads of service as well as senior directors). Members suggested that Mark's Blog should be used as a means of encouraging replies, and that responses should be sought from the Chief Executive and from a range of officers.

The Committee resolved to endorse the proposed approach and timescale.

40. A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT TO 31ST OCTOBER 2014

The Committee received a report setting out the number and nature of the complaints received about members under the Code of Conduct from 19 August 2014 to 31 October 2014. The report also provided an update on the non-compliance by Councillor Leeke with the sanction imposed by the Hearings Sub-Committee on 12 August 2014.

The Committee noted the number and nature of complaints received since 19 August and went on to discuss possible courses of action in response to Councillor Leeke's non-compliance with the Hearings Sub-Committee's sanction. Views expressed included

- the release of confidential information was an offence against the Code of Conduct requiring a more serious sanction than either of the two proposed in the report. The Monitoring Officer advised that under current legislation the Committee had only limited power to punish or sanction; in his experience of authorities around the country, sometimes less formal powers could prove more powerful than formal ones. Asked what more the Committee could do to express its disapproval, the Monitoring Officer said that sanctions tried elsewhere had included removing a member from committee membership, but that there was no longer an option to suspend a member
- the error in this case had been to make the meeting of the Appointments and Remuneration Committee confidential in the first place, as the pay of senior officers was a matter of public interest. The appropriate course of action would be to do nothing in response to non-compliance with the Sub-Committee's sanction

- events had now moved beyond the question of whether the information should or should not have been leaked; by refusing to comply with the Sub-Committee's decision, Councillor Leeke had committed a further breach of the Code of Conduct. The appropriate course of action would be for a member of the Committee to make a further complaint to the Monitoring Officer alleging that Councillor Leeke had brought his office into disrepute in failing to comply with the sanction imposed by the Hearings Sub-Committee.

It was proposed by Councillor Frost and seconded by Councillor McGuire

that a further complaint should be made to the Monitoring Officer by a Member of the Committee under the Members' Code of Conduct alleging that Cllr Leeke has brought his office into disrepute in failing to comply with the sanction imposed by the Hearings Sub-Committee.

In the course of further discussion, points raised included that

- the public had shown little interest in the public chastisement of Councillor Leeke that had already taken place, and attempting further action could serve to demonstrate the lack of sanctions available to the Committee. The appropriate course of action would be for the Chairman of the Committee to write to Councillor Leeke to express disappointment at the failure to comply with the sanction imposed by the Hearings Sub-Committee
- confidentiality should be treated as a matter of importance. The routine statement added to all emails from County Council addresses, that the information in the email was confidential and might be legally privileged, suggested that a distinction was being made between what was and was not seriously confidential; the use of this wording and the question of what was and was not confidential should be reviewed. The Chairman agreed that this was an important point
- it was not appropriate for the Committee to make a decision as to whether or not a further complaint should be made, and if the Monitoring Officer were to decide that there was a case to answer, it would be difficult to form a Hearing Sub-Committee to hear such a complaint
- another approach might be for the Committee to make a statement of public admonishment at Full Council. The Chairman welcomed the suggestion that the Committee make a formal report to Full Council as an agenda item. The Monitoring Officer likened the proposed course of action to a motion of censure in Parliament, and confirmed that it would be possible for the Committee to put a motion to Council that it censure the member. The motion would be debated in the normal way; an alternative approach would be for a statement from the Committee to be read by the Chairman of Council as an announcement
- one more attempt should perhaps be made to seek Councillor Leeke's compliance with the original sanction. The Chairman confirmed that he would be willing to write a stern letter if required.

At Councillor McGuire's suggestion, Councillor Frost withdrew his motion.

It was proposed by Councillor Scutt and seconded by Councillor McGuire that

- a) this Committee regrets that despite a determination that Councillor Maurice Leeke was in breach of the Code of Conduct, he has refused to apologise to the Chief Executive
- b) this Committee recommends to Full Council that it censure Councillor Leeke accordingly.

A request for a recorded vote did not find the required support from at least five members of the Committee.

On being put to the vote, Councillor Scutt's motion was carried by a majority, Councillors Bullen, Nethsingha and Reeve dissenting.

The Chairman undertook to introduce the motion of censure at Full Council, and Councillor McGuire agreed to second it.

41. FORWARD AGENDA PLAN

The Committee noted its forward agenda plan.

42. DATE OF NEXT MEETING

The Committee noted that it was next due to meet at 2.00pm on Tuesday 27th January 2015.

Chairman