

County Council – Proposed Changes to the Constitution

To: Constitution and Ethics Committee

Meeting Date: 2 May 2023

From: Democratic Services Manager

Purpose: To consider proposed revisions to the Council's Constitution.

Recommendation: The committee is asked to:

- a) Recommend the following proposed changes to the Constitution to Full Council:
 - (i) a revised version of Chapter 5-2 (Officers' Code of Conduct), attached at Appendix 1 to this report;
 - (ii) amendments to Chapter 3B11 (Staffing and Appeals Committee), attached at Appendix 2 to this report;
 - (iii) amendments to Chapter 4-6 (Officer Employment Procedure Rules), attached at Appendix 3 to this report;
 - (iv) the inclusion of decision making principles in Article 12 (Decision Making), as set out in Section 2.3 of this report; and
 - (v) amendments to Chapter 3B7 (Audit and Accounts Committee), attached at Appendix 4 to this report.
- b) Recommend to Council that it agree the Scheme of Delegation or such part of it as the Constitution determines it is for Council to agree (as set out in Part 3 of the Constitution).

Officer contact:

Name: Michelle Rowe
Post: Democratic Services Manager
Email: michelle.rowe@cambridgeshire.gov.uk
Tel: 01223 699180

Member contacts:

Names: Councillors Sebastian Kindersley and Alex Bulat

Post: Chair / Vice-Chair

Email: skindersley@hotmail.com, alex.bulat@cambridgeshire.gov.uk

Tel: 01223 706398

1. Background

- 1.1 The Local Government Act 2000 requires all local authorities to have a constitution that contains the standing orders and the code of conduct, as well as any other information that the authority considers appropriate. Changes to the Council's Constitution are considered by the Constitution and Ethics Committee before being recommended to Full Council for approval.

2. Main Issues

2.1 Updates to the Officers' Code of Conduct

- 2.1.1 In March 2022, it was agreed by Full Council to incorporate the Officers' Code of Conduct into the Council's constitution in order to align with best practice and provide member-led oversight of the document.
- 2.1.2 A revised version of the Code of Conduct, attached at Appendix 1 to this report, changes the voice of the document from third person to first person, to emphasise that its primary purpose is as part of the contract of employment between the Council and its staff.
- 2.1.3 In January 2022, an internal audit report highlighted that the Council's Officer Code of Conduct (Chapter 5-2 of the Constitution) did not explicitly state when declarations of interest were required or when they should be reviewed. It is therefore proposed to include clarification that a declaration is required prior to appointment, prior to a person taking on a role or responsibility that could involve a conflict of interest and following a change in personal circumstance, with declarations of interest to be reviewed annually. Additional information has been included in Section 13 of the Code of Conduct detailing the related parties' declarations process undertaken by the Finance team to inform the annual statement of accounts.
- 2.1.4 The internal audit also recommended the incorporation of various hyperlinks into the Officers' Code of Conduct to improve ease of use. However, as the hyperlinks would be to the Council's private intranet, this would not align with open access guidance for public documents and they have therefore not been included.
- 2.1.5 Alongside the changes resulting from the internal audit report, it is also proposed to include the following amendments, as set out in Appendix 1:
 - (i) Incorporation of references to the Respect@Work Policy and Respect@Work Pledge, which outline an officer's role in creating a respectful working environment, committing to equality, diversity and inclusion;
 - (ii) Clarification of the expectation that managers will model the Council's values and behaviours, embedding these in teams and ensuring action aligns with the People Strategy; and
 - (iii) Clarification that in some cases a data breach may lead to enforcement action from the Information Commissioner's Office.

2.2 Role of the Staffing and Appeals Committee in the Appointment of the Council's Leadership Team Roles

2.2.1 At its meeting on 23 February 2023, the Staffing and Appeals Committee approved a proposal to clarify and redefine the scope of its responsibility in relation to senior appointments. Currently, the committee is required to appoint to all vacancies at or above service director level.

2.2.2 It is proposed that the committee instead undertakes appointment to key statutory roles, including all Tier 1, Tier 2 and statutory Tier 3 roles, including those listed below; while officers undertake appointments to all other roles:

- Chief Executive (statutory Head of Paid Service)
- Executive Director of Finance and Resources (statutory Section 151 Officer)
- Executive Director of Strategy and Partnerships
- Executive Director of Adults, Health and Commissioning (statutory Director of Adult Social Services)
- Executive Director of Children, Education and Families (statutory Director of Children's Services)
- Executive Director of Place and Sustainability
- Executive Director of Public Health
- Service Director: Legal and Governance (statutory Monitoring Officer)
- Service Director: Education (statutory Chief Education Officer)

2.2.3 This would reflect recent changes to the structure of the Council's leadership team and pay scales, while expediting the recruitment process.

2.2.4 Should these changes, as set out in Appendix 2 (Chapter 3B11 – Staffing and Appeals) and Appendix 3 (Chapter 4-6 – Officer Employment Procedure Rules), be approved, councillors would continue to be involved in other aspects of non-statutory appointments, as deemed appropriate by the Chief Executive, such as participation in cross party stakeholder panels.

2.2.5 The following delegation to all executive directors and directors, including the Executive Director of Finance and Resources/Section 151 Officer, has also been amended to align with this proposed change (additions in bold, removal in strikethrough):

To make all staff appointments below the level of ~~service~~ **executive** director, **except for any statutory roles**, and to determine the remuneration and conditions of service of each post within any guidance or instructions issued by the Assistant Director, HR Services.

2.2.6 Alongside these changes, the delegation to approve proposals from the Head of Paid Service in relation to the overall staffing structure/restructure of the Council has been removed from the Staffing and Appeals Committee Terms of Reference, in order to align with Paragraph 11.01 (d) of Article 11 (Officers) in the Constitution, which states:

The Head of Paid Service shall determine, subject to Council approval, and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

2.3 Decision Making Principles.

- 2.3.1 The modular constitution published by the Institute of Local Government Studies suggested that local authorities should identify in their constitution the principles of decision making within their authority. While Article 12 (Decision Making) of the Council's Constitution currently has a heading for 'Principles of Decision Making' at Section 12.2, it does not subsequently list these principles.
- 2.3.2 The constitutions of city and district councils within Cambridgeshire, as well as neighbouring authorities, all express similar decision-making principles with minor variations. It is therefore proposed to adopt these standard principles as follows, incorporating some of the positive variations seen in the constitutions of other local authorities:

12.02 Principles of Decision Making

All decisions of the Council, or taken by or on behalf of the Council, will be made in accordance with the following principles:

- (a) Action taken must be proportionate to the desired outcome;
- (b) Professional advice from officers must be considered;
- (c) Respect for human rights, in line with equalities and human rights legislation, must be demonstrated;
- (d) There must be a presumption in favour of openness, in line with the Freedom of Information Act 2000;
- (e) There must be a clear aim and desired outcome; and
- (f) Alternative options must be considered alongside documented reasoning behind the decision made.

2.4 Terms of Reference of the Audit and Accounts Committee

- 2.4.1 A review of the Audit and Account Committee Terms of Reference (Chapter 3B-7 of the Constitution) was requested by the Audit and Accounts Committee at its meeting on 24 November 2022. The following changes were subsequently endorsed unanimously at its meeting on 9 February 2023:
- (i) To update the wording to reflect the greater level of detail set out in the Chartered Institute of Public Finance and Accountancy (CIPFA) Position Statement;
 - (ii) To grant the committee the ability to approve changes to the Anti-Fraud & Corruption Policy and Anti-Money Laundering Policy, in addition to the Whistleblowing Policy to which it can already approve changes. This would expedite the process of updating

these policies, as further approval from the Strategy and Resources Committee would not be required;

(iii) To explicitly state the committee's right to request reports and assurances from relevant officers.

(iv) To update references from 'Statement of Internal Control' to 'Annual Governance Statement', to reflect current terminology and practice.

2.4.2 The proposed changes are set out in full in Appendix 4 to this report (removals in strikethrough and additions in bold).

2.5 Scheme of Delegation

2.5.1 The Scheme of Delegation to Officers (Part 3D of the Council's Constitution) describes the extent and nature of the authority delegated to officers to undertake functions on behalf of the Council.

2.5.2 Section 1.2 (vi) of the Council Procedure Rules (Part 4.1 of the Council's Constitution) states that the annual meeting will agree the Scheme of Delegation or such part of it as the Constitution determines it is for Council to agree (as set out in Part 3 of the Constitution).

2.5.3 The Scheme of Delegation, attached at Appendix 5, includes updates that reflect the Council's recent organisational restructure, although these amendments have already been approved by the Chief Executive under the delegation authorised by Full Council on 19 July 2022.

2.5.4 The delegations related to Shared Services, which were previously listed separately, have been included under those authorised to the Executive Director of Finance and Resources (Section 151 Officer), in order to align the constitution with that of the other constituent authorities of the Shared Services.

2.5.5 Formatting and grammatical changes have also been implemented to ensure the Scheme of Delegation is consistent with the rest of the constitution.

3. Appendices

- 3.1 Appendix 1 – Cambridgeshire County Council Constitution, Officers' Code of Conduct
- 3.2 Appendix 2 – Cambridgeshire County Council Constitution, Staffing and Appeals Committee Terms of Reference (tracked changes)
- 3.3 Appendix 3 – Cambridgeshire County Council Constitution, Officer Employment Procedure Rules (tracked changes)
- 3.4 Appendix 4 – Cambridgeshire County Council Constitution, Audit and Accounts Committee Terms of Reference (tracked changes)
- 3.5 Appendix 5 – Cambridgeshire County Council Constitution, Scheme of Delegation (tracked changes)

4. Source Documents

- 4.1 [The Council's Constitution](#)
- 4.2 [Audit and Accounts Terms of Reference Review Report – Audit and Accounts Committee Meeting, 09 February 2023](#)