

ESTABLISHING AN ASSETS AND INVESTMENTS COMMITTEE

To: Council

Date: 10th May 2016

From: LGSS Director Law, Procurement and Governance

Purpose: To consider the recommendation of the Constitution and Ethics Committee to establish an Assets and Investments Committee to deliver the most efficient and effective governance arrangements for the administration of property investment and disposal matters.

Recommendation: It is recommended that Full Council:

- i) approve the establishment of an Assets and Investments Committee to deliver effective governance and management of the Council's property and asset portfolio;
- ii) approve the amendments to the Council's Constitution, as recommended by the Constitution and Ethics Committee, in Appendices A to E; and
- iii) authorise the Monitoring Officer, in consultation with the Chairwoman of the Constitution and Ethics Committee, to make any other minor or consequential amendments to the Constitution necessary for, or incidental to, the implementation of these proposals.

<i>Officer contact:</i>		<i>Member contact</i>	
Name:	Quentin Baker	Name:	Councillor Mandy Smith
Post:	Director of Law, Procurement & Governance and Monitoring Officer	Portfolio:	Chairwoman, Constitution and Ethics Committee
Email:	quentin.baker@cambridgeshire.gov.uk	Email:	mandysmith1235@btinternet.com
Tel:	01223 727961	Tel:	01223 699170

1. BACKGROUND

- 1.1 In May 2015 General Purposes Committee, in recognition of the number and detail of property related matters that were being considered by the Committee, agreed to the establishment of a Member Group to consider proposals in advance of coming before the Committee.
- 1.2 The Group (Investment Review Group (IRG)) has no decision making powers and is not proportionately representative. Membership of the Group has varied, and attendance has been inconsistent for understandable reasons.
- 1.3 The rationale for the establishment of the IRG was to assist the decision making process regarding property related matters. For a number of reasons the approach adopted, whilst increasing the discussion and approach around various property related investments and decisions, has not proven to be as effective as had originally been anticipated.
- 1.4 The number of property and asset proposals that require Member input is significantly increasing compared to other matters within the democratic arena. This is driven by a number of major programmes that are supporting the delivery of the Council's overall objectives. These include the Property Rationalisation Programme, the Housing Development Programme (including the work of the Housing Development Agency), the Community Resilience Programme, the Transformation Programme, the Making Assets Count Programme, the emerging Older Persons' Accommodation Strategy, and other service-led initiatives involving property.
- 1.5 The amount of business under consideration by the IRG is such that it is not possible to cover the items within the time allocated for the monthly meeting. In March an additional meeting was arranged at short notice in order to cover the 'overspill' and even with this additional two hours a number of items could not be covered in significant depth.
- 1.6 Therefore the Constitution and Ethics Committee at its meeting on 19 April 2016 considered a proposal to establish a Sub-Committee, which would not diminish the workload, but would improve the governance and decision making processes. As the IRG has no decision making powers and there is a lack of clarity over the role and responsibilities of the Group, the same matters are considered at various democratic points. The IRG shape the content and nature of proposals that are subsequently debated and re-shaped at Group Leaders before consideration by General Purposes Committee where the same debate takes place. A separate Sub-Committee would also ensure that a detailed level of knowledge and understanding is developed by a group of Members on the overall property and investment portfolio.
- 1.7 When discussing the need for a Sub-Committee, the Committee questioned why an Assets and Investments Committee could not be established. Like the Sub-Committee it would be democratically proportionate but unlike the Sub-Committee it would have the ability to take decisions without any recourse to General Purposes Committee. It would also enable non-GPC members and subs to be appointed to the Committee who might have specialist skills or expertise in this area.
- 1.8 The Committee acknowledged that it was difficult to manage the level of detail at General Purposes Committee given the amount of other matters under

consideration. Therefore by creating a committee to consider all asset and investment issues, it would relieve the pressure on GPC.

- 1.9 Whilst the programme of activity under consideration by the IRG is constantly growing there is no doubt that it will increase significantly in the coming year. As detailed business cases start to come forward it will be challenging to manage these through the workload of GPC other than very superficially. This may not be the case in perpetuity and therefore were it agreed to establish a Committee, it is proposed that this be reviewed annually to ensure its applicability in light of the workload for the following financial year.
- 1.10 A key role that needs to be established going forward will be the 'shareholder' function in respect of the property special purpose vehicle (SPV). Whilst not yet formalised, once established there will need to be a separation of the roles of those on the Board of the SPV and that of a shareholder. Whilst the vehicle is likely to be wholly owned by the Council, Members who sit on the Board of Directors have a different set of responsibilities and duties to the Company. The establishment of a Committee will enable this democratically accountable body to ensure the interests of the Council are protected and monitored.

2.0 CONSTITUTIONAL CHANGES REQUIRED

- 2.1 Committees unlike Policy and Service Committees are not covered by the Council's Decision Review Rules. However, it is proposed that given the nature of decisions being taken by the Assets and Investments Committee that it should be included in the Decision Review Rules.
- 2.2 The recommendation from the Constitution and Ethics Committee requires amendments to Part 2 – Articles, Article 6 – The Decision Review Process and Statutory Scrutiny Function, Article 8 – Committees, Part 3B – Responsibility for Functions, Committees of Council and Part 4 – Rules of Procedure, Part 4.5 – Decision Review Rules. The proposed changes are set out in **Appendices A, B, C, D & E** deleted text is shown struck through and new text underlined.

Source Documents	Location
Agenda and Minutes of Constitution and Ethics Committee 19th April 2016	http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/Meeting.aspx?meetingID=1181

ASSETS AND INVESTMENTS COMMITTEE**Membership**

Any seven members (including substitutes) of General Purposes Committee, subject to political proportionality.

Summary of Functions

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

- Decisions relating to the Council's property and assets except for those reserved to Full Council
- The Property and Asset Investment Programme
- The Property Rationalisation Programme

<u>Delegated Authority</u>	<u>Delegation/Condition</u>
<u>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.</u>	
<u>Authority for the oversight and operation of all property-related functions including acquisitions and disposals.</u>	
<u>To approve and monitor the Council's Asset Strategy.</u>	
<u>To approve the Council's Asset Management Plan, annually, and as a consequence:</u> <ul style="list-style-type: none"> - <u>Consider and approve Asset Plans as they fall due for review</u> - <u>Approve annual budget proposals from applicable Asset Plans</u> - <u>Monitor the delivery of the asset plans throughout the year</u> 	
<u>To consider and evaluate investment proposals for the acquisition of land, and make recommendations to, General Purposes Committee for the inclusion of viable investments within the Business Plan.</u>	
<u>To monitor all property investment proposals included within the Business Plan to ensure successful delivery.</u>	
<u>To consider and approve disposals for less than best consideration.</u>	
<u>To approve the granting of variations, renewal, and termination of leases, licenses, dedications, and easements.</u>	

<u>Delegated Authority</u>	<u>Delegation/Condition</u>
<u>To consider and approve the use of Council owned assets by the local community and other interested parties.</u>	
<u>To promote all property investment opportunities for inclusion within the Council's Business Plan:</u> <ul style="list-style-type: none"> • <u>Consider, evaluate, and agree potential property disposals and investment opportunities</u> • <u>Consider business cases for the sale of assets to the Council's Property Special Purpose Vehicle (SPV) for inclusion within the Business Plan</u> • <u>Approve final business cases, that have been approved within the Business Plan, for the sale of assets to the Council's Property SPV</u> 	
<u>To act as the Shareholder Committee for the purposes of the scrutiny of the Council's Property SPV.</u>	
<u>To work with officers to facilitate/promote the development of proposals for sharing property with partner organisations.</u>	
<u>To consider and recommend property rationalisation proposals for inclusion within the Business Plan.</u>	
<u>To approve property rationalisation proposals that are in accordance with the Business Plan.</u>	
<u>To consider and make recommendations to the General Purposes Committee for property rationalisation proposals that are outside of the agreed Business Plan.</u>	

1. GENERAL PURPOSES COMMITTEE**Membership**

Seventeen members of the Council. Subject to proportionality, the Committee shall include the Chairman/woman and Vice-Chairman/woman of the Adults Committee, the Children and Young People Committee, the Economy and Environment Committee, the Health Committee and the Highways and Community Infrastructure Committee. The Chairman/woman and Vice-Chairman/woman of the General Purposes Committee shall be appointed by Full Council and shall be, ex officio, the Council Leader and Deputy Council Leader.

Summary of Functions

The General Purposes Committee (GPC) is authorised by Full Council to co-ordinate the development and recommendation to Full Council of the Budget and Policy Framework, as described in Article 4 of the Constitution, including in-year adjustments.

In addition, the GPC is authorised to make decisions on the allocation of matters amongst committees where the function does not clearly fall within the remit of one particular committee.

The GPC has a number of specific functions including the following:

- ~~Decisions relating to the Council's property and assets except for those reserved to Full Council~~
- Appointing members to a range of external bodies
- Oversight of 'corporate' or council-wide matters such as customer services unless reserved to Full Council.

Delegated Authority	Delegation/ Condition
In respect of the statutory and local plans, which form the Council's Policy Framework, authority to lead the development of draft proposals, consider and recommend them for approval by Full Council	In consultation with relevant Service Committees
Authority to lead the development of the Council's draft Business Plan (budget), to consider responses to consultation on it, and recommend a final draft for approval by Full Council	In consultation with relevant Service Committees
Authority to recommend cross-cutting policies for approval by Full Council, e.g. the policy on Disclosure and Barring Service checks for councillors	
Authority to consider decision reviews and either: <ol style="list-style-type: none"> 1. refer the matter for determination by Full Council 2. make recommendations to the relevant committee requiring the Committee to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Chief Financial Officer 	

Authority to determine an appeal against any decision by or on behalf of the Authority except for those appeals whose determination falls within the remit of another committee, officer or panel of the Council.	
Authority to nominate representatives to Outside Bodies other than the Cambridgeshire and Peterborough Fire Authority, the County Councils Network Council and the Local Government Association	
Authority to determine the Council's involvement in and representation on County Advisory Groups. The Committee may add to, delete or vary any of these advisory groups, or change their composition or terms of reference	
Authority to review annual reports and inspection reports not within the remit of another committee	
Authority for monitoring and ensuring that Service Committees operate within the policy direction of the County Council and making any appropriate recommendations	
Authority for monitoring and reviewing the overall performance of the Council against its Business Plan	
Authority to determine the most appropriate committee for considering any matter which falls within the remit of more than one committee	
Authority to respond to any consultations within the remit of more than one committee as and when required	
Authority for managing those functions relating to elections and local democracy which are not reserved to Full Council	
<p>Authority for oversight, operation and review of 'corporate' services, for example:</p> <ul style="list-style-type: none"> the Council's internal and external communications policy and its implementation Information Governance including but not limited to Data Protection and Freedom of Information the Council's customer strategy and any matters dealt with by the Contact Centre, via digital channels or face-to-face the Council's response to its equalities duties the Council's Risk Management Strategy the Council's Emergency Planning arrangements 	
<ul style="list-style-type: none"> Authorising budget virement which is not covered within the limits of virement contained in the Council's financial rules, provided there is no change in the approved policy framework of the Council. Virement limits are set out in the Constitution in Part 3D (Scheme of Delegation to Officers) and Part 4 (Financial and Contract Procedure Rules) 	

<ul style="list-style-type: none"> • Authorising proposals which are not covered by the finance limits of the Executive and Corporate Directors' delegated powers contained in A3 – A7, as set out in the table at Paragraph 3 of Part 3D of the Constitution, provided there is no change in the Council's approved budget and policy framework 	
<ul style="list-style-type: none"> • Responsibility for the discharge of all functions and exercise of all powers of the County Council not expressly reserved to the Full Council or to any other part of the County Council by statute or by this Constitution 	
<ul style="list-style-type: none"> • Authority for the oversight and operation of all property-related functions including acquisitions and disposals 	

ARTICLE 8 – COMMITTEES

8.01 Introduction

The Council shall establish a number of committees in order to undertake its functions in a more efficient way. These are divided into four categories, Service Committees; Regulatory Committees; Joint Committees and Other Committees. In some cases the law requires the Council to establish a committee and stipulates the way it shall operate. However, in most cases Full Council may decide on the size, terms of reference and membership of its committees.

In the absence of the relevant committee chairman/woman, the vice-chairman/woman will take the chair.

All Councillors are encouraged to undertake regular training and for the regulatory and appeals committees there are specific training requirements.

Statutory scrutiny functions will be incorporated and carried out by the relevant Service Committee as set out in their respective terms of reference.

8.02 Service Committees

The Council shall establish the following service committees:

- Adults Committee
- Children and Young People Committee
- Economy and Environment Committee
- Health Committee
- Highways and Community Infrastructure Committee.

These are known as service committees because their business concerns the Council's delivery of services to the people of Cambridgeshire.

The composition and function of each of these committees are set out in Part 3B – Responsibility for Functions: Committees of Council.

8.03 Regulatory Committees

The Council shall establish the following regulatory committees:

- Planning Committee

These committees regulate the conduct of the Council's business and make decisions in relation to regulatory matters.

The composition and function of each of these committees are set out in Part 3B – Responsibility for Functions: Committees of Council.

8.04 **Joint Committees**

In conjunction with other authorities, the Council shall establish and participate in the following joint committees:

- Area Joint Committees (where the Council sees fit)
- Cambridgeshire Police and Crime Panel
- Joint Development Control Committee – Cambridge Fringes
- Local Government Shared Services Joint Committee
- Northstowe Joint Development Control Committee.

The composition and function of each of these committees are set out in Part 3C – Responsibility for Functions: Joint Committees.

8.05 **Other Committees**

The Council shall establish the following other committees:

- General Purposes Committee
- Assets and Investments Committee
- Audit and Accounts Committee
- Cambridgeshire Health and Wellbeing Board
- Constitution and Ethics Committee
- Hearings Sub-Committee
- Pension Fund Board
- Pension Fund Board Investment Sub-Committee
- Staffing and Appeals Committee
- Service Appeals Sub-Committee.

The composition and function of each of these committees are set out in Part 3B – Responsibility for Functions: Committees of Council.

DECISION REVIEW PROCEDURE RULES

1. Overview

The Decision Review mechanism provides a way in which controversial decisions made by certain committees and officers under delegated authority, may be reviewed by the General Purposes Committee and in some cases revised by Full Council.

Due to the costs and delay caused by review, it is intended that it should only be used in exceptional circumstances as a last resort.

Where the review process is initiated the implementation of the decision subject to the review shall be suspended until the process is complete or the review withdrawn.

There are two routes for decision review the first via the General Purposes Committee and the second being direct to Full Council.

2. Decisions which may be subject to review

As provided in Article 6 and subject to the exceptions set out below, the Decision Review procedure shall apply to any decisions made by:

- Policy and Service Committees (Adults, Children and Young People, Economy and Environment, Health and Highways and Community Infrastructure);
- General Purposes Committee (*)
- Joint Area Committees;
- The Local Government Shared Services Joint Committee;
- Assets and Investments Committee; and
- Any Key Decisions made by officers (Note: Officers may not make Key Decisions unless specifically delegated within this Constitution).

*The General Purposes Committee may not review its own decisions and these may only be subject to review via the Full Council route.

3. Decisions which may not be reviewed

The following categories of decision are exempt from the decision review process:

- i) A decision in respect of which no decision review request was received within the requisite timescales prescribed in these Rules and has therefore come into effect.
- ii) A decision which satisfies the criteria for urgent decisions as set out in the Council's Rules of Procedure;
- iii) A decision by Full Council or subject to Full Council approval; or
- iv) Decisions made by regulatory committees and/or decisions of a quasi-judicial or regulatory nature.

- v) A decision which has already been subject to a decision review by the General Purposes Committee, unless it is submitted for review by the Full Council in accordance with Rule 4.2.2 below.
- vi) A decision which has been rescinded by the relevant committee or decision maker prior to the determination of any request for a decision review in accordance with Rule 4.2.
- vii) A decision which has been made in accordance with Rule 17 of the Committee and Sub-Committee Procedure Rules, Previous Decisions and Motions.

4. Decision Review Process

4.1 Publication of Decision Statement

Where a decision has been made by a Policy and Service Committee, a Joint Area Committee or the Local Government Shared Services Joint Committee, the decision shall be published in the form of a decision statement, within two working days of the decision being made, on the Council's public website. The decision statement shall also be sent to members of the relevant committee, joint area committee or joint committee within the same timescale.

The decision statement will bear the date on which it is published and will specify that the decision will be effective on the expiry of 3 full working days after the publication of the decision statement and may then be implemented, unless the subject of a decision review request under this provision within that 3 full working day period. The deadline for a decision review request shall be specified in the decision statement.

4.2 Routes for Decision Review

4.2.1 Review by General Purposes Committee

Where at least 8 elected members of the Council wish to initiate a review of a decision which falls within the remit of the procedure, they may do so by submitting a written request for review to the Monitoring Officer or Chief Executive.

Such a request must be received by the Monitoring Officer or Chief Executive before the expiry of 3 full working days from the date on which the decision notice was published.

Where this criterion is met, the matter shall be referred to the General Purposes Committee for consideration as to whether the review request should be dismissed or upheld.

If the request is dismissed, those members requesting the review will be notified and unless subject of a request for a decision review in accordance with Rule 4.2.2 below, the original decision shall take effect at 9.30am on the fourth full working day from the date on which the decision notice was published.

If the review is upheld the matter shall be referred back to the relevant committee or decision-taker with a recommendation from the General Purposes Committee. The relevant committee or decision-taker shall reconsider the matter, taking into account any concerns and recommendations of the General Purposes

Committee, and decide whether to amend the decision or not before reaching a final decision. Unless subject of a request for a decision review in accordance with Rule 4.2.2 below, the decision of the relevant committee or decision taker will take effect at 9.30am on the fourth full working day from the date on which the decision notice was published

A decision may be subject of a decision review by the General Purposes Committee once only. Once the review has been considered by the General Purposes Committee, the decision may not be subject of a further decision review by that Committee. However it may, subject to compliance with 4.2.2. below, be submitted for a decision review by the Full Council.

4.2.2 Review by Full Council

Where at least 24 elected members of the Council wish to initiate a review by Full Council of a decision, they may do so by submitting a written request for review to the Monitoring Officer or Chief Executive.

Requests must be received by the Monitoring Officer or Chief Executive before the expiry of 3 full working days from the date on which the decision notice was published, or, where a review request has been dismissed by the General Purposes Committee, before the expiry of 3 full working days from the publication of the notice of the General Purposes Committee's decision to reject the review request.

Full Council may either:

- i) Dismiss the review request;
- ii) Refer the decision back to the committee or decision taker with a recommendation, or
- iii) Substitute its own decision which shall have immediate effect.

If the request is dismissed, those members requesting the review will be notified and the original decision shall take effect at 9.30am on the next working day following the day of the Council meeting which reviewed the request.

If the review is upheld under 4.2.2 (ii) above, the matter shall be referred back to the relevant committee or decision taker with a recommendation from the Council. The relevant committee or decision taker shall reconsider the matter, taking into account any concerns and recommendations of the Council and decide whether to amend the decision or not before reaching a final decision. The decision of the relevant committee or decision taker will take effect at 9.30am on the fourth full working day from the date on which the decision notice was published.

A decision may be the subject of a request for a decision review by Full Council once only. Once the review has been considered by the Council, the decision may not be subject of a further decision review.

5. The Decision Review Procedure Timescales

Where a valid review request is received, the Monitoring Officer shall convene a meeting of the General Purposes Committee or Full Council as appropriate, to take place within 10 working days or as soon as is practically possible thereafter.

In setting the date of the review hearing, all reasonable efforts will be made to enable attendance by Members, relevant Officers and other witnesses. Councillors who have requested the review shall have the right to address the Committee or Full Council when it deals with the issue subject to the usual limits on speeches.

ARTICLE 6 – THE DECISION REVIEW PROCESS AND STATUTORY SCRUTINY FUNCTION

6.01 Decision Review

The decision-making powers of each committee are specified in their terms of reference in Part 3B, Responsibility for Functions: Committees of Council.

In the case of decisions made by one of the five Policy and Service Committees (Adults; Children and Young People; Economy and Environment; Health, and Highways and Community Infrastructure); by the General Purposes Committee*; by joint area committees, the Assets and Investments Committee and under joint arrangements (the Local Government Shared Services Joint Committee) there is a process by which particularly controversial decisions may be reviewed by the General Purposes Committee* or the Full Council which shall be known as Decision Review.

(*The General Purposes Committee may not review its own decisions and these may only be subject to review by Full Council)

The decision review procedure is set out in Part 4.5, Rules of Procedure: Decision Review Procedure Rules.

6.02 The Council's Statutory Scrutiny Function

There is a statutory requirement for Council to make arrangements for scrutiny of certain matters, as specified in the following legislation:

- Section 21 of the Local Government Act 2000 and Section 7 of the Health and Social Care Act 2001 as amended by the Health and Social Care Act 2012, and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (SI 2013/218).

These powers shall be exercised by the Health Committee.

- The Flood and Water Management Act 2010.

These functions shall be exercised by the Economy and Environment Committee.