

## **CONSTITUTION AND ETHICS COMMITTEE: MINUTES**

**Date:** Thursday 22nd September 2016

**Time:** 2.00pm – 3.20pm

**Place:** Kreis Viersen Room, Shire Hall, Cambridge

**Present:** Councillors M Smith (Chairwoman), I Bates (substituting for Cllr McGuire), D Brown, P Bullen, E Cearn, R Hickford, J Hipkin, P Downes (substituting for Cllr Nethsingha), P Reeve, K Reynolds and J Scutt

**Apologies:** Councillor M McGuire and L Nethsingha

### **118. ELECTION OF VICE-CHAIRMAN/WOMAN**

It was resolved by a majority that Councillor Scutt be elected Vice-Chairwoman of the Committee for the municipal year 2016-17.

### **119. DECLARATIONS OF INTEREST**

Councillor Cearn declared an interest in agenda item 5 (minute 122) as a member of the Northstowe Joint Development Control Committee.

### **120. MINUTES – 19TH APRIL 2016**

The minutes of the meeting held on 19th April 2016 were confirmed as a correct record and signed by the Chairwoman.

### **121. SELECTION AND APPOINTMENT OF INDEPENDENT REMUNERATION PANEL (IRP) MEMBERS**

The Committee received a report asking it to consider the approach to selecting and appointing Independent Remuneration Panel (IRP) members. The Committee noted that a local authority was required to establish an IRP as part of its process for making and reviewing a scheme of members' allowances. The Committee's role in this process was to select and appoint the members of the IRP, and not itself to review the scheme of allowances. The terms of appointment of the current panel would come to an end in February 2017; because the previous review had been very thorough in the light of the change to the Committee system of governance, it was possible that the next review would adopt a light-touch style.

Discussing the approach to be taken to selecting the panel, members

- expressed the view that a panel of 3 would be sufficient for a light-touch review
- suggested that Dr Declan Hall of Birmingham University might be invited to be a member of the panel; he was well-known nationally for this type of review, and had fulfilled the role in Huntingdonshire and elsewhere. The Democratic Services Manager advised that there was the expertise within LGSS to conduct the review; the previous one had been facilitated by her Northamptonshire equivalent, who would probably prove more cost-effective than Dr Hall. He had

not served on the panel, but had provided support to it and written up its report; he was aware of how such a panel worked, and of the relevant legislation

- pointed out that the new system of governance had not actually started at the time of the previous review, which meant that a light-touch approach might not be appropriate on this occasion
- expressed some doubt as to the previous panel's understanding of the pressures of the committee system, and drew attention to the need, should a combined authority be established under devolution, for the panel to look at the relationship between that combined authority and the County Council
- suggested that the current five panel members be invited to re-apply, but that consideration should also be given to seeking representation from other organisations; it would be better to have a panel of five members, as not all might be available on any one day
- suggested that three panel members would be sufficient, provided that they were possessed of suitable competence and experience, and identified through an open recruitment process, rather than by personal acquaintance
- stressed the importance of achieving the right sort of outcome to the panel's proceedings, with transparency to members of the public; to rubber-stamp the reappointment of a panel first appointed in 2012 was not transparent
- expressed discomfort at the present system, whereby Councillors were required to agree their own level of remuneration, and enquired whether there was any mechanism whereby the IRP could make a recommendation to Council that it accept the outcome of the review without any change or debate
- noting that Dr Hall was a professional panel member with extensive relevant knowledge, but that his services came at considerable cost, suggested that it was inappropriate for the Council to claim to be very cost conscious yet also make an expensive appointment when a reasonable alternative was available. On the other hand, it was suggested that paying for specialist services could prove to be money well spent
- suggested that, since the existing panel members had some experience of the Council and of how the committee system might operate, they should be approached to serve again; there should be a pool of five members to work at a level of three, and any shortfall in numbers should be dealt with by a process of public advertisement, which did not need to be anything elaborate
- stressed the importance of appointing a panel in whose findings members could have full confidence
- suggested that Dr Hall could be approached to provide some training to the panel members, whoever they might be; it would also be open to him to serve on the panel on the same financial terms as other panel members
- noted that the findings of the panel would not be a matter for the Committee, because the legal requirement was that Full Council make the decision on its allowances, and this decision could not be delegated

- enquired about the costs associated with the panel. The Democratic Services Manager explained that the authority had to pay both for the support provided to the panel and the panel's remuneration; it was for the Committee to determine the level of remuneration, but she would have to come back to members with a figure for the support costs **Action required**

- suggested that it might be better to postpone a decision on the size of the panel until applications had been received; members might regret a decision to limit the number to three if four very good people were to apply

- pointed out that, by the time the IRP made its report, there would probably be a large number of new members of the Council, for whom it could be difficult to make an informed decision about allowances

- noted that there would be time for the Committee to consider the rate of remuneration for IRP members at its next meeting, as the IRP would not be starting its review until after the May 2017 local government elections. The Democratic Services Manager suggested that it might be helpful to make enquiries of other local councils to see what they paid to their IRP members

**Action required**

- asked whether there was any mechanism whereby the IRP could consider the question of continuing to pay allowances to members unable to attend because of ongoing illness. The Democratic Services Manager reminded members that the Committee had considered this matter previously following a proposal from full Council to consider introducing a policy to allow only one extension to the sixth month rule in any four year municipal period.

It was proposed by Councillor Downes and seconded by Councillor D Brown, and when put to the vote, was resolved by a majority

- a) to move forward with the intention of appointing an independent remuneration panel of three members
- b) that the existing panel should not automatically be reappointed
- c) to advertise inviting expressions of interest from far and wide in becoming a member of the panel.

In clarification of its decision, the Committee confirmed to the Democratic Services Manager that it would be entirely acceptable if she were to get an announcement into the local press without incurring the expense of a formal advertisement, and to seek expressions of interest through the Council's website. The positions should be advertised at the current rate of remuneration, with a note that it was under review.

**Action required**

## **122. NORTHSTOWE JOINT DEVELOPMENT CONTROL COMMITTEE**

The Committee received a report asking it to consider the future function of the Northstowe Joint Development Control Committee (JDCC). Members noted that South Cambridgeshire District Council (SCDC), the other party to the JDCC, had already decided that it should be wound up, and that as matters currently stood, the Joint Committee was included in the Council's Constitution, and in the proportionality calculations for memberships of committees. The advice of the

Executive Director: Economy, Transport and Environment was that the Committee should be disbanded and removed from the Constitution; whether there was to be any replacement for it would be a matter for subsequent discussion.

Discussing the report, members said that exploratory discussions had already started with the new Cambridge City Council and SCDC Joint Director for Planning and Economic Development, and that it was important to apply to other new communities the lessons learnt from Northstowe, and to develop governance arrangements to replace the JDCC.

It was suggested that the Constitution and Ethics Committee should place the matter on its forward agenda plan and keep it under review, but it was pointed out that it would also be of interest to the Economy and Environment Committee. Councillor Bates, speaking as Chairman of that committee, said that he would be happy for the new committee arrangements to be discussed by Economy and Environment Spokes.

It was resolved unanimously to recommend to Council that:

- a) the Northstowe Joint Development Control Committee be wound up with immediate effect
- b) there be further consideration of committee arrangements for the new settlements when there is more clarity about the timing of the relevant strategic decisions
- c) the Constitution be amended by deleting Part 3C-B, Terms of Reference for Northstowe Joint Development Control Committee, and renumbering subsequent sections of Part 3C
- d) the Monitoring Officer, in consultation with the Chairwoman of the Constitution and Ethics Committee, be authorised to make any other minor or consequential amendments to the Constitution necessary for, or incidental to, the implementation of these proposals.

## **123. OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014**

The Committee received a report inviting it to review the threshold of £250,000 to determine materiality under the Openness Regulations. Members were reminded that the Committee had approved this threshold at its meeting on 4 February 2016, but had suggested that it be reviewed in six months' time. It was noted that the delay in publishing the committee report had been because efforts were being made to gather the views of the Council's Strategic Management Team (SMT).

Discussing the report, members

- expressed surprise that no spending decisions in excess of £250,000 had been taken in relation to Children, Families and Adults (CFA) Services since May 2015; it was pointed out that a number of spending decisions over the threshold could well have been unpublished because to do so would have involved publishing confidential information, and that expenditure over £500,000 had to be considered by the relevant Policy and Service Committee as a Key Decision

- stressed the importance of being as transparent as possible, and cast doubt on the accuracy of the SMT prediction that reducing the publication threshold to £50,000 would increase the administrative burden significantly, and would have the potential to compromise the completion of other work. Councillor Bullen, seconded by Councillor Reeve, proposed that the threshold be lowered to £50,000
- commented that there should be little bureaucracy involved in a system when all decisions were anyway recorded electronically, but noted that officers were required to complete a detailed template form, as attached to the report
- suggested that the Director of Customer Service and Transformation be asked to investigate ways of using technology to facilitate the process of gathering the information automatically, even if some cost had to be incurred in developing the necessary systems to enhance transparency
- stressed that they had asked to know what the extra burden would be – if any – of having a £50,000 threshold under Openness Regulations; they had instead only been supplied with suppositions
- requested that SMT be asked for further information, for evidence on why the burden of supplying the information on the template would be excessive, and for information on the effect, if any, on freedom of information requests
- also requested that SMT be given the message that the Committee was not setting out to make matters difficult and increase the burdens on them.

It was proposed by the Chairwoman and resolved unanimously

- to defer until the Committee's November meeting a decision on the appropriate threshold to determine materiality under the Openness Regulations
- to ask the Democratic Services Manager and the Monitoring Officer to convey the points made in the course of discussion to members of the Strategic Management Team, and to seek the evidence requested.

#### **124. A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT TO 14 SEPTEMBER 2016**

The Committee received a report setting out the number and nature of the complaints received about Members under the Code of Conduct from 4 April 2016 to 14 September 2016. Members noted that ten complaints had been received during this period, three of which had been resolved. In two cases, the Independent Person had concluded that there had been no breach of the Code of Conduct, and in the third case, local resolution had been considered an appropriate remedy.

Discussing the report, members

- sought clarification of the figures, and were advised that the ten complaints did not necessarily involve ten different members. Of the seven complaints not yet concluded,
  - two had been recommended by the Independent Person for investigation
  - two were awaiting assessment by the Independent Person

- three were on hold pending the outcome of police and other independent investigations into allegations about the operations of the Fenland Association for Community Transport (FACT); the complaint about member conduct had not been forgotten, but was the least significant of the matters under investigation and so would be pursued last.
- noted that the procedure to be followed in the event of a complaint about a member's conduct was set out on the Council's website, and that the recommendation formally to investigate a complaint was made only rarely, when there was a serious matter to investigate and a genuine dispute as to the facts of what had occurred; the matter would be considered by a panel of the Constitution and Ethics Committee. 'Local resolution' of a complaint was the term used in cases where for example the independent person wrote to the member concerned recommending that he or she send a written apology to the complainant
- queried whether there was any process by which, should a number of complaints arise about a single issue, the Committee could ensure that all members received training on the issue. The Monitoring Officer gave the example of a number of complaints at another authority about members' use of social media; training of all members by the Local Government Association was being arranged, and this could also be done in Cambridgeshire were a similar situation to arise
- suggested that there should be a session for all members on social media as part of next year's post-election induction process. The Democratic Services Manager undertook to look into this as part of the Member Development Panel's work on the induction programme. **Action required**

The Committee noted the report.

## **125. FORWARD AGENDA PLAN**

The Committee reviewed and agreed its forward agenda plan, noting that an item on the Openness of Local Government Bodies Regulations 2014 was to be added to the agenda for 24th November 2016.

## **126. DATE OF NEXT MEETING**

It was noted that the next meeting was due to take place at 2pm on Thursday 24th November 2016.

Chairwoman