

**OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014**

*To:* **Constitution and Ethics Committee**

*Meeting Date:* **22nd September 2016**

*From:* **LGSS Director of Law & Governance  
and Monitoring Officer**

*Electoral division(s):* **All**

*Purpose:* **The Committee is asked to review the threshold of  
£250,000 to determine materiality under the Openness  
Regulations.**

*Recommendation:* **The Constitution and Ethics Committee is invited to:**

- **confirm the threshold of £250,000 to determine  
materiality under the Openness Regulations.**

<b><i>Officer contact:</i></b>	
Name:	Quentin Baker
Post:	Director of Law & Governance and Monitoring Officer
Email:	<a href="mailto:quentin.baker@cambridgeshire.gov.uk">quentin.baker@cambridgeshire.gov.uk</a>
Tel:	01223 727961

## 1. BACKGROUND

- 1.1 At its meeting on 28 April 2015, the Committee received a report which set out the requirements of the Openness of Local Government Bodies Regulations 2014. In particular, the report noted that the requirements within the Regulations in respect of reporting by the public to determine materiality of meetings had already been incorporated within Rule 17, Part 4.4 of the Constitution (Photography and Audio Recordings of Meetings).
- 1.2 However, it was also necessary to amend the Constitution to reflect new requirements within the Regulations in relation to the recording and inspection of certain officer decisions. Particular reference was made to the requirement to record decisions under a general authorisation where the effect of the decision was to award contracts or incur expenditure which materially affected the body's financial position. In that context, it was noted that authorities had some discretion as to the financial value of the decisions to be recorded and that the Strategic Management Team had recommended that the figure of £250,000 should be set as the appropriate level to determine materiality.
- 1.3 During discussion of the report, it was noted that where decisions were already required to be published by any other legislation, they did not need to be recorded again, provided the record included the date and reasons for decision.
- 1.4 At the meeting, it was debated whether the figure of £250,000 was the appropriate materiality level or should be reduced to £50,000. The desirability of minimising the bureaucratic impact of the new duty to record decisions was explained and it was accordingly accepted that the suggested threshold of £250,000 should be adopted and then reviewed again in six months' time in the light of experience.
- 1.5 Council agreed the Committee recommendation, as follows, at its meeting on 12 May 2015:
  1. That the requirement for a written record to be made of any decision taken by an officer of the Council:-
    - (a) under a specific express authorisation; or
    - (b) under a general authorisation where the effect of the decision is to:
      - (i) grant permissions or licences;
      - (ii) affect the rights of individuals;
      - (iii) award contracts or incur expenditure over £250,000be reflected in the Council's Constitution.
- 1.6 The Committee received a report, at its meeting on 4 February 2016, inviting it to review the threshold of materiality under the Openness Regulations. Members noted that, based on information about practice in other authorities, Cambridgeshire officers were taking the obligation to publish seriously and working to a similar threshold of materiality. At the meeting, it was resolved by a majority to confirm the threshold of £250,000 to determine materiality under the Openness Regulations. The Committee suggested that the process be reviewed again in a further six months, with more information being supplied to the Committee about the bureaucratic burden that a lower threshold might impose.

## **2. RECORDING DECISIONS**

- 2.1 Following Council's decision, officers received guidance on recording decisions and a copy of the decision note template to be published on the Council's website. There is a section on the Council's website, as part of Committee Agendas and Minutes, for delegated decisions.

[https://cmis.cambridgeshire.gov.uk/ccclive/Committees/tabid/62/ctl/ViewCMIS\\_CommitteeDetails/mid/381/id/30/Default.aspx](https://cmis.cambridgeshire.gov.uk/ccclive/Committees/tabid/62/ctl/ViewCMIS_CommitteeDetails/mid/381/id/30/Default.aspx)

The Council has so far published 18 decisions (breakdown as follows – Economy & Environment -1, General Purposes – 6, and Highways and Community Infrastructure – 11).

- 2.2 In accordance with the Local Government Transparency Code, the Council is already required to publish all spending transactions over £500, as well as all Government Procurement Card spending and contracts valued over £5,000. Spending transactions over £500 from July 2010 to March 2015 are published on the council's website at [http://www.cambridgeshire.gov.uk/info/20043/finance\\_and\\_budget](http://www.cambridgeshire.gov.uk/info/20043/finance_and_budget); since April 2015, expenditure over £500 has been published on Cambridgeshire Insight at <http://opendata.cambridgeshireinsight.org.uk/dataset/cambridgeshire-county-council-expenditure-over-%C2%A3500>.
- 2.3 It is important to note that, under the Openness Regulations, where decisions are already required to be published by other legislation, they do not need to be recorded again provided that the record published includes the date the decisions was taken and the reasons for the decision. Publication under the Openness Regulations requires senior managers to complete a detailed form (attached as Appendix A) which requires options and reasons for the decision taken to be described; this is more time-consuming than completing the information for the Cambridgeshire Insight list.
- 2.4 Consultation with other authorities regarding materiality in relation to decisions to be recorded under the Openness Regulations and the number of notices published has identified the following:
- the levels of materiality are the same as those requiring a Cabinet decision under the Council's financial regulations. In this way it follows that there are no decisions taken by officers to award a contract or incur expenditure which, in either case, materially affect this local government body's financial position.

## **3. LOWER THRESHOLD**

- 3.1 Strategic Management Team (SMT) has commented that it is difficult to say with evidence that reducing the limit would significantly increase the burden, but its feeling is that it will bring a significant number of additional decisions within the net and so it therefore must increase workload and at a time when resources are ever stretched. SMT think £50,000 is a very big change and instinctively, that will increase the burden significantly and potentially other work will have to give. Officers acknowledged that it is a Member decision but urge them to be cautious about it.

#### 4. CONCLUSION

- 4.1 There is still a desire to minimise the bureaucratic impact of this duty to record decisions. Given the information available from other authorities, and that information on expenditure over £500 is already published elsewhere, it is therefore suggested that the threshold of £250,000 should be retained.

Source Documents	Location
Agenda & Minutes of Council 12th May 2015	<a href="http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/Committee.aspx?committeeID=12">http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/Committee.aspx?committeeID=12</a>
Agenda & Minutes of Constitution and Ethics Committee 28th April 2015 & 4 February 2016	<a href="http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/Committee.aspx?committeeID=59">http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/Committee.aspx?committeeID=59</a>
Local Government Transparency Code (2015, superseding previous versions)	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/408386/150227_PUBLIC_ATION_Final_LGTC_2015.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/408386/150227_PUBLIC_ATION_Final_LGTC_2015.pdf</a>

**Cambridgeshire County Council Record of Decision**

**Decision taken by an officer of the Council**

<b>Title of decision</b>	
<b>Date decision taken</b>	
<b>Decision maker</b>	
<b>Details of decision taken</b>	
<b>Reasons for taking decision</b>	
<b>Options considered</b>	
<b>Details of any conflict of interests declared</b>	
<b>Details of any disclosable pecuniary interest or non-statutory disclosable interest declared</b>	

Signature of decision maker (if appropriate)

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