

CONSTITUTION AND ETHICS COMMITTEE



Date: Thursday, 04 February 2016

Democratic and Members' Services

Quentin Baker

LGSS Director: Law, Property and Governance

15:00hr

Shire Hall
Castle Hill
Cambridge
CB3 0AP

**Kreis Viersen Room
Shire Hall
Cambridge
CB3 0AP**

AGENDA

Open to Public and Press

1 Apologies and Declarations of Interest

*Guidance for Councillors on declaring interests is available at
<http://tinyurl.com/ccc-dec-of-interests>*

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5th April 2016 at 2pm

The Constitution and Ethics Committee comprises the following members:

Councillor Mandy Smith (Chairwoman) Councillor David Brown Councillor Paul Bullen
Councillor Edward Cearns Councillor Roger Hickford Councillor John Hipkin Councillor Mac
McGuire Councillor Lucy Nethsingha Councillor Peter Reeve Councillor Kevin Reynolds
Councillor Jocelyne Scutt

For more information about this meeting, including access arrangements and facilities for people with disabilities, please contact

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CONSTITUTION AND ETHICS COMMITTEE: MINUTES

Date: Tuesday 19th November 2015

Time: 2.00pm – 3.40pm

Place: Kreis Viersen Room, Shire Hall, Cambridge

Present: Councillors M Smith (Chairwoman), P Ashcroft (substituting for Cllr Reeve), D Brown, P Bullen, E Cearn, S Frost (substituting for Cllr McGuire), R Hickford, J Hipkin, K Reynolds and J Scutt

Apologies: Councillors M McGuire, L Nethsingha and P Reeve

84. DECLARATIONS OF INTEREST

None

The Chairwoman welcomed Councillor Cearn to his first meeting of the Committee and thanked Councillor Taylor for her past contribution to its work.

85. MINUTES – 15th SEPTEMBER 2015 AND ACTION LOG

The minutes of the meeting held on 15th September 2015 were confirmed as a correct record and signed by the Chairwoman. The action log was noted.

86. GREATER CAMBRIDGE CITY DEAL EXECUTIVE BOARD DELEGATIONS

The Committee received a report setting out clarifications of the delegations made to the Greater Cambridge City Deal Executive Board and proposing that the Committee recommend to Council that the Constitution be amended to reflect these clarifications.

Members noted that the Executive Board's Terms of Reference currently delegated to the Board exercise of the three constituent Councils' functions 'to the extent necessary to enable the Board to pursue and achieve the objectives of the Greater Cambridge City Deal and to undertake any actions necessary, incidental or ancillary to achieving those objectives'. The functions covered by this wording were considered by officers to be Traffic Regulation Orders (TROs), Compulsory Purchase Orders (CPOs), Side Roads Orders (SROs), Transport and Works Act Orders (TWAOs), and the grant of planning consent; authority to exercise these functions related only to the carrying out of City Deal infrastructure schemes.

Discussing the report, Members

- pointed out that some Members had only received the report on the morning of the meeting, not allowing sufficient time for them properly to consider the matter
- noted that officers of all three Councils had been involved in the preparatory work for the report

- objected that the delegations proposed went beyond what had been previously decided, lacked transparency and democracy, and did not observe the principle of localism; the Leader of the County Council did not represent the Council's Highways and Community Infrastructure Committee
- queried why the County Council had only four members on the JDCC while Cambridge City and South Cambridgeshire each had six members, and asked that clarification of the rationale for this composition be brought to the Committee's next meeting **Action required**
- queried the validity of seeking to delegate delegated powers; another member commented that it was entirely usual for councils to delegate their powers
- pointed out that the proposals under discussion were restricted to City Deal schemes which were very tightly defined, and most of the delegations were of a technical nature; the ability to authorise TROs for example was part of the carrying out of these schemes
- objected that the Committee was being asked to recommend to Council that powers be removed from committees without giving them the opportunity to discuss the proposal; it would be better to take the proposed changes in their terms of reference to the Economy and Environment Committee and the Highways and Community Infrastructure Committee before Council made any decision on the matter
- suggested that no useful purpose would be served by referring the matter to the two Policy and Service Committees because the constituent Councils had already agreed the Terms of Reference for the City Deal Joint Assembly and Executive Board
- suggested that it would be important to the two Policy and Service Committees that they should have had the opportunity to discuss the matter before Council made its decision, and suggested that the Cambridge City Joint Area Committee's attention should also be drawn to the proposals
- reported that South Cambridgeshire District Council had not yet made any decision on the matter, and noted that Cambridge City Council had already approved the changes to the terms of reference of the Joint Development Control Committee (JDCC) for Cambridge Fringes
- asked that officers take the opportunity of any delay to look again at the report section on Localism and Local Member involvement and reinforce the importance of engagement with Local Members, particularly in such matters as TROs; although there were Local Members on the City Deal Assembly, the Assembly's role was purely advisory
- enquired whether the proposal to delay Council's decision on the changes to the Constitution would create any difficulties for emerging City Deal infrastructure schemes. Members were advised that the schemes were at an early stage of development and the process of exercising the functions in question would not start for at least six months.

In reply to a question on process, the Director of Law, Property & Governance advised that it would be permissible to ask the Economy and Environment Committee and the Highways and Community Infrastructure Committee to consider the matter and then refer it direct to Full Council for decision, without requiring further discussion by the Constitution and Ethics.

It was proposed by Councillor Hickford and seconded by Councillor Bullen

- that the Committee make no decision on the proposal to recommend to Council that the delegations made to the Greater Cambridge City Deal Executive Board be clarified
- that a report on the matter be put to the Highways and Community Infrastructure Committee and the Economy and Environment Committee and any subsequent approval for the proposal be taken straight to Full Council.

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

87. REVIEW OF APPEALS AGAINST DISMISSAL POLICY

The Committee received a report setting out the recommendation of the Staffing and Appeals Committee that the Constitution be amended to provide that all appeals against dismissal be heard by a Director sitting alone who would be completely independent of the case, rather than by a three-member panel drawn from the Staffing Appeals Committee membership.

Members noted that this recommendation had arisen from the Staffing and Appeals Committee's consideration of the findings of a review undertaken at the request of the Strategic Management Team (SMT); the review had looked particularly at how poor performance by employees was dealt with, and its findings had included that both employees and junior managers could find the experience of going to a Member appeal panel rather daunting. Currently, about five employees a year from a workforce of 5,500 were dismissed on performance-related grounds. There had been eight appeals against dismissal over the last three years, of which two had been upheld by the Service Appeals Sub-Committee. The matter had come to the Constitution and Ethics Committee for consideration because implementing the changed appeal policy would require amendments to the Constitution.

In the course of discussion, Members were divided on whether they supported the proposed change. In support of the change, Members said that

- a member of the Staffing and Appeals Committee had spoken strongly in favour of the change from the perspective of experience as a long-term employee of the Council; the matter should be referred to Council so that all Members could hear this plea
- without the change, managers would be more reluctant to dismiss because of concern that their decision would be overturned
- the change could be seen as part of enabling the organisation to become more efficient and more managerially stringent; if staffing levels were being reduced, one of the selection criteria should be performance.

Speaking against the proposed change in appeals procedure, two Members drew on their own experience of hearing appeals against dismissal, saying that staff appeared to be satisfied with the current arrangements. One Member recalled a case where it had emerged that there had been defects in how performance had been managed, such as annual appraisals not being carried out regularly; the Sub-Committee had upheld the appeal. In other cases, the appeal would have been decided differently had Members not been involved in hearing it.

Other comments by Members opposing the change included that

- Members were independent of the decision to dismiss, and could be seen to be independent
- the Staffing and Appeals Committee had been divided on whether to support the proposed change
- it would be impossible for a Director not to have some sort of prior knowledge of a case, whereas Members would come to it with a totally clear mind. Officers assured the Committee that the Director hearing the appeal would not have any prior knowledge of the case
- there was already criticism from some Members and some members of the public that the Council was too officer-led
- justice should not only be done but be seen to be done; how would an employee view the matter if the appeal against dismissal were to be determined by another officer of the same body that had made the decision to dismiss.

It was proposed by Councillor D Brown and seconded by Councillor Hickford that the report recommendation be amended [deleted text struck through, new text underlined] to read:

~~The Committee is asked to recommend to Council that~~recommends that full Council consider whether the constitution be amended in accordance with the recommendation of the Staffing and Appeals Committee, that all* appeals against dismissal will be heard by a Director sitting alone who would be completely independent of the case (* except for Chief Officers and where procedures for statutory officers apply).

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

It was resolved by a majority

to recommend that full Council consider whether the Constitution be amended in accordance with the recommendation of the Staffing and Appeals Committee, that all* appeals against dismissal will be heard by a Director sitting alone who would be completely independent of the case (* except for Chief Officers and where procedures for statutory officers apply).

88. CODE OF CONDUCT: DECLARATION OF MEMBERSHIP OF THE FREEMASONS

The Committee received a report briefing it on the legal position in relation to registration and declaration of membership of the Freemasons, and asking it to consider whether the Code of Conduct should be amended to invite Members to declare their membership of bodies such as clubs, associations and charitable organisations. The Committee was considering the matter at Council's request.

The Chairwoman expressed the Committee's gratitude for the work that had gone into researching the legal position and producing the report. Councillors Bullen and D Brown stated that their declarations of interest already included membership of the Freemasons. Councillor Brown explained that East Cambridgeshire District Council, of which he was a member, required Members to declare membership of the Freemasons, and he declared it on the County register of interests in the interests of consistency.

In the course of discussion, Members expressed the view that the existing Code of Conduct was satisfactory, that to ask Members to declare their membership of a wide range of organisations would be absurd, and that modifying the Code of Conduct in the way proposed would be to invite challenge. One Member observed that the report did not cover the remit from Council, as it made no mention of officers' membership of the Freemasons.

The Committee resolved by a majority to dismiss the report and the recommendation to amend the Code of Conduct.

89. DECISION REVIEW – RESCISSION

The Committee received a report on the rescission of decisions within the first six months of being made; the report also looked at the procedure for cancelling meetings. At its previous meeting, the Committee had noted that the Constitution had different procedures for rescinding decisions made by Council and made by Committees, and had decided to defer further consideration of this until the Cambridge Library Enterprise Centre (CLEC) review had been published. This had been published in October 2015, and had raised the question of whether Council or the committee should have authority to rescind a committee decision.

Members welcomed the report's recommendations, noting that a minimum of five members of a thirteen-member committee would be required to sign a notice of motion to rescind. In discussion, some Members suggested that the number of Members required to sign a notice of motion to rescind a decision by a committee should be half the membership; others disagreed, saying that seven would be too high a number in a committee of thirteen.

It was proposed by Councillor Hickford and seconded by Councillor Frost that the first report recommendation be amended [~~deleted text struck through~~, new text underlined] to read:

revision of Rule 17 of the Committee and Sub-Committee Procedure Rules (Previous Decisions and Motions) to include a requirement that, in order to request that a decision made within the past six months be rescinded, a notice of motion must be signed by at least ~~one-third~~ half of the Members of the relevant Committee.

On being put to the vote, the amendment was carried by a majority. Councillor Scutt requested that her vote against the amendment be recorded.

It was resolved that the Committee recommend to Council:

1. a) revision of Rule 17 of the Committee and Sub-Committee Procedure Rules (Previous Decisions and Motions) to include a requirement that, in order to request that a decision made within the past six months be rescinded, a notice of motion must be signed by at least half of the Members of the relevant Committee
- b) that a decision to rescind a previous resolution should be exempt from the decision review process
2. amendment of Rule 17 of the Committee and Sub-Committee Procedure Rules as set out in Appendix A of the report before Committee
3. amendment of Part 4.1 (Council Procedure Rules) and Part 4.4 of the Constitution (Committee and Sub-Committee Procedure Rules) to include authority for the Monitoring Officer, in consultation with the Chairman/woman of the Council or Committee, to cancel a Council or Committee meeting
4. that 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.

90. ARRANGEMENTS FOR CONDUCTING A MINI REVIEW OF GOVERNANCE PROCEDURES

The Committee received a report inviting it to consider how best to conduct the mini review of governance procedures that had been requested by Council when it had approved modifications to the committee governance procedures in March 2015.

Members agreed that it would be appropriate to conduct the review by email. It was suggested that the email set out the changes made following the previous review, ask Members to say how they felt the changes had improved procedures, and invite Members to identify further matters that needed to be addressed.

It was resolved unanimously

that the mini review be conducted by inviting Members and the Corporate Leadership Team by email to identify any points of difficulty that they have experienced in operating the governance system since 24th March 2015.

91. LOCAL PENSION BOARD – TERMS OF REFERENCE AND STANDING ORDERS

The Committee received a report setting out draft Standing Orders for the Local Pension Board; the recommendation was to adopt these in order to meet the requirements of government Guidance on the creation and operation of Local Pension Boards in England and Wales. Members noted that the Pension Board had recommended that the Committee recommend the Standing Orders to Council.

It was resolved unanimously

to recommend to Council the draft Standing Orders for the Local Pension Board as set out in Appendix B of the report before Committee.

92. SUMMARY OF ACTIVITY IN RELATION TO THE REGULATION OF INVESTIGATORY POWERS ACT 2000

The Committee received a report of Council activity under the Regulation of Investigatory Powers Act 2000 (RIPA) for the financial year 2014-15, as required by the Council's RIPA policy. It noted that the Assistant Surveillance Commissioner had undertaken an inspection of the Council in June 2015. He had found that the Council's RIPA performance had improved substantially since the previous inspection in 2012, and had made a number of recommendations; the Council's RIPA policy would be updated in line with these recommendations.

In discussion, Members broadly welcomed the report but said that it would have been helpful to have been told more about the Assistant Surveillance Commissioner's recommendations. The Chairwoman asked the RIPA Monitoring Officer to send an email to the Committee explaining the changes that were to be made to the Council's RIPA policy.

Action required

The Committee noted the report.

93. A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT TO 6 NOVEMBER 2015

The Committee received a report setting out the number and nature of the complaints received about Members under the Code of Conduct from 11th June 2015 to 6 November 2015.

The Committee noted the report.

94. FORWARD AGENDA PLAN

The Committee reviewed its forward agenda plan and agreed to add the analysis of the findings of the mini review of governance procedures to the agenda for its meeting in February 2016.

95. DATE OF NEXT MEETING

It was noted that the next meeting was due to take place at 2pm on Thursday 4th February 2016; this was a change from the date on the Council Meeting Card.

Chairwoman

CONSTITUTION AND ETHICS COMMITTEE ACTION LOG –MINUTES OF 19 NOVEMBER 2015

MIN.NO.	TITLE OF REPORT / MINUTE AND ACTION REQUESTED	ACTION BY	COMMENTS
86.	GREATER CAMBRIDGE CITY DEAL EXECUTIVE BOARD DELEGATIONS		
	<p>Queried why the County Council had only four members on the JDCC while Cambridge City and South Cambridgeshire each had six members, and asked that clarification of the rationale for this composition be brought to the Committee's next meeting</p> <p>Resolved that a report on the proposal (to recommend to Council that the delegations made to the Greater Cambridge City Deal Executive Board be clarified) be put to the Highways and Community Infrastructure Committee and the Economy and Environment Committee, and any subsequent approval for the proposal be taken straight to Full Council.</p>	<p>R Yule</p> <p>M Rowe</p>	<p>A large part of the JDCC's remit concerns the determination of planning applications (as set out in Constitution Part 3A-C). The 4+6+6 allocation of seats has been in place since its start in July 2007, as agreed by Cabinet in April 2007 and Council in May 2007 (and by the City and South Cambs councils in May 2007). There is no record of the allocation being discussed at any of these meetings; it gives a majority to the principal development control authorities (i.e. City and South Cambs) even where matters are being determined by the County and one other authority.</p> <p>Considered by H&CI Committee on 12.01.16 and by E&E Committee on 19.01.16. On Council agenda for 16.02.16</p>
87.	REVIEW OF APPEALS AGAINST DISMISSAL POLICY		
	<p>Resolved to recommend to Full Council that:</p> <p>Council consider whether the Constitution be amended in accordance with the recommendation of the Staffing and Appeals Committee, that all* appeals against dismissal will be heard by a Director sitting alone who would be completely independent of the case (* except for Chief Officers and where procedures for statutory officers apply)</p>	M Rowe	Agreed by Council on 15.12.15

MIN.NO.	TITLE OF REPORT / MINUTE AND ACTION REQUESTED	ACTION BY	COMMENTS
89.	DECISION REVIEW – RESCISSION		
	<p>Resolved that the Committee recommend to Council:</p> <ol style="list-style-type: none"> 1. a) revision of Rule 17 of the Committee and Sub-Committee Procedure Rules (Previous Decisions and Motions) to include a requirement that, in order to request that a decision made within the past six months be rescinded, a notice of motion must be signed by at least half of the Members of the relevant Committee b) that a decision to rescind a previous resolution should be exempt from the decision review process 2. amendment of Rule 17 of the Committee and Sub-Committee Procedure Rules as set out in Appendix A of the report before Committee 3. amendment of Part 4.1 (Council Procedure Rules) and Part 4.4 of the Constitution (Committee and Sub-Committee Procedure Rules) to include authority for the Monitoring Officer, in consultation with the Chairman/woman of the Council or Committee, to cancel a Council or Committee meeting 	M Rowe	Agreed by Council on 15.12.15
90.	ARRANGEMENTS FOR CONDUCTING A MINI REVIEW OF GOVERNANCE PROCEDURES		
	Resolved that the mini review be conducted by inviting Members and the Corporate Leadership Team by email to identify any points of difficulty that they have experienced in operating the governance system since 24th March 2015.	M Rowe	<p>Email sent to Members and Corporate Leadership Team on 02.12.15.</p> <p>Mini review on Committee agenda for 04.02.16 (agenda item 3)</p>
91.	LOCAL PENSION BOARD – TERMS OF REFERENCE AND STANDING ORDERS		
	Resolved to recommend to Council the draft Standing Orders for the Local Pension Board		Agreed by Council on 15.12.15
92.	FORWARD AGENDA PLAN		
	Add analysis of findings of the mini review to February agenda	R Yule	See agenda item 3.

MINI REVIEW OF GOVERNANCE PROCEDURES

To: Constitution and Ethics Committee

Meeting Date: 4th February 2016

From: LGSS Director of Law, Property & Governance and Monitoring Officer

Electoral division(s): All

Purpose: To consider the results of a mini review of Cambridgeshire County Council's governance procedures.

Recommendation: The Constitution and Ethics Committee is invited to:

- recommend any revisions to the Council's Constitution to full Council on 16 February 2016; and
- recommend any changes to the timing of full Council to Group Leaders for approval as part of the revised County Council Meeting Cards 2015/16 and 2016/17.

<i>Officer contact:</i>	
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1. BACKGROUND

- 1.1 Cambridgeshire County Council converted from a Leader Cabinet form of governance to a Committee System with effect from May 2014.
- 1.2 A review of the operation of the new governance system was conducted between November 2014 and January 2015. An electronic questionnaire was made available to all members and officers from late November to late December 2014, containing questions relating to specific aspects of the system and a section for general comments. The Constitution and Ethics Committee then held a workshop in January 2015 to consider the responses to the survey, and considered the results of the review at its meeting on 3rd March 2015.
- 1.3 On 24th March 2015, Full Council considered the Committee's recommendations for revisions to the Constitution and other proposals arising from the review.
- 1.4 As part of its decision on modifications to the governance system, Council agreed to the recommendation that it ask the Constitution and Ethics Committee to conduct a mini review in a year's time in order to consider whether to recommend any changes to the detailed governance procedures to Council.
- 1.5 At its last meeting, the Committee agreed that it would be appropriate to conduct the review by email. It was suggested that the email set out the changes made following the previous review, ask Members to say how they felt the changes had improved procedures, and invite Members to identify further matters that needed to be addressed. It was resolved unanimously that the mini review be conducted by inviting Members and the Corporate Leadership Team by email to identify any points of difficulty that they have experienced in operating the governance system since 24th March 2015.
- 1.6 All Members and Corporate Leadership Team were emailed on 2nd December 2015 with a request to respond by Friday 1st January 2016. A reminder was sent on 23rd December 2015.

2. RESPONSES TO THE MINI REVIEW

- 2.1 13 responses were received to the mini review including a collective response from Economy, Transport and Environment. The comments are set out below.
- 2.2 A number of respondents thought the committee system was working well and that the change in committee size had been an improvement and a positive step. There was a view that the system had coped with a number of challenges over the year, and whilst there had been a need to review the way the system had worked under pressure, it was felt that it had coped relatively well. Respondents particularly welcomed the clarity around not taking 'for information' papers to committees.
- 2.3 There is still some confusion around the relationship of General Purposes Committee to Policy and Service Committees. One respondent highlighted the issue of service decisions linked to asset decisions which are made by General Purposes Committee. It was felt that there was a lack of co-ordination between officers and members about reports that go to both policy and service committees and General Purposes Committee. There is a view that the role and remit of General Purposes Committee needs to be clearer.

- 2.4 As part of the review, it has been proposed that full Council should commence at 2.00p.m. This proposal is supported by the Conservative Group which proposes a 1.30p.m. start.
- 2.5 There is some concern as to where responsibility for a given issue should lay, for example, Staffing and Appeals Committee recommended to Constitution and Ethics Committee changes to the Service Appeals Sub-Committee which were then challenged by Constitution and Ethics Committee.
- 2.6 One respondent has raised the issue of where there are two very connected agendas with leads sitting in different committees. For example, Health Committee having a lead on the activity to commission some specific children's health services (health visiting and school nursing) with other elements of preventative children services (such as children's centres) sitting with the Children and Young People Committee. There is a risk that decisions are taken by members outside of the wider context.
- 2.7 Another comment relates to work which overlaps between Committees, such as Community Resilience and Risk, which can mean there's a risk of duplication.
- 2.8 One respondent commented on the need to improve the Spokes system and felt there was a reluctance to allow members to determine the agendas and the workload of the committee. There has also been comment that attendance at Spokes is not as good as it could be. Although substitutions are named they never really turn up if the main Spokesperson cannot attend.
- 2.9 The last review identified the need to provide a summary of each policy and service committee to full Council but the purpose of this has been challenged when no discussion is permitted.
- 2.10 One respondent commented on the lack of clarity about the role of the Vice-Chairman/woman. On the one hand it viewed purely as a substitute for the Chairman/woman but at the same time key documents are often delegated by the committee to the chair and vice-chair to sign off. There is a potential conflict of interest between the role of vice-chair and spokes but under the committee system the two were not recognised as having to be undertaken by two different people.
- 2.11 Another respondent commented that Spokes meetings being the only conduit for agenda items is unnecessarily restrictive, particularly as not all members are not usually aware of the dates of spokes meetings. Any member should be able to put an item on a committee agenda.

3. ACTION IN RESPONSE TO THE MINI REVIEW

- 3.1 With reference to paragraph 2.3 regarding the confusion around the relationship of General Purposes Committee to policy and service committees, it is proposed to hold training at a Members' Seminar on Friday 15 April 2016 covering the current role of General Purposes Committee and how it relates to policy and service committees.
- 3.2 There is no constitutional reason why the timing of Council cannot be moved. Group Leaders approve the County Council Meeting Card each year so any proposed change would need to be signed off by Group Leaders. However, it is important to note that one respondent has highlighted the need to ensure that members coming from a distance do not get home too late and another has suggested a 1.00p.m. start as his bus home becomes less frequent after 6.00p.m.

- 3.3 With reference to paragraph 2.5 regarding the issue of changes to the Service Appeals Sub-Committee. The Service Appeals Sub-Committee comes under the remit of the Staffing and Appeals Committee which has authority to oversee its work. It is therefore appropriate that any changes to the work of this Sub-Committee should be considered and recommended to Council by the Staffing and Appeals Committee. However, these changes resulted in the need to amend the Constitution which is the responsibility of the Council's Constitution and Ethics Committee. It is not for the Constitution and Ethics Committee to challenge the recommendation of the Staffing and Appeals Committee, its role is to recommend amendments to the Constitution to Council resulting from this recommendation. The challenge should remain the responsibility of full Council.
- 3.4 With reference to paragraph 2.6 where there are two very connected agendas with leads sitting in different committees. This issue highlights the importance of member training. The Constitution and Ethics Committee will remember that Council agreed each service committee should consider and approve its own training plan at every meeting. It would therefore seem appropriate to have a joint training session for Children and Young People and Health Policy and Service Committees covering all elements of preventative children services to ensure that all members involved in decision making are aware of the connection between issues.
- 3.5 There has been a considerable amount of work undertaken to prevent duplication and the risk of committees taking different decisions when work overlaps between committees. Officers are well aware of the need to avoid taking the same report to two different committees. However, it is, on occasion, unavoidable.
- 3.6 A workshop took place on 25th August 2015 focusing on a review of the role descriptions for Chairmen/women and Spokes. Following this workshop, the Member Development Panel is currently reviewing the Member role descriptions and is considering draft guidance on the operation of Spokes meetings and Chairman/woman/Vice-Chairman/woman's briefing meetings. The Panel has e-mailed all Members for their views. All Spokes are asked to record their attendance at Spokes meetings. It is important to note that in the Council's Members' Allowances Scheme that where a councillor in receipt of a special responsibility allowance fails to attend at least 50% of the meetings for which that allowance is paid in any six month period, that councillor shall be invited to repay an appropriate sum of the allowance received during that period.
- 3.7 As part of the previous review, the Committee considered the need for the work of the service committees to be reported to full Council. However, it acknowledged the importance of avoiding the same debate being repeated in a different setting. It was therefore agreed by full Council that it should receive a short (two sides of A4) report at its annual meeting in May.
- 3.8 As set out in paragraph 3.6, the role description of the Vice-Chairman/woman is being considered by the Member Development Panel. The Constitution does not provide for the Vice-Chairman/woman to have any additional responsibilities other than to substitute for the Chairman/woman when he/she is unavailable. It is important to remember that Council took a decision, as part of the review of the Members' Allowances Scheme, that where a group holds the vice-chairman/womanship on a committee a separate allowance for spokes will not be payable in respect of that group and that committee.

- 3.9 Every Policy and Service Committee Agenda Plan, which is published on the Council's website on a monthly basis, should include the dates of all Spokes meetings. The Council approved a process for adding agenda items requested by Councillors, which is included in the Constitution (see below).

“Any Councillor who wishes an item relevant to the functions of a committee to be included on the agenda of that committee shall register a request with their spokesman/woman for that committee. The spokesman/woman shall refer the matter to the next available meeting of committee spokesmen/women. The relevant Executive Director, after consultation with the committee spokesmen/women, shall be authorised to determine whether the item should be included on the agenda of the next available or a subsequent meeting. Where so approved, the Democratic Services Manager shall arrange for the item to be included on an agenda in accordance with the agreed timescale, subject to compliance with statutory notice requirements, and shall notify the Councillor who requested the item accordingly. Where the request is not approved, the Democratic Services Manager will arrange to inform the Councillor of the reasons why the Executive Director, after consultation with the committee spokesmen/women, has decided not to include the item on an agenda of the committee.”

It is possible that there could be a considerable amount of abortive work if any member is able to put an item on a committee agenda without going through the Spokes system first.

4.0 ORAL QUESTIONS AT COUNCIL

- 4.1 Arising from the Chairmen/women/Spokes workshop held in August 2015, the Member Development Panel agreed to feed into the mini-review a request for the Committee to consider whether there should continue to be an oral question time at Council meetings for questions addressed to Committee Chairmen/women.
- 4.2 Under the previous Cabinet system of governance, Cabinet members were each responsible for different areas of the Council's work, known as portfolios. Under the Committee system of governance, responsibility for the Council's work is shared amongst committees rather than given to individuals, and the Chairman/woman of a committee is responsible for the proper conduct of the meeting, rather than for the decisions made.
- 4.3 As part of the previous review of the governance system, 67% of respondents (37 people) said, when asked, that the Constitution and Ethics Committee should consider whether oral question time at Council should continue given the change to a committee system i.e. questions be directed to Spokes instead. At their workshop to consider the survey results, members of the Constitution and Ethics Committee were of the view that oral question time should continue in its present form, but highlighted the need for Members to bear in mind that the Committee Chairman/woman was not the Cabinet Portfolio Holder and could therefore not commit the Committee to actions without its agreement. It was important that Members used oral question time only after exhausting all avenues first.
- 4.4 In view of the request of the Member Development Panel, the Constitution and Ethics Committee is invited to consider whether there is still a place for oral questions at Council, and if there is, who should be the recipients of the questions.

Source Documents	Location
Minutes of County Council 24th March 2015	http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/Meeting.aspx?meetingID=925
Report to and minutes of Constitution and Ethics Committee 3rd March 2015	http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/Meeting.aspx?meetingID=974
Minutes of Constitution and Ethics Committee 19th November 2015	http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/Meeting.aspx?meetingID=1085

SECTION 85 LOCAL GOVERNMENT ACT 1972 –
RECOMMENDATION TO EXTEND SIX MONTH RULE

To: **Constitution and Ethics Committee**

Meeting Date: **2ndFebruary 2016**

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

Electoral division(s): **All**

Purpose: **To consider a proposal that Council should consider
introducing a policy to allow only one extension to the six
month rule in any four year municipal period.**

Recommendation: **Constitution and Ethics Committee is invited to consider
whether it should introduce a policy to allow only one
extension to the six month rule in any four year municipal
period.**

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1. BACKGROUND

- 1.1 At the last meeting of Council on 15th December 2015, Council approved the non-attendance of two Councillors at meetings of the Council due to ill-health up to 15th June 2016 pursuant to Section 85 of the Local Government Act 1972.
- 1.2 At the same meeting Councillor Count proposed that the Council should consider introducing a policy to allow only one extension in any four year municipal period, Councillor Hickford undertook to raise this issue at Constitution and Ethics Committee.
- 1.3 The law states that if a member of a local authority fails throughout a period of six consecutive months, from the date of his/her last attendance to attend any meeting of the authority, s/he shall, unless the failure was due to a reason approved by the authority before the expiry of that period, cease to be a member of the Authority.
- 1.4 An authority cannot retrospectively approve an excuse for failure to attend meetings after the six month period has expired.
- 1.5 The legislation does not prevent the Council introducing a policy whereby only one extension will be permitted in any four year municipal period. However, it is important to note that the office becomes vacant only, when the authority declares it to be vacant, which the authority must do, and a casual vacancy arises.
- 1.6 The Council has not been able to identify any other authority which has introduced a similar policy. This is because Councils need to judge each application on its merit in order to prevent fettering its discretion. In other words, an authority will be acting unreasonably where it refuses to hear applications or makes certain decisions without taking individual circumstances into account by reference to a certain policy. When an authority is given discretion, it cannot bind itself as to the way in which this discretion will be exercised either by internal policies or obligations to others. Even though an authority may establish internal guidelines, it should be prepared to make exceptions on the basis of every individual case. It is therefore important to note that the Council could be opening itself up to legal challenge if it introduced a 'blanket policy'.

Source Documents	Location
Minutes of County Council 15th December 2015	http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/Meeting.aspx?meetingID=1076
Section 85 of Local Government Act	http://www.legislation.gov.uk/ukpga/1972/70/section/85

MILTON KEYNES COUNCIL TO JOIN LGSS SHARED SERVICES PARTNERSHIP

To: Constitution and Ethics Committee

Meeting Date: 4th February 2016

From: LGSS Director of Law, Property & Governance and Monitoring Officer

Electoral division(s): All

Purpose: The Committee is asked to consider the new scheme of delegation for the LGSS Joint Committee for inclusion in the Council's Constitution.

Recommendation: The Constitution and Ethics Committee is invited to:

recommend the new scheme of delegation for the LGSS Joint Committee, for inclusion in the Council's Constitution, to full Council on 22nd March 2016.

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1. BACKGROUND

- 1.1 LGSS and Milton Keynes Council (MKC) have been working together to develop an Outline Business Case (OBC) for MKC to join the LGSS shared services partnership.
- 1.2 This followed a decision by MKC cabinet in October 2015 to give approval for the completion of an OBC for MKC to join LGSS as a full Joint Committee partner, which has been followed by a period of detailed discussions, including workshops between Heads of Service and Directors from both organisations, to inform the contents of the OBC.
- 1.3 The medium-term financial plans of LGSS (and therefore both Cambridgeshire County Council (CCC) and Northamptonshire County Council (NCC)) include assumptions regarding income targets from 'trading' or new shared services arrangements with other authorities.
- 1.4 If approved, final arrangements for MKC to join the LGSS Joint Committee would require the approval of full council from CCC, NCC and MKC, as this would include the amendment of the existing Partnering and Delegation Agreement between CCC and NCC which set up the LGSS Joint Committee. A report recommending that CCC approve the proposal for MKC to become a full partner of LGSS in line with the OBC will be presented to full Council on 22 March 2016.
- 1.5 Based on the OBC, General Purposes Committee (GPC) approved the proposal for MKC to join LGSS shared services. GPC has also along with NCC and MKC's Cabinets given approval to delegate to the LGSS Managing Director in consultation with the Chairman, Vice Chairman and Members of the LGSS Joint Committee, authorisation to negotiate and agree, subject to appropriate terms:
 - a. the provision of services to MKC, under the auspices of the LGSS Joint Committee and the terms and conditions under which the Partnering and Delegation Agreement (PDA) will operate;
 - b. any changes to the staffing structures necessary or incidental to the implementation of the service delivery; and
 - c. to prepare, approve and complete any necessary legal documentation, including a proposal for amendments to the current PDA between CCC and NCC relating to the setup of LGSS (and any resulting changes to the constitutions of CCC and NCC). This proposal will be brought to CCC and NCC Full Council for approval.

2. CONSTITUTIONAL CHANGES

- 2.1 Democratic Services Managers at CCC and NCC, with some guidance from the Director of Law, Property & Governance, have been working on the new format to create a single scheme of delegation for the LGSS Joint Committee encompassing and where possible combining the schemes of delegation from partner councils to the Joint Committee.

- 2.2 The single scheme of delegation for the LGSS Joint Committee is currently out for consultation. A draft will be circulated to the Constitution and Ethics Committee on Monday 2 February 2016 for consideration at its meeting on 4 February 2016. The Committee will be asked to recommend this new scheme of delegation for the Joint Committee for inclusion in the Council's Constitution to full Council on 22nd March 2016.

Source Documents	Location
Minutes of General Purposes Committee 14th January 2016	http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/Meeting.aspx?meetingID=1095

OFFICIAL OPENINGS

To: **Constitution and Ethics Committee**

Date: **4th February 2016**

From: **LGSS Director Law, Property and Governance**

Electoral division(s): **All**

Purpose: **To consider arrangements for conducting official openings of buildings or projects that have been developed by a Committee of the Council.**

Recommendation: **The Committee is asked to consider the approach to be taken with regard to conducting of official openings of facilities/projects that have been promoted by a Committee and whether such events should not be regarded as “civic” functions.**

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1. BACKGROUND

- 1.1 The Committee, at its meeting held on 3rd March 2015, considered a report regarding the need to clarify the roles and responsibilities of the Chairman/woman of Cambridgeshire County Council.
- 1.2. On the recommendation of this Committee, the Council agreed to amend Article 5 of the Constitution to clarify the role of the Chairman/woman and to reflect the types of civil and ceremonial functions the Chairman/woman should deal with. A copy of Article 5 is attached at Appendix A to this report.
- 1.3 Members will see from Appendix A, that the types of civic functions the Chairman should deal with includes:-
- presiding over citizenship ceremonies
 - presenting awards
 - officially opening new buildings and projects
 - attending twinning events
 - attending funerals of Members and officers who die in service and civic dignitaries past and present.

The Article provides that in the case of doubt as to what does and does not constitute a civic or ceremonial function, the final decision shall rest with the Monitoring Officer following discussion with the Chairman/woman.

2. PRESIDING AT OFFICIAL OPENINGS

- 2.1 Article 5 indicates that the Council Chairman/woman should conduct official openings of buildings and projects.
- 2.2 The Council may be involved in the development of various projects and buildings and some of these may be driven through individual Committees. It has been suggested that where an official opening relates to a project promoted through a Committee, then the relevant Chairman/woman should be responsible for conducting the opening, rather than it being regarded as a civic function and therefore the duty of the Chairman/woman of the Council.
- 2.3 Whilst the Monitoring Officer has authority to determine what constitutes a civic or ceremonial function, it would be helpful to receive a steer from the Committee on the suggestion that Committee Chairmen/women should perform openings relating to their Committee projects.

3. CONCLUSION

- 3.1 Article 5 of the Constitution currently provides that the Chairman/woman of the Council will perform official opening of buildings and projects. However, a view has been expressed that this should not apply to openings of facilities or projects promoted by a Committee and that, instead, they should not be regarded as civic functions and therefore this duty should fall to the relevant Committee Chairman/woman. The views of the Committee are invited on this issue to guide the approach taken to conducting future such openings.

Source Documents	Location
Constitution	http://www.cambridgeshire.gov.uk/info/20050/council_structure/288/councils_constitution

ARTICLE 5 – CHAIRING THE COUNCIL

5.01 Role and Function of the Chairman/woman of the Council

The Chairman/woman of the Council will be elected by the Council at the Annual Meeting. The Chairman/woman of Council, and in the Chairman/woman's absence the Vice-Chairman/woman, will have the following roles and functions:

1. To uphold and promote the purposes of the Constitution.
2. To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community.
3. To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members are able to hold each other to account.
4. To promote public involvement in the Council's activities.
5. To be the conscience of the Council.
6. To attend such civic and ceremonial functions as the Council and the Chairman/woman determine appropriate, for example to:-
 - preside over citizenship ceremonies
 - present awards
 - officially open new buildings and projects
 - attend twinning events
 - attend funerals of Members and officers who die in service and civic dignitaries past and present.

In the case of doubt as to what does and does not constitute a civic or ceremonial function, the final decision shall rest with the Monitoring Officer following discussion with the Chairman/woman.

OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014

To: Constitution and Ethics Committee

Meeting Date: 4th February 2016

From: LGSS Director of Law, Property & 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.

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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.

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. The Council has so far published 12 decisions (breakdown as follows – Economy & Environment -1, General Purposes – 5, and Highways and Community Infrastructure – 6).

- 2.2 Consultation with other authorities regarding materiality in relation to decisions to be recorded under the above 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. CONCLUSION

- 3.1 There is still a desire to minimise the bureaucratic impact of this duty to record decisions. Given the information available from other authorities, it is therefore suggested that the threshold of £250,000 should be remain.

Source Documents	Location
Agenda & Minutes of Council 12th May 2015	http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/Committee.aspx?committeeID=12
Agenda & Minutes of Constitution and Ethics Committee 28th April 2015	http://www2.cambridgeshire.gov.uk/CommitteeMinutes/Committees/Committee.aspx?committeeID=59

A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT TO 22 JANUARY 2015

To: Constitution and Ethics Committee

Meeting Date: 4 February 2016

From: LGSS Director of Law, Property & Governance and Monitoring Officer

Electoral division(s): All

Forward Plan ref: N/A **Key decision:** No

Purpose: To brief the Constitution and Ethics Committee on the number and nature of the complaints received about Members under the Code of Conduct from 7 November 2015 to 22 January 2016.

Recommendation: It is recommended that the Constitution and Ethics Committee note the contents of this report.

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1. INTRODUCTION

- 1.1. The Localism Act (“the Act”) places a statutory duty on the County Council to promote and maintain high standards of conduct amongst its Members and co-opted Members. This includes the obligation on the County Council to have in place a Code of Conduct setting out the standard of conduct expected of Members when acting in their capacity as County Councillors.
- 1.2. The requirements of the Act are supported by Article 9 of the Constitution, which also requires the Constitution and Ethics Committee to monitor the operation of the Code of Conduct and the complaints received under it.
- 1.3. This report serves to provide the Constitution and Ethics Committee with an overview of the complaints received under the Code of Conduct from 7 November 2015 to 22 January 2016.

2. OVERVIEW OF COMPLAINTS

- 2.1. From 7 November 2015 to 22 January 2016, no complaints were received by the Monitoring Officer.

Source Documents	Location
None	

<p>CONSTITUTION AND ETHICS COMMITTEE</p> <p>AGENDA PLAN</p>

DATE	AGENDA ITEMS – reserve date		
23.02.16			

DATE	AGENDA ITEMS		
05.04.16			
	1.	Declaration of Interests	R Yule
	2.	Minutes	R Yule
	3.		
	4.		
	5.		
	6.	Annual report on whistleblowing incidents	Q Baker
	7.	Quarterly report on investigation of complaints*	E O'Connor
	8.	Agenda Plan	R Yule

DATE	AGENDA ITEMS		
30.06.16			
	1.	Election of Vice-Chairman/woman	
	2.	Declaration of Interests	R Yule
	3.	Minutes	R Yule
	4.		
	5.		
	6.		
	7.	Quarterly report on investigation of complaints*	E O'Connor
	8.	Agenda Plan	R Yule

DATE	AGENDA ITEMS		
22.09.16			
	1.	Declaration of Interests	R Yule
	2.	Minutes	R Yule
	3.		
	4.		
	5.	Selection and appointment of members of the County Council's Independent Remuneration Panel	
	6.	Appointment of Independent Person(s) [current appointments are to 15th October 2016]	Q Baker
	7.	Quarterly report on investigation of complaints*	E O'Connor
	8.	Agenda Plan	R Yule

DATE 24.11.16	AGENDA ITEMS		
	1.	Declaration of Interests	R Yule
	2.	Minutes	R Yule
	3.		
	4.		
	5.		
	6.	Quarterly report on investigation of complaints*	E O'Connor
	7.	Agenda Plan	R Yule

DATE 26.01.17	AGENDA ITEMS		
	1.	Declaration of Interests	R Yule
	2.	Minutes	R Yule
	3.		
	4.		
	5.	Summary of activity in relation to the Regulation of Investigatory Powers Act 2000**	S Edge
	6.	Quarterly report on investigation of complaints*	E O'Connor
	7.	Agenda Plan	R Yule

DATE 02.03.17	AGENDA ITEMS – reserve date		

DATE 20.04.17	AGENDA ITEMS		
	1.	Declaration of Interests	R Yule
	2.	Minutes	R Yule
	3.		
	4.		
	5.	Annual report on whistleblowing incidents	Q Baker
	6.	Quarterly report on investigation of complaints*	E O'Connor
	7.	Agenda Plan	R Yule

* Council report on agenda item 7, July 2012, refers

** Extract from minutes of Standards Committee 3rd July 2009:

The Committee noted that the Council had approved a number of changes to procedures relating to the exercise of powers under the Regulation of Investigatory Powers Act (RIPA) 2000. This included presenting an annual monitoring report on the use of the powers to the Standards Committee. The Committee's terms of reference had been amended to facilitate this.