

CONSTITUTION AND ETHICS COMMITTEE



Tuesday, 23 April 2024

Democratic and Members' Services
Emma Duncan
Service Director: Legal and Governance

14:00

New Shire Hall
Alconbury Weald
Huntingdon
PE28 4YE

Red Kite Room
New Shire Hall, Alconbury Weald, Huntingdon, PE28 4YE

AGENDA

Open to Public and Press

1. **Apologies for absence and declarations of interest**
Guidance on declaring interests is available at
<http://tinyurl.com/ccc-conduct-code>
2. **Minutes - 14 November 2023** **3 - 6**
3. **Petitions and Public Questions**
4. **Monitoring Officer Report 2023-24** **7 - 22**
5. **Disciplinary Procedure for Statutory Officers** **23 - 34**
6. **A Review of the Complaints Received Under the Members' Code of Conduct** **35 - 36**
7. **Arrangements for the Appointment of Independent Person(s)** **37 - 40**

8.	County Council – Proposed Changes to the Constitution	41 - 66
9.	Constitution and Ethics Committee - Agenda Plan	67 - 68

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The Constitution and Ethics Committee comprises the following members:

Councillor Douglas Dew (Chair) Councillor Sebastian Kindersley (Vice-Chair) Councillor David Ambrose Smith Councillor Alex Bulat Councillor Lorna Dupre Councillor Janet French Councillor John Gowing Councillor Kevin Reynolds and Councillor Tom Sanderson

Clerk Name:	Nick Mills
Clerk Telephone:	
Clerk Email:	Nicholas.Mills@cambridgeshire.gov.uk

Constitution and Ethics Committee Minutes

Date: 14 November 2023

Time: 2:00 p.m. – 3:15 p.m.

Venue: New Shire Hall, Alconbury Weald

Present: Councillors Sebastian Kindersley (Vice-Chair), David Ambrose Smith, Alex Bulat, Lorna Dupré, Mark Goldsack, John Gowing, Tom Sanderson, and Philippa Slatter

49. Apologies for Absence and Declarations of Interest

Apologies for absence were received from Councillors Gerri Bird (substituted by Councillor Bulat), Mac McGuire (substituted by Councillor Goldsack), Kevin Reynolds, and Graham Wilson (substituted by Councillor Slatter).

There were no declarations of interest.

50. Minutes – 13 September 2023

The minutes of the meeting held on 13 September 2023 were agreed as a correct record and signed by the Vice-Chair.

51. Annual Budget Meeting – Business Plan Debate

The committee received a report which proposed that the protocol for debating the Council's business plan each year be incorporated into the Constitution.

It was resolved unanimously to:

Recommend to Full Council the revisions to the Constitution set out in Appendix 1 of the report.

52. Cambridgeshire and Peterborough Health and Wellbeing Board – Revised Terms of Reference

The committee received a report which proposed changes to the terms of reference of the Cambridgeshire and Peterborough Health and Wellbeing Board / Integrated Care Partnership related to membership, quorum, appointment of substitutes, and declarations of interest.

It was resolved unanimously to:

Recommend the revised terms of reference of the Cambridgeshire and Peterborough Health and Wellbeing Board / Integrated Care Partnership, as set out in Appendix 1 of the report, to full Council for approval.

53. Mitigating the Risks of Intimidation and Abusive Behaviours Towards Members and Officers

The committee received a report providing an update on the live action plan that had been developed to address concerns about the impact of increasing levels of public intimidation and toxicity of debate on democratic processes, which proposed a variety of mitigating measures to address the issue of intimidation and abusive behaviour towards Members, and some additional actions following a Local Government Association (LGA) “Debate Not Hate” campaign webinar.

While discussing the report, Members:

- Welcomed the proposals in the report and the work already carried out by officers to improve and increase the support available to Members, noting that it was an issue also being addressed by many other councils across the country. It was emphasised that intimidation and abuse were unacceptable in any workplace environment and observed that while Members and officers were required to abide by the Council’s codes of conduct, members of the public were not restrained by such rules.
- Highlighted the different circumstances of individual Members and the variety of reasons for which they may be considered vulnerable. It was observed that all Members were liable to become vulnerable if their personal circumstances changed or if their role as a Member led to involvement in controversial issues, regardless of their gender, age or other characteristics, some of which were invisible. It was also observed that Members’ families or partners were occasionally subjected to abuse or intimidation, while former Members could also suffer once their term had concluded. The committee supported the proposal for a generic risk assessment for all Members, which could be tailored accordingly to individual Members, and it was emphasised that such risk assessments should be continuous and not just conducted once for each Member.
- Acknowledged the difficulty in balancing freedom of speech with countering hate speech on social media, suggesting that there was also a difference between written and spoken abuse, but agreed that both abuse and misinformation remained a cause of suffering. Members also expressed concern about the level of toxicity in local and national political debate over the past few years, arguing that Members had a responsibility to minimise such conflict and misinformation, and to not encourage or perpetuate it.
- Drew attention to concerns about security at surgeries held by Members in their local area, noting that local and national politicians were sometimes subjected to physical and verbal abuse at such events, and requested further information on what support was available for them. The committee acknowledged the importance

of continuing to strengthen the relationship between the police and both the Council and Members, particularly in regard to ensuring the police were aware of issues experienced by Members and their particular concerns.

- Highlighted the importance of Members being able to protect their own privacy if required, for example by not publishing their personal telephone number or address on the Council's website. However, it was requested that in such circumstances, a generic telephone number could be listed to ensure that members of the public could still contact their local Member by telephone, with calls forwarded on to the Member if appropriate.
- Noted the importance of trying to accommodate the various ways in which residents contacted Members and suggested that it might be beneficial for Members to be provided with a telephone for Council-related work to ensure that their privacy could be protected while ensuring they were available for contact. It was clarified that Members were expected to make such arrangements through the basic allowance provided to them by the Council, and that any request could be considered by the Independent Remuneration Panel in the future.
- Suggested that the Council's policy for dealing with persistent or nuisance callers failed to adequately address such issues being raised directly with Members at non-Council events, such as parish council meetings, although it was acknowledged that these situations were usually complex and confidential in nature, which made it difficult to keep Members briefed.
- Noted that everyone had a subjective interpretation of what was considered abuse or intimidation, and expressed concern that adoption of the rules of engagement used by the LGA could result in the Council being required to provide additional, detailed clarity on such definitions. Members were informed that the Monitoring Officer used established definitions when making judgements on claims, which were based on the perception of the alleged victim, rather than the alleged perpetrator. It was agreed for the Council to publish a statement on rules of engagement on its website, which Members would be able to refer people to if required or desired.
- Queried how the Council would respond to a Member being incapable, or being judged to be incapable, of carrying out their role due to illness. It was clarified that the Council could not decide that a member was incapable of carrying out their role, with such a decision only being possible for Members themselves or local residents at elections, and the committee was assured that the Council would provide support and ongoing dialogue to a Member's family in such a situation.
- Acknowledged the benefits and importance of the different political groups paying greater attention to the personal wellbeing of their individual Members but agreed that there were sufficient options for Members who required support without the need for each group to have a dedicated wellbeing or safety champion. It was also agreed that surveys would be unlikely to respond to issues in a timely manner.
- Considered establishing a small working group of councillors and officers to identify gaps in support but decided that it would be sufficient for the existing Member Development Panel to assume the additional responsibility.

It was resolved unanimously to:

- a) Note the action plan set out in section 2 of the report; and
- b) Consider and agree actions in relation to the proposals set out in section 3 of the report.

54. Constitution and Ethics Committee Agenda Plan

The Committee noted its agenda plan.

Chair

Monitoring Officer Report 2023-24

To: Constitution and Ethics Committee

Meeting Date: 23 April 2024

From: Service Director: Legal and Governance and Monitoring Officer

Outcome: To brief the Constitution and Ethics Committee on the work of the Monitoring Officer for 2023-24 in relation to their statutory duties and those identified under the Council's Constitution.

Recommendation: The Constitution and Ethics Committee is recommended to note and comment upon the contents of the attached report.

Officer Contact;

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Email: Emma.Duncan@cambridgeshire.gov.uk

1. Source documents

- 1.1 Centre for Governance and Scrutiny (CfGS) [Governance Risk and Resilience Framework](#).
- 1.2 CIPFA "[Delivering Good Governance](#)".
- 1.3 [The Council's Constitution](#)

Monitoring Officer

Annual Report 2023-24

Section Contents

- 1 Introduction
- 2 The Monitoring Officer's Work April 2023 – March 2024
3. The Monitoring Officer duties (Section 5A Local Government and Housing Act 1989, Constitution Articles 11, 14, Part 3B and Contract Procurement Rules)
- 4 Key Messages
- 5 Looking Forward
- 6 Overall opinion on the adequacy and effectiveness of the Governance framework

Monitoring Officer Annual Report 2023-24

1. Introduction

- 1.1 The Monitoring Officer's Annual Report summarises the more important matters arising from the Monitoring Officer's work for the Council from 1 April 2023 to 31 March 2024 and comments on other current issues.
- 1.2 Corporate Governance is the system by which local authorities direct and control their functions and relate to their communities. It is founded on the fundamental principles of openness, integrity and accountability together with the overarching concept of leadership. In this respect, Cambridgeshire County Council recognises the need for sound corporate governance arrangements and has put in place policies, systems and procedures designed to achieve this.
- 1.3 The Monitoring Officer is appointed under Section 5 of the Local Government and Housing Act 1989 and has a number of statutory functions in addition to those conferred under the Local Government Act 2000 and subsequent regulations governing local investigations into Member conduct. These are outlined in the next section of the report.

2. The Monitoring Officer's Work April 2023 – March 2024

- 2.1 Emma Duncan (Service Director: Legal and Governance) has carried out the statutory functions since 27 March 2023.
- 2.2 The three statutory officers (The Head of Paid Service, the S151 Officer and the Monitoring Officer), often called the "golden triangle" have specific roles within the organisation and responsibility, with other officers and with senior members. The Statutory Officers form the Statutory Officers Group that meets regularly and provides advice to the authority as a whole on the governance framework and monitors the Annual Governance Statement Action Plan.
- 2.3 Good governance is a critical part of engendering trust with communities and importantly reduces the risk of organisational failures.
- 2.4 Significant progress has been made in the recent past to strengthen the governance framework, and is supported particularly by the assurance functions of the Council (Democratic Services, Internal Audit and Information Governance) being within oversight of the Monitoring Officer.
- 2.5 Work continues to engender a robust culture of good governance throughout the officer and Member cohorts. These behavioural issues are now acknowledged as the key factor in building a robust governance framework.
- 2.6 Following recent high profile governance failures in local government, the Centre for Governance and Scrutiny (CfGS) undertook a research piece to

produce a new [Governance Risk and Resilience Framework](#), which identifies behaviours that support a healthy governance environment and the work behind the Annual Governance Statement and the CIPFA principles in [“Delivering Good Governance”](#).

2.7 The behaviours are as follows:

- Extent of recognition of individual and collective responsibility for good governance. This is about ownership of governance and its associated systems;
- Awareness of political dynamics. This is about the understanding of the unique role that politics plays in local governance and local government. Positive behaviour here recognises the need for the tension and “grit” in the system that local politics brings, and its positive impact on making decision-making more robust;
- How the council looks to the future to set its decision-making priorities. This is about future planning, and insight into what the future might hold for the area, or for the council as an institution and includes the way the council thinks about risk;
- Officer and councillor roles. Particularly at the top level, this is about clear mutual roles in support of robust and effective decision-making and oversight. It also links to communication between key individuals, and circumstances where ownership means that everyone has a clear sense of where accountability and responsibility lie;
- How the council’s real situation compares to its sense of itself. This is about internal candour and reflection; the need to face up to unpleasant realities and to listen to dissenting voices. The idea of a council turning its back on things “not invented here” may be evidence of poor behaviours, but equally a focus on new initiatives and “innovation” as a way to distract attention, and to procrastinate, may also be present;
- Quality of local (external) relationships. This is about the council’s ability to integrate an understanding of partnership working and partnership needs in its governance arrangements, and about a similar integration of an understanding of the local community and its needs. It is about the extent to which power and information is shared and different perspectives brought into the decision-making, and oversight, process;
- The state of member oversight through scrutiny and audit committees. This is about scrutiny by councillors, and supervision and accountability overall.

2.8 The governance framework of the Council has been assessed against these key areas by the Statutory Governance Officers and the Action Plan for the annual governance statement is partly derived from this work, together with the CIPFA Guidance. This means the governance framework is actively managed through a risk-based model.

3. The Monitoring Officer duties (Section 5A Local Government and Housing Act 1989, Constitution Articles 11, 14, Part 3B and Contract Procurement Rules)

Reference	Duties	Work undertaken
Article 11 (a) and Article 14	<p>Maintaining the Constitution</p> <p>The Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.</p>	<p>A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended.</p> <p>To achieve this the Monitoring Officer has:</p> <ul style="list-style-type: none"> • observed meetings of different parts of the Member and Officer structure; • undertaken an audit trail of a sample of decisions; • recorded and analysed issues raised with her by Members, Officers, the public and other relevant stakeholders; and • compared practices in this Council with those in other comparable authorities, or national examples of best practice. <p>The Constitution and Ethics Committee has met to consider amendments to the Constitution regularly during the year including the revisions to the Constitution as a result of the Centre for Governance and Scrutiny Report.</p> <p>During the year, the Constitution has been updated a number of times to reflect best practice and provide clarification with the principles that are</p>

		articulated within the Constitution with oversight from the Committee and the Working Group. This has included consideration of updates and changes to the Contract Procurement Rules, the Budget Debate and Motions.
Article 11 (b)	<p>Ensuring Lawfulness and Fairness of Decision-Making</p> <p>After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the Council if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.</p>	<p>The Statutory Officers Group (Head of Paid Service, Section 151 Officer and the Monitoring Officer) meet regularly to discuss any issues that arise.</p> <p>This year much of the Monitoring Officer work has been to introduce a new report process to ensure that there is oversight of all decision made.</p> <p>All decisions are now tracked through the Corporate Clearance Group (CEX, MO, S151) that meet regularly to monitor reports coming forward. All have mandatory finance, legal and equalities sign offs.</p> <p>A new report writing guide and template and have been produced and circulated.</p> <p>Work has also been done to strengthen Officer Delegated Decisions so that these are tracked and monitored as well as published.</p>
Article 11 (c)	<p>Providing Advice</p> <p>To act as the solicitor to the Council and in consultation with the Head of Paid Service and the Section 151 Officer, to provide advice on the scope of powers and authority for the Council to take decisions, maladministration, probity and</p>	<p>The Monitoring Officer regularly advises officers and Members on issues of lawfulness including seeking external legal opinion where necessary.</p> <p>New decision making guidance has been issued to officers.</p> <p>All reports receive legal advice or confirmation that none is needed.</p> <p>The Monitoring Officer also sits on Corporate Leadership Team and through the new report assurance</p>

	governance issues, to all councillors and to support and advise councillors and officers in their respective roles.	process is able to have early sight of proposed decisions.
Article 11 (d)	<p>Supporting the Constitution and Ethics Committee.</p> <p>The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Constitution and Ethics Committee. This will include making arrangements for the hearing of allegations against members concerning breaches of the Code of Conduct. The Monitoring Officer shall also support the Constitution and Ethics Committee in ensuring the Council's Constitution is fit for purpose and in this role, shall keep it under review and make recommendations as to how it might be amended to better achieve the purposes set out in Article 1 or in response to changes in law.</p>	<p>The Constitution and Ethics Committee has met on four occasions during the year and has considered the following;</p> <ul style="list-style-type: none"> • Revisions to the Constitution • Updates on Member Standard Complaints • Independent Persons • Violence and Intimidation of Members <p>This means that the Constitution is kept under constant review and updated as issues arise.</p> <p>This year, following a survey of users, the Committee will be considering a wholesale review of the Constitution led by the working group to make it more understandable and easier to navigate.</p>

<p>Article 11 (e)</p>	<p>Conducting Assessments.</p> <p>In the case of allegations that a councillor has breached the Members' Code of Conduct, the Monitoring Officer and the Council's Independent Person shall conduct an initial assessment of complaint and make a decision as to whether the complaint warrants investigation or any other action.</p>	<p>This municipal year, the Monitoring Officer has received and assessed 36 complaints under the Council's assessment framework in conjunction with the Council's independent person. In most cases the assessment indicated that the threshold had not been met for an investigation.</p> <p>The average time to deal with a complaint from receipt to assessment was 30 days.</p> <p>Complaints are reported to the Constitution and Ethics Committee on a regular basis.</p>
<p>Article 11 (f)</p>	<p>Conducting Investigations.</p> <p>Where allegations of breaches of the Members' Code of Conduct are referred for investigation, the Monitoring Officer shall make arrangements for the conduct of such investigations and report the findings to the Constitution and Ethics Committee.</p>	<p>This year two matters have been referred for investigation.</p>
<p>Article 11 (g)</p>	<p>Proper Officer for Access to Information.</p> <p>The Monitoring Officer shall ensure that decisions of the Council and its committees, together with the reasons for those decisions, and</p>	<p>Agendas have been issued 100% on time. Since the introduction of the Corporate Clearance process, late reports and exempt items receive scrutiny to ensure that the Access to Information provisions are being complied with.</p>

	relevant officer reports and background papers are made publicly available as soon as possible.	
Article 11 (h)	<p>Advising whether Decisions are within the Budget and Policy Framework</p> <p>The Monitoring Officer will advise whether decisions of the Council and its committees are in accordance with the Budget and Policy Framework.</p>	The Monitoring Officer checks all reports to ensure that they are compliant with the Budget and Policy Framework.
Article 11 (j)	<p>Qualified Person</p> <p>The Monitoring Officer shall determine whether information should be exempt from disclosure under the provisions of Section 36 of the Freedom of Information Act 2000.</p>	Two qualified persons opinions have been given this year.
Part 3 B	To grant any dispensations to Members	This year all Members were granted an exemption to participate in the Members' Allowances Indexation debate.
Contract Procedure Rules	To report any breaches of procurement rules	This year there has been a focus on addressing compliance with the procurement rules and a new process has been introduced for dealing with breaches of the procurement rules. The reporting will now also be to Accounts and Audit Committee and with effect from April 2024 will be on a quarterly basis.

S5(A) Local Governme nt and Housing Act 1989	The Monitoring Officer has a statutory duty to report to Council Ombudsman decisions where there is maladministration or failure as is mentioned in Part 3 of the Local Government Act 1974	See Appendix 1
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4. Key Messages

4.1 The key messages to note from the year are:

- (i) The systems of internal control administered by the Monitoring Officer including compliance with the Council's Constitution were adequate and effective during the period for the purposes of the latest Regulations at a minimum level.
- (ii) The Constitution continues to be regularly updated.
- (iii) Whilst there are no significant systems of governance control absent, compliance needs to continue to be addressed. Delegated authority and procurement are areas that have been addressed and will continue to be addressed in the forthcoming year.
- (iv) Sustained progress has been made on strengthening compliance through the introduction of the Statutory Officer Group, the Corporate Clearance Process, a new report writing template and guidance on decision making.
- (v) The Code of Conduct process is operating effectively and issues with poor member behaviour are not persistent or widespread.

5. Looking Forward

The key issues for 2024/25 are as follows:

5.1 Code of Conduct

- 5.1.1 The current Cambridgeshire Code of Conduct is not the Local Government Association model code. These means that in a complex system, Members of

elected bodies (parishes, Districts, Cambridgeshire and Peterborough Combined Authority (CPCA) and the County Council) could be subject to four different codes. Both the CPCA and East Cambridgeshire District Council have introduced the LGA model Code. Furthermore, the LGA Code is supported by a comprehensive suite of guidance and training materials which support Members more effectively than is the case at the moment. Now is an opportune time, in advance of the next election for the County to review the position.

5.2 Corporate Governance Framework

- 5.2.1 The Council will keep the Code of Corporate Governance under review, and will undertake work with Members and officers on the CfGS risk and resilience framework to strengthen the position.
- 5.2.2 The Monitoring Officer will continue to provide an assurance in respect of the Code and the Annual Governance Statement by way of this Annual Report.

5.3 Constitution and Regulations

- 5.3.1 The Constitution will continue to be kept under review by the Monitoring Officer working closely with the Democratic Services Team and a full review of the Constitution is underway.
- 5.3.2 It will be appropriate to continue to remind Members and staff of the importance of compliance with the Council's regulations, as set out in the Constitution and other policy framework documents, and the Monitoring Officer and other staff will give advice accordingly.
- 5.3.3 The focus this year will be to strengthen understanding and compliance with officer delegated decision making and procurement waivers.

6. Overall opinion on the adequacy and effectiveness of the Governance framework

- 6.1 That the systems of internal control administered by the Monitoring Officer including the Code of Conduct and the Council's Constitution, were adequate and effective during the year between April 2023 and March 2024 for the purposes of the latest regulations (subject to the areas outlined above).

Emma Duncan
Monitoring Officer

22/03/24

Appendix 1 Ombudsman Adverse Findings

Service	Complaint	Agreed Remedy
Children, Education and Families	Miss X complained the Council failed to provide her child, with transport to nursery and failed to provide the provision in his Education, Health and Care Plan. The Council acknowledges it is at fault for failing to provide transport and that Y has missed out on provision.	<p>Pay Miss X an amount of £4,800. This is a symbolic payment to acknowledge the loss of educational provision that the Council should have delivered and the impact this has had on Y. Recommend Miss X uses this payment for the benefit of Y's education.</p> <p>Pay Miss X an additional amount of £500 to acknowledge the loss of opportunity, distress and impact on Miss X and her family.</p> <p>The Council has also agreed that within two months of this final decision, it will explain what it will to do to ensure sufficient processes are in place to reduce the risk of provision not being delivered.</p>
Children, Education and Families	Ms E complained about an independent investigation report commissioned by a Council about the care of her son. Fault was found with some aspects of the investigation in relation to communication issues between the family and her son's carers.	By 17 April 2024, the Council writes to Ms E acknowledging and apologising for the uncertainty and distress caused to Ms E by these faults in the investigation.
Children, Education and Families	Ms Z complained the Council failed to provide her daughter with suitable education since September 2021. Ms Z also complained about delays in issuing Education Health Care (EHC) Plans and the	<p>Within one month of the Ombudsman's final decision the Council should:</p> <p>Provide an apology and pay Ms Z £500 to remedy the injustice caused by the eight-month delay</p>

	<p>content of the EHC Plans. Fault was found with the Council failing to provide suitable education for Ms Z's daughter for nearly a full academic year.</p>	<p>issuing Y's final amended EHC plan within statutory timeframes.</p> <p>Pay Ms Z £5,000 to address the Council's failure to provide suitable alternative provision of education for her daughter. Ms Z may use this as she sees fit for her daughter's educational needs</p>
Children, Education and Families	<p>Mrs B complained the Council failed to provide the provision in her son's EHC Plan. Mrs B also complained the Council delayed in reviewing her son's EHC Plan and, when it did complete the review, failed to complete the review process correctly. Fault was found with the Council for delays in reviewing Mrs B's son's EHC Plan. Fault was also found with the failure to consider provision for preparation for adulthood at the correct time, failing to make the 2023 annual review accessible to Mrs B's son and failing to consult with relevant professional. Further fault was found with the Council failing to provide a transition plan for Mrs B's son to access education in school and failing to provide educational support from his EHC Plan.</p>	<p>Within one month of the Ombudsman's final decision the Council should:</p> <p>Complete and publish the information about what young people can expect from a person-centre approach and publish this on its SEND Information Hub (Local Offer).</p> <p>Complete and publish information in an accessible format on the Pathways through its processes on reviewing, maintaining and amending EHC Plans and publish this on its SEND Information Hub (Local Offer).</p> <p>Provide a payment of £750 to Mrs B for the avoidable distress caused by the Council's fault in this matter.</p> <p>Provide a payment of £4,050 to Mrs B to reimburse the privately sourced costs incurred for X's Clinical Psychologist sessions.</p>

		Provide a payment of £8,400 to Mrs B for X's missed educational provision from 20 January 2021 until 10 July 2023.
Children, Education and Families	Ms L complained the Council failed to deal properly with her daughter's care needs for many years and has failed to respect her powers of attorney for health and welfare and property and affairs. The Council accepted it failed to respect the fact that Ms L can manage her daughter's finances regardless of whether her daughter lacks the capacity to do so herself. The Council was also at fault over its handling of two mental capacity assessments, as it did not comply with its own statement on how it should approach such assessments. There was also a long delay in making a decision in the daughter's best interests.	<p>Within four weeks write to Ms L apologising for the distress it has caused and the inconvenience it has put her to and pay her £350 to remedy the injustice arising from that distress and inconvenience.</p> <p>Within eight weeks identify the action it is going to take to ensure future assessments of Ms L's daughter capacity meet the requirements it has agreed are necessary.</p>
Highways and Transport	The Council acknowledged an administrative error in the consideration of Ms F's blue badge renewal application and provided her with a blue badge during the investigation. However, it failed to remedy the injustice caused as a result of its error.	<p>The Council should, within four weeks of the final decision:</p> <p>Provide Ms F with a formal apology for the error in considering her application, the distress caused during the period she was without a blue badge, and for her time and trouble pursuing the complaint with the Council and this office;</p> <p>Pay Ms F £250 in acknowledgment of the above.</p>

Adults	Ms V lives in a Care Home and was paying her own fees until she reached the financial threshold. For three months after she reached threshold, the Care Home was overpaid as it received fees from Ms V and the Council. The Care Home has refunded Ms V but her son, did not consider the amount is correct. The Ombudsman found the Care Home refunded the correct amount but failed to explain how it calculated the amount, causing Ms V and her son stress.	Within four weeks of the final decision, the Council should apologise to Ms V and her son for the care home provider not explaining how it calculated the refund when it made the payment.
Adults	Mr S, on behalf of Ms S, complained the Council failed to provide her appropriate help and support to complete a financial assessment and did not include disability related expenditure in the assessment. While there is no fault in the assessment process there has been fault in the consideration of the disability related expenditure. To remedy this fault the Council will conduct a review and make a new decision.	Within one month of the final decision, carry out a review of the DRE in respect of the cost of physiotherapy using the steps described in paragraph 28 of the decision and in consultation with Ms S. If it decides the physiotherapy is DRE it should recalculate the client contribution and notify Ms S.
Adults	Mrs W complained about an independent investigation report commissioned by a Council about the care of her son, N. Fault was found with some aspects of the investigation in relation to communication issues between the family and N' carers. The Council agreed to apologise to Mrs W for the uncertainty caused by this fault.	By 17 April 2024, the Council writes to Mrs W acknowledging and apologising for the uncertainty and distress caused to Mrs W by these faults in the investigation.

Disciplinary Procedure for Statutory Officers

To: Constitution and Ethics Committee

Meeting Date: 23 April 2024

From: Service Director: Human Resources

Outcome: To consider changes to the Council's Constitution to ensure compliance with the Local Authorities (Standing Orders) (England) Regulations 2015.

Recommendation: The Committee is asked to recommend to Full Council revisions to the Constitution set out in Appendices A and B of the report.

Officer contact:

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1. Background

- 1.1 The Local Authorities (Standing Orders) (England) Regulations 2015 set out a process which councils must follow in taking disciplinary action against a Head of Paid Service, a Monitoring Officer, or a Chief Finance Officer.
- 1.2 At its meeting on 23 June 2015, the Constitution and Ethics Committee considered proposed revisions to Part 4.7 of the Constitution (Officer Employment Rules), which were subsequently approved by Full Council on 21 July 2015.

2. Main Issues

- 2.1 The arrangements for considering whether to dismiss the Head of Paid Service, Chief Finance Officer and Monitoring Officer have been reviewed to make sure the Council complies with the Regulations.

Terms of Reference

- 2.2 There is a need to establish an Investigating and Disciplinary Committee (IDC) to deal with disciplinary matters relating to the “relevant officers”. The Service Appeals Sub-Committee currently has delegated authority to act as an IDC to consider any disciplinary issues in relation to the Chief Executive, Monitoring Officer or Section 151 Officer, as detailed in the Council’s Disciplinary Procedure for Statutory Officers. However, there is no provision in its terms of reference for the suspension of “the relevant officers”.
- 2.3 There is currently no Appeals Committee to deal with disciplinary matters short of dismissal relating to the relevant officers, and it is proposed that the Staffing and Appeals Committee undertake this function.
- 2.4 There is a need to establish an Independent Panel comprising two people appointed under Section 28 of the Localism Act to advise Council, in the event of a recommendation from the IDC to dismiss a “relevant officer”. It is proposed that the Staffing and Appeals Committee should undertake this function.
- 2.5 It is important that members of the Service Appeals Sub-Committee acting as the IDC, who may be members or substitute members of the Staffing and Appeals Committee, do not act as the Appeals Committee or Independent Panel referred to above. Wording has therefore been included in the terms of reference of the Service Appeals Sub-Committee to avoid this conflict.
- 2.6 Appendix 1 sets out the changes to the terms of reference of both committees to reflect the issues raised above (additions in bold).

Officer Employment Procedure Rules

- 2.7 The need to reference the appointment of an Investigating and Disciplinary Committee (IDC) is highlighted in bold in The Officer Employment Procedure Rules, attached at Appendix 2.

Disciplinary Procedure for Statutory Officers

- 2.8 The Disciplinary Procedure for Statutory Officers, which is not included in the Constitution, would need to be amended to reflect the changes to the Constitution, if approved by Full Council.

3. Source Documents

- 3.1 [Constitution and Ethics Committee Minutes – 23 June 2015](#)
- 3.2 [Council Minutes – 21 July 2015](#)
- 3.3 [The Local Authorities \(Standing Orders\) \(England\) \(Amendment\) Regulations 2015 \(legislation.gov.uk\)](#)

11. Staffing and Appeals Committee

Membership

Nine members of the Council. The Chair and Vice-Chair of the Staffing and Appeals Committee shall be selected and appointed by the Staffing and Appeals Committee.

When determining the remuneration policy for Cambridgeshire County Council employees, the committee shall be advised by the Chief Executive and the **Service** Director: HR Services, or their nominees. The committee may, having sought the advice of the **Service** Director: HR Services, choose to be advised by an external independent adviser.

N.B. The Chair of the Staffing and Appeals Committee shall be authorised to approve the co-option of representatives from partner agencies onto the committee in a non-voting capacity, where this is considered relevant to the appointment being made.

Summary of Functions

The committee has delegated authority to exercise the Council's functions in respect of all matters, save those otherwise reserved to other bodies, relating to the employment of the Council's officers and contractors including determining the terms and conditions of employment.

Delegated Authority	Delegation/ Condition
<p>Authority to determine the policy regarding the remuneration of statutory and non-statutory chief officers (including deputies) of Cambridgeshire County Council; and to implement and make decisions pursuant to and in accordance with that policy.</p> <p>For the avoidance of doubt the term statutory and non-statutory chief /deputy chief officers has the same meaning as that contained in S.2 (6), (7) and (8) of the Local Government and Housing Act 1989.</p>	Subject to the approval of Full Council where required
Authority to undertake the selection of and to appoint statutory officers and executive directors in accordance with the Council's Officer Employment Procedure Rules.	Subject to the approval of Full Council where required
Authority to consider appeals against disciplinary sanctions short of dismissal in relation to the Chief Executive, Monitoring Officer or Section 151 Officer as detailed in the Disciplinary Procedure for Statutory Officers.	
Authority to act as an Independent Panel to advise Council in the event of a recommendation from the Service Appeals Sub-Committee acting as the Investigating and Disciplinary Committee (IDC) to dismiss a relevant officer.	

Delegated Authority	Delegation/ Condition
Authority to co-opt two Independent Persons, including if appropriate appointed by other local authorities, to the Independent Panel to advise Council in the event of a recommendation from the Service Appeals Sub-Committee acting as the Investigating and Disciplinary Committee (IDC) to dismiss a relevant officer.	
Authority for making arrangements with other authorities for the placing of staff at the disposal of those authorities. (Section 113 of the Local Government Act 1972).	Chief Executive and executive directors
Authority for the approval of pay, terms and conditions of service and training of employees except for approving the Annual Senior Officer Pay Policy Statement which is reserved to the Full Council.	Chief Executive
Authority to recommend to Council the Chief Officer Pay Policy Statement.	
Authority for oversight of the Council's functions in connection with employee relations including arrangements for consultation/ negotiation with trades unions.	
Authority to approve proposals from the Head of Paid Service in relation to the overall staffing structure/restructure of the Council.	Chief Executive
Authority to oversee the work of service appeals sub-committees and consider any matters put to them by the service appeals sub-committee.	

11.1 Service Appeals Sub-Committee

The Staffing and Appeals Committee shall establish service appeals sub-committees as required with the following membership and powers:

Membership

Any three members (including substitutes) of the Staffing and Appeals Committee, subject to political proportionality.

The Monitoring Officer, in consultation with the Chair of the Staffing and Appeals Committee, shall make arrangements for convening the sub-committee including invitation of members to form a service appeals sub-committee as and when required.

Summary of Functions

A service appeals sub-committee has delegated authority to hear and determine all appeals arising in relation to decisions made by the County Council in the course of its activities other than those undertaken by another body. The remit of the sub-committee includes appeals by service users.

Delegated Authority	Delegation/ Condition
Authority to determine appeals against the non-payment of discretionary awards to students.	
Authority to determine complaints about curriculum and related matters. under the terms of Section 409 of the Education Act 1996.	
Authority to determine appeals against decisions not to provide free or subsidised home to school or college transport.	
Authority to consider appeals in relation to the licensing of approved premises for marriages and other civil ceremonies.	
Authority to determine appeals against decisions of the authority to remove a person from acting as the local authority's representative on the governing body of a school or other educational establishment.	
Authority to act as Investigating and Disciplinary Committee (IDC) to consider any disciplinary issues in relation to the Chief Executive, Monitoring Officer or Section 151 Officer as detailed in the Disciplinary	

Procedure for Statutory Officers, including responsibility for the suspension of “the relevant officers” where deemed appropriate or necessary. No member of a Service Appeals Sub-Committee acting as an IDC may be a member of the Staffing and Appeals Committee acting as an Appeals Committee or Independent Panel.	
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Officer Employment Procedure Rules

1. Recruitment and Appointment

1.1 Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing the name and job title of any relative, friend or acquaintance employed by Cambridgeshire County Council.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by them.

1.2 Seeking support for appointment

- (i) Subject to paragraph 1.2(iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph 1.2(iii), no councillor will seek support for any person for any appointment with the Council.
- (iii) Nothing in paragraphs 1.2(i) and 1.2(ii) above will preclude a councillor from giving a written reference for a candidate for submission with an application for appointment.

2. Recruitment of Chief Executive, Executive Directors, and Statutory Roles

2.1 Where the Council proposes to appoint a Chief Executive, executive director, or any other statutory role and it is not proposed that the appointment be made exclusively from among their existing officers, the Staffing and Appeals Committee will:

- (a) Draw up a statement specifying:
 - (i) The duties of the officer concerned;
 - (ii) Any qualifications or qualities to be sought in the person to be appointed;
 - (iii) The terms and conditions; and
 - (iv) The remuneration package.
- (b) Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.
- (c) Make arrangements for a copy of the statement mentioned in paragraph 2.1(a) to be sent to any person on request.

3. Appointment of Chief Executive, Monitoring Officer and Section 151 Officer

3.1 The Full Council will approve the appointment of the Chief Executive, Monitoring Officer and Section 151 Officer following the recommendation of such an appointment by the Staffing and Appeals Committee.

3.2 The Full Council may only make or approve the appointment of the Chief Executive, the Monitoring Officer or the Section 151 Officer where no well-founded objection has been made by any member of the Staffing and Appeals Committee.

4. Appointment of Executive Directors and Statutory Roles

4.1 The Staffing and Appeals Committee of the Council will appoint executive directors and statutory roles, excluding the Chief Executive, Monitoring Officer and Section 151 Officer.

4.2 An offer of employment as an executive director or any other statutory role shall only be made subject to satisfactory references and pre-employment checks.

4.3 For the purposes of these Procedure Rules, executive directors are those named in Article 11 of the Constitution. Statutory roles, other than the Chief Executive, Section 151 Officer and Monitoring Officer, include:

(i) Director of Adult Social Services;

(ii) Director of Children's Services;

(iii) Director of Public Health; and

(iv) Chief Education Officer.

4.4 Where a reorganisation affects the structure/numbers of executive directors and/or statutory posts, posts in the new structure will be filled in line with the enabling process agreed at the time. Any competitive interviews will be carried out by the Staffing and Appeals Committee in accordance with the enabling process.

5. Other Appointments

5.1 Officers below executive director level.

The appointment of officers below executive director level (other than the identified statutory roles and assistants to political groups) is the responsibility of the Chief Executive as the Head of Paid Service or their nominee, and may not be made by councillors.

5.2 Assistants to Political Groups

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group and in line with legislative requirements.

6. Dismissal and Disciplinary Action

- 6.1 In the case of dismissals, the Staffing and Appeals Committee will hear the case against the Chief Executive as Head of Paid Service, Monitoring Officer and Section 151 Officer concerned, and the hearing will be conducted in accordance with the Council's Disciplinary Procedure.
- 6.2 In the following paragraphs:
- (i) "the 2011 Act" means the Localism Act 2011;
 - (ii) "Section 151 Officer", "disciplinary action", "head of the authority's paid service" and "monitoring officer" have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
 - (iii) "independent person" means a person appointed under section 28(7) of the 2011 Act;
 - (iv) "local government elector" means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts;
 - (v) "the panel" means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
 - (vi) "relevant meeting" means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
 - (vii) "relevant officer" means the Section 151 Officer, head of the authority's paid service or monitoring officer, as the case may be.
- 6.3 A relevant officer may not be dismissed should the authority not comply with the procedure set out in the following paragraphs.
- 6.4 The authority must invite relevant independent persons to be considered for appointment to the panel, with a view to appointing at least two such persons onto the panel.
- 6.5 In paragraph 6.4, "relevant independent persons" means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

- 6.6 Subject to paragraph 6.7, the authority must appoint to the panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 6.4 in accordance with the following priority order:
- (i) A relevant independent person who has been appointed by the authority and who is a local government elector;
 - (ii) Any other relevant independent person who has been appointed by the authority;
 - (iii) A relevant independent person who has been appointed by another authority or authorities.
- 6.7 An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 6.6 but may do so.
- 6.8 The authority must appoint any panel at least twenty working days before the relevant meeting.
- 6.9 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular—
- (i) Any advice, views or recommendations of the panel;
 - (ii) The conclusions of any investigation into the proposed dismissal **considered by the Service Appeals Sub-Committee acting as the Investigating and Disciplinary Committee (IDC)**; and
 - (iii) Any representations from the relevant officer.
- 6.10 Any remuneration, allowances or fees paid by the authority to an independent person appointed to the panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

7. Appointment, Dismissal and Management of all other Employees

- 7.1 The appointment, dismissal and management of employees (except the Head of Paid Services, Monitoring Officer and Section 151 Officer) including disciplinary action will be carried out by properly authorised officers of the Council in line with the Recruitment and Selection Policy, other employment policies and procedures agreed by the Council and in compliance with statutory obligations.
- 7.2 Councillors will not be involved in the disciplinary or dismissal of any officer below executive director level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.

A Review of the Complaints Received Under the Members' Code of Conduct

To:	Constitution and Ethics Committee
Meeting Date:	23 April 2024
From:	Service Director: Legal and Governance
Outcome:	To brief the Constitution and Ethics Committee on the number and nature of the complaints received about Members under the Code of Conduct from 13 September 2023 to date, along with details of other complaints which are in process or have been concluded.
Recommendation:	The Constitution and Ethics Committee is recommended to note the contents of the report.

Officer Contact;

Name: Emma Duncan
Post: Service Director: Legal and Governance and Monitoring Officer
Email: Emma.Duncan@cambridgeshire.gov.uk

1. Background

- 1.1 The Localism Act (“the Act”) places a statutory duty on the Council to promote and maintain high standards of conduct amongst its Members and co-opted Members. This includes the obligation on the 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 2 (Members of the Council) in the Council’s Constitution, and by Part 5.1 (Members’ Code of Conduct). The Constitution and Ethics Committee’s terms of reference give it authority 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 since the last update on 13 September 2023.

2. Overview of Complaints

2.1 Ongoing Complaints

- 2.1.1 There are two ongoing complaints. The publication of details of complaints only takes place after conclusion of the complaint and only if a breach of the code has been established. The purpose of this restriction is to reduce speculation on limited information, to ensure there is no compromise of any assessment or investigation, and to uphold the requirements of the Data Protection Act 2018 and UK General Data Protection Regulation (GDPR).
- 2.1.2 Since the time of last reporting, there has been three new complaints, one of which has been resolved as no further action necessary. The other two complaints have been assessed and referred for investigation.
 - CoCo/2024/17a - use of social media/breach of the respect provisions
 - CoCo/2024/18a - use of social media/breach of the respect provisions
 - CoCo/2024/19a - breach of the respect provisions relating to contact with a constituent

2.2 Concluded Complaints

- 2.2.1 The following complaints have been concluded since the time of last reporting:
 - CoCo/2024/19a (see above)

3. Source documents

- 3.1 The Council’s Code of Conduct, information about how to make a conduct complaint, and the process that will be followed can be found via the following link:

[Complain about a councillor or co-opted member - Cambridgeshire County Council](#)

Arrangements for the appointment of Independent Person(s)

To: Constitution and Ethics Committee

Meeting Date: 23rd April 2024

From: Service Director: Legal and Governance

Outcome: The Committee is asked to recommend the appointment of an Independent Person or Persons to Council for approval in preparation for the expiry of the current appointments on 15 October 2024.

Recommendation: That the Committee recommends that Council authorise the reappointment of Gillian Holmes and Grant Osbourn for a period of two years until 15 October 2026.

Officer contact:

Name: Michelle Rowe

Post: Democratic Services Manager

Email: michelle.rowe@cambridgeshire.gov.uk

1. Background

1.1 Legal framework

- 1.1.1 Chapter 7 of the Localism Act 2011 sets out the duty of a local authority to promote and maintain high standards of conduct by members and co-opted members of the authority.
- 1.1.2 Section 28 of the Act, on codes of conduct, requires an authority to provide for the appointment of at least one independent person whose views will be sought and taken into account in connection with the process for dealing with allegations that members have breached the code.
- 1.1.3 Section 28 sets out those persons who would not be considered to be independent, who include members, co-opted members and officers of the authority and their relatives and close friends. However, it provides that the person(s) appointed do not cease to be independent as a result of being paid allowances or expenses for performing the duties of the appointment.
- 1.1.4 Section 28 also sets out the conditions for the process of appointing such persons. These conditions are that
 - i. the vacancy has been advertised in such manner as the authority considers is likely to bring it to the attention of the public,
 - ii. the person has submitted an application to fill the vacancy to the authority, and
 - iii. the person's appointment has been approved by a majority of the members of the authority.
- 1.1.5 The requirements of the role of the independent person were added to by the Local Authorities (Standing Orders) (England) Regulations 2015, which changed the requirements relating to disciplinary action or dismissal of one of the specified chief officers and removes the requirement to procure a report from a designated independent person.
- 1.1.6 The Council is now required to have a procedure which instead provides:
 - (a) that the appointment of the Head of the Paid Service must be approved by a resolution of full council;
 - (b) a process for dismissal of the Head of the Paid Service, Section 151 Officer or Monitoring Officer, who can now only be dismissed with the approval of a resolution of full Council;
 - (c) that when considering any such dismissal, full Council must consider the advice, view or recommendations of a panel;
 - (d) the panel must be an advisory committee (i.e. a committee without decision making powers) and the membership of the Panel must include at least two 'independent persons';
 - (e) the Council must appoint 'independent persons' to the panel. The only people who qualify are people who have been appointed by the Council (or another

council) for the purposes of advising in cases relating to the member code of conduct.

- (f) In selecting independent persons the Council is required to prioritise Cambridgeshire County Council appointed 'independent persons' who are local government electors in Cambridgeshire. If for any reason the Council's appointed 'independent persons' are unable to attend then it is entitled to use independent persons appointed by another local authority.

2. Local implementation

- 2.1 At an early stage of making arrangements to implement the Localism Act 2011, the Standards Committee concluded that it would be sensible to appoint two independent persons, in case one was not available, or already had prior knowledge of a complaint or the parties to the complaint. Full Council in July 2012 authorised 'the Monitoring Officer, in consultation with the Chairman of the Constitution and Ethics Committee, to take all necessary steps towards the selection of a suitable candidate to be recommended to Full Council for appointment as an 'Independent Person'.
- 2.2 A panel composed of members of the Constitution and Ethics Committee conducted the recruitment exercise, advertising the posts in the local press and on the Council's website, shortlisting applications, and interviewing shortlisted candidates. The panel recommended to Constitution and Ethics Committee in September 2012 that Sean Brady and Gillian Holmes be appointed, and the Committee recommended their appointment to Council.
- 2.3 On 16 October 2012, Full Council agreed to appoint Sean Brady and Gillian Holmes to the role of Independent Person for Cambridgeshire County Council with immediate effect for a period of one year, and to delegate to the Constitution and Ethics Committee the power to extend these appointments for up to a further three years thereafter. The Committee exercised that power on 7 November 2013, extending the appointments to 15 October 2016, and on 19 April 2016 extending the appointments to 30 October 2019.
- 2.4 Sean Brady resigned from the position of Independent Person on 11 October 2017.
- 2.5 On 4 April 2019, the Constitution and Ethics Committee considered the appointment of an Independent Person on Persons for recommendation to Council. It agreed to authorise the Monitoring Officer, in consultation with the Chairman/woman of the Constitution and Ethics Committee, to take all necessary steps towards the selection of suitable candidates to be recommended to Full Council for appointment as an Independent Person. It also set the level of remuneration at £500 for each Independent Person so that it could be included in information supplied to applicants for the post of Independent Person.
- 2.6 It is important to note that when the Council advertised in 2019, it did not receive any applications for the position. On the advice of the Monitoring Officer, the Democratic Services Manager contacted Cambridge City Council, and East Cambridgeshire, Fenland, Huntingdonshire and South Cambridgeshire District Councils to see whether their Independent Person(s) would be interested in the role. The Council received one expression of interest from the Independent Person for South Cambridgeshire District Council.

- 2.7 At its meeting on 1 October 2019, the Committee agreed to recommend to Council to extend the current appointment of Gillian Holmes as an Independent Person to 15 October 2022 and to appoint Grant Osbourn as the second Independent Person for the same period. Full Council approved the appointments at its meeting on 15 October 2019.
- 2.8 At its meeting on 26 April 2022, the Committee agreed to recommend to Council to authorise the reappointment of Gillian Holmes and Grant Osbourn for a period of two years until 15 October 2024.
- 2.9 As independent persons are not members or co-opted members of Council, their remuneration falls outside the Members' Allowances Scheme, and can be determined without reference to an Independent Remuneration Panel. Council agreed at its meeting on 10 May 2022 to increase the level of remuneration for its two independent persons to £1000 per annum to be increased annually in line with the percentage increase in staff salaries (non-management band). The Constitution and Ethics Committee met on 2 May 2023 and agreed that the annual increase in remuneration for Independent Person(s) be based on an indexation of 3.8% per annum. The current remuneration is £1,038 per annum.

3. Current issues

- 3.1 Arrangements are needed for Full Council to appoint one or more independent persons beyond 15 October 2024.
- 3.2 Responsibility for appointing the independent person(s) rests with Council and cannot be delegated.
- 3.3 It is recommended that the appointment of Gillian Holmes and Grant Osbourn as Independent Persons be extended to 15 October 2026.

4. Source documents

[Chapter 7 of the Localism Act 2011](#)

[The Local Authorities \(Standing Orders\) \(England\) \(Amendment\) Regulations 2015 \(legislation.gov.uk\)](#)

[Constitution and Ethics Committee Minutes - 4 April 2019](#)

[Council - 15 October 2019](#)

[Constitution and Ethics Committee - 26 April 2022](#)

[Council - 10 May 2022](#)

County Council – Proposed Changes to the Constitution

To: Constitution and Ethics Committee

Meeting Date: 23 April 2024

From: Democratic Services Manager

Outcome: To consider proposed revisions to the Council's Constitution and agree the Scheme of Delegation or such part of it as the Constitution determines it is for Council to agree (as set out in Part 3 of the Constitution).

Recommendation: The Constitution and Ethics Committee is asked to:

- a) Recommend changes to the Contract Procedure Rules set out in Appendix A; and
- b) Recommend to Council that it agree the Scheme of Delegation or such part of it as the Constitution determines it is for Council to agree (as set out in Part 3 of the Constitution).

Officer contact:

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

1. Background

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

2. Main Issues

2.1 Contract Procedure Rules

- 2.1.1 The Head of Procurement and Commercial has reviewed Part 4 – Rules of Procedure, 4.5 – Financial and Contract Procedure Rules, Annex 2 – Contract Procedure Rules, and asked for updates in relation to waivers, subscriptions and E-Sign. These changes are annotated in bold and strike through in Appendix A.

2.2 Scheme of Delegation

- 2.2.1 The Scheme of Delegation to Officers (Part 3D of the Council's Constitution) describes the extent and nature of the authority delegated to officers to undertake functions on behalf of the Council.
- 2.2.2 Section 1.2 (f) of the Council Procedure Rules (Part 4.1 of the Council's Constitution) states that the annual meeting will agree the Scheme of Delegation or such part of it as the Constitution determines it is for Council to agree (as set out in Part 3 of the Constitution).

3. Appendices

- 3.1 Appendix A – Contract Procedure Rules

4. Source Documents

- 4.1 [The Council's Constitution](#)

Appendix A

Contract Procedure Rules

1. Introduction

- 1.1 These Contract Procedure Rules (Rules) clearly set out the rules that apply to all officers involved in procurement for and on behalf of the Council. The Rules must be read in conjunction with any other relevant laws, regulations, policies and/or procedures including the Council's Financial Procedure Rules, the Officer Scheme of Delegation, English law, the Procurement Guide and the Provider Selection Regime (PSR) Guide.
- 1.2 Officers involved in procurement activities and making procurement decisions must be fully aware and comply with the Rules as they form part of the Council's Constitution.
- 1.3 All procurements must realise value for money through the optimum combination of whole life costs and quality of outcome.
- 1.4 The Rules seek to protect the Council's reputation by minimising the risk of allegations of corruption, dishonesty and failure to meet legal obligations. As these rules are required by law, failure to comply with them could lead to disciplinary action. If in doubt and/or if advice on compliance with legislative requirements is required, this may be obtained from Pathfinder Legal Services and the Procurement and Commercial Team.
- 1.5 The Procurement Guide and the PSR Guide are invaluable sources of operational guidance to support any procurement activity and the correct application of these rules. The Guides can be found on the intranet's procurement page.
- 1.6 Should a conflict be found between these rules, the law and the Procurement/PSR Guides, the order of precedence shall be the law, the Rules and then the Procurement/PSR Guides.
- 1.7 All procurement activities must be carried out in a fair, open, transparent, proportionate and non-discriminatory manner. The Council reserves the right to consider the application of intervening government guidance when making decisions about the application of these rules.
- 1.8 The Rules apply to contracts or agreements with external organisations where the Council pays for:
 - Goods and/or services
 - Works of any kind
 - Hire, rental or lease of equipment, material and/or plant.
- 1.9 The Rules do not apply in the following circumstances:
 - 1.9.1 The purchase or lease of property, land acquisition, interest in land, transaction in land or disposal. This does not extend to any goods, services or works contracts

Appendix A

that may be required to make the land and/or existing buildings ready for acquisition, disposal or leasing.

- 1.9.2 Broadcasting time or programme provision that are awarded to audiovisual or radio media service providers.
- 1.9.3 Arbitration or conciliation services.
- 1.9.4 For any of the following legal services:
 - 1.9.4.1 Legal representation of a client by a lawyer in an arbitration or conciliation or judicial proceedings before courts, tribunals or public authorities.
 - 1.9.4.2 Legal advice given in preparation for any of the proceedings referred to in 1.9.4.1 or where there is tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings, provided that the advice is given by a lawyer.
 - 1.9.4.3 document certification and authentication services which must be provided by notaries.
 - 1.9.4.4 legal services provided by trustees or appointed guardians or other legal services the providers of which are designated by a court or tribunal or are designated by law to carry out specific tasks under the supervision of such tribunals or courts.
- 1.9.5 For financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments or central bank services.
- 1.9.6 For expenditure incurred directly as a result of an insurer led arrangement.
- 1.9.7 Direct employment of permanent or fixed term employees or of interim or agency staff. For the avoidance of doubt, the Rules do apply to consultancy and employment agency contracts and in those circumstances the responsible officer must have regard to the Council's Policies Relating to the Appointment of External Consultants and Interims.
- 1.9.8 The lending or borrowing of money by the Council.
- 1.9.9 Goods, services or works purchased through the ESPO General Catalogue up to a value of £10,000 per transaction and as long as the responsible officer is satisfied that the Catalogue offers value for money. This does not include other ESPO provisions, such as frameworks, for which these CPRs do still apply.
- 1.9.10 When commissioning goods, services or works through collaborative joint procurements, where one of the other contracting authorities is acting as procurement lead, the responsible officer must satisfy themselves that the procurement complies with all relevant applicable laws.
- 1.9.11 Any award of grants of money but these must be in accordance with the Constitution and the Council's Grants to External Organisations Policy. Prior advice

Appendix A

should be sought from the Pathfinder Legal Services in relation to the governance process for the award of grants and the legal documentation that must be used. Unless the terms of the grant stipulate otherwise, value for money and the Rules should be followed in the award of grants.

1.9.12 Membership/Subscriptions (not applicable to software licensing) : where the Council makes an arrangement to receive goods or services regularly by paying in advance and competition is absent for technical reasons.

- 1.10 The Monitoring Officer in consultation with the Head of Procurement and Commercial shall have the power to make incidental amendments from time to time to the Rules, for example when updates are required from changes to legislation, changes to job titles and roles.
- 1.11 Members have a key role to play in providing oversight to the Rules set out below, making key decisions on major projects, considering risks and ensuring that the Council takes best advantage of the public procurement rules. Full details on the role that Members play in procurement activity can be found in the LGA's A Councillor's Guide to Procurement, 2019 edition (local.gov.uk).

2. Exceptions to the Rules

- 2.1 The Rules apply to every procurement carried out by, or on behalf of, the Council except for those listed below in section 2.7.
- 2.2 Exceptions will only be valid if the Council's online waiver system is used, and appropriate approval has been sought and gained prior to the contract start date. Retrospective exceptions (waivers) are only permitted where:
- It has been necessary to act urgently because of an unforeseen emergency which involves immediate risk of injury or damage or to prevent serious disruption to services.
 - It is necessary for the responsible officer in either adults or children's social care to act immediately to secure care for a vulnerable person.
- 2.3 Exception requests (waivers) cannot be sought for requirements equal to or above the Council's key decision threshold, nor can they be granted if the contract value is over the relevant UK procurement threshold. Should a waiver valued over the relevant UK procurement threshold be considered, legal advice must be sought as to the applicability of Regulation 32 of the Public Contract Regulations (2015) which in certain circumstances will include urgent requirements. Committee approval will be required for these above threshold exceptions.
- 2.4 In instances where a repeat exception is requested, the value of the requested exception must be added to the value of any previous exceptions and the appropriate rule/regulation applied.
- 2.5 Where the total value of the ensuing contract exceeds £5,000, it must be added to the Council's Contract Register to ensure compliance with Local Government Transparency Code 2015.

Appendix A

2.6 An award notice is required to be published for all contracts valued over £25,000.

2.7 Valid exceptions are:

~~2.7.1 Genuine emergencies: critical preventative or remedial work where there is a real and imminent risk to the life and/or safety of people or property arising from hitherto unforeseen 'catastrophic' events or incidents, for example fire, flood or pandemic.~~

~~2.7.2 Value for Money: where proprietary or patented goods or services; or the requirement is of such a specialist nature that it can genuinely only be fulfilled by one person or organisation; or the compatibility with existing goods or services is required and/or where those existing goods or services can only be sourced from the same supplier.~~

~~2.7.4 Urgent Situations not of the Council's Own Making: the urgency must have been reasonably unforeseeable (e.g. an existing supplier going out of business) and genuinely be a case of time is of the essence. Urgency arising from the Council's own making (e.g. lack of planning) shall not justify an exception. Where this exception is used, a compliant procurement process must be implemented as soon as possible.~~

~~2.7.5 Specialist advice or opinion requested by the Council's legal adviser.~~

2.7.1 Genuine emergencies: critical preventative or remedial work where there is a real and imminent risk to the life and/or safety of people or property arising from hitherto unforeseen 'catastrophic' events or incidents, for example fire, flood or pandemic.

2.7.2 Value for money: for proprietary or patented goods or services; or where the requirement is of such a specialist nature that it can genuinely only be fulfilled by one person or organisation; or compatibility with existing goods or services is required and/or where those existing goods or services can only be sourced from the same supplier.

2.7.3 Urgent situations not of the Council's own making: the urgency must have been reasonably unforeseeable (e.g. an existing supplier going out of business) and genuinely be a case of time is of the essence. Urgency arising from the Council's own making (e.g. lack of planning) shall not justify an exception. Where this exception is used, a compliant process must be implemented as soon as possible.

2.7.4 Process delays: where an existing contract is being re-procured and there are delays to that procurement process which means that the new contract cannot start as the existing contract ends, an exception may be requested to extend the current contract to cover the gap between the two contracts. The delays must have been reasonably unforeseeable (e.g. extensions required to standstill), and the exception may be for no longer than six (6) months).

2.7.5 Grant allocations: where the Council has been allocated a grant and there has been no time to procure a supplier during the grant application process or

Appendix A

because the grant conditions require spend of the grant in too short a time period. Evidence of the grant application process and the grant conditions will be required in the exception application. If spend of the grant is not required within a 12-month period, this exception may not be used.

- 2.8 In the case of a breach to these Rules, the Responsible Officer must make an immediate report to the Monitoring Officer and S151 officer detailing the breach and any management action taken to address the issues arising from the breach. Internal Audit will maintain a record of all such breaches which will be reported to the Constitution and Ethics Committee by the Monitoring Officer annually.

3. Exceptions for Care Placements

- 3.1 Adult social care placements and placements made for children in care or children and young people with an Education, Health and Care Plan (EHCP) are not subject to the Rules but are subject to the requirements set out below. Please note that where the placement's main subject matter is health care, compliance with the PSR is required, refer to Section 4.
- 3.2 Tier 1 Block Contracts: when a supplier is procured with guaranteed service levels and pre-agreed prices, the Council may refer users to over the contract period. The Rules apply to the procurement of block contracts and responsible officers must endeavour to maximise the use of block contracts.
- 3.3 Tier 2 Dynamic Purchasing System (DPS)/Framework Agreements: procured lists of providers with fixed or average rates to which the Council may refer users over the contract period. The Rules apply to the procurement of all DPSs and framework agreements which must be utilised only when the block contracts are unable to meet the required needs.
- 3.4 Tier 3 Spot purchased placements: non procured providers which can only be used when the required needs cannot be met by either a Tier 1 or Tier 2 provider. The relevant budget holder, or commissioning head of service, may award spot contracts if the following criteria are satisfied:
- The requirement is such that only one provider in a reasonable proximity can meet the individual's needs;
 - The requirement is both complex and unique to the individual;
 - There is no accessible Tier 1 or Tier 2 contract available for the individual; and
 - The requirement has been approved in writing by the head of service.

All spot purchased contracts must be recorded on the Council's Contract Register ensuring that data protection requirements are met and confidentiality is maintained.

Appendix A

4. The Provider Selection Regime

4.1 The Provider Selection Regime (PSR) applies to the procurement of health care services as defined in Section 275 (1) of the National Health Service Act (2006). For a more detailed definition, please refer to the PSR Guidance document. For the avoidance of doubt, mixed procurements:

- where health care services are the main subject matter of the contract and the Council is of the view that the other goods and services could not reasonably be supplied under a separate contract; and
- The estimate lifetime value of the health care services is higher than the value of the other components of the contract.
are in scope of the PSR.

4.2 When procuring health care services, sections 8 to 13 of the Contract Procedure Rules do not apply. For the avoidance of doubt, there is no threshold for the PSR, it applies to contracts of all values.

4.3 The PSR provides for five decision making processes which are summarised below, Responsible Officers should refer to the PSR Guide when making a decision about which process to follow.

4.4 Direct award process A must be used when all the following apply:

- There is an existing provider of the health care services to which the proposed contracting arrangements relate; and
- The responsible officer is satisfied that the health care services to which the proposed contracting arrangements relate are capable of being provided only by the existing provider (or group of providers) due to the nature of the health care services.

This process must not be used to conclude a framework agreement.

4.5 Direct award process B must be used when all the following apply:

- The proposed contracting arrangements relate to health care services in respect of which a patient is offered a choice of provider; and
- The number of providers is not restricted by the Council; and
- The Council will offer contracts to all providers to whom an award can be made because they meet all the requirements in relation to the provision of the health care services to the patients; and
- The Council has arrangements in place to enable providers to express an interest in providing the health care services.

This process must not be used to conclude a framework agreement.

4.6 Direct award process C may be used when all the following apply:

- The Council is not required to use direct award processes A or B; and
- The term of the existing contract is due to expire and the Council proposes a new contract to replace that existing contract at the end of its term; and
- The proposed contracting arrangements are not changing considerably; and the Council is of the view that the existing provider (or group of providers) is

Appendix A

satisfying the existing contract and will likely satisfy the proposed contract to a sufficient standard.

This process must not be used to conclude a framework agreement.

4.7 The most suitable provider process may be used when all the following apply:

- The Council is not required to use direct award processes A or B; and
- The Council cannot or does not wish to use direct award process C; and
- The Council is of the view, taking into account likely providers and all relevant information available at the time, that it is likely to be able to identify the most suitable provider without running a competitive process.

The most suitable provider process must not be used to conclude a framework agreement.

4.8 The competitive process must be used when all the following apply:

- The Council is not required to follow direct award processes A or B; and
- The Council cannot or does not wish to follow direct award process C and cannot or does not wish to follow the most suitable provider process.

This process must be used if the Council wishes to conclude a framework agreement.

4.9 When direct award process C, the most suitable provider process or the competitive process are used, the following key criteria must all be used to evaluate the options:

- Quality and innovation
- Value
- Integration, collaboration and service sustainability
- Improving access, reducing health inequalities and facilitating patient choice
- Social value

4.10 When following direct award process C, the most suitable provider process or the competitive process, a standstill period of eight (8) working days must be observed. If a representation is received during the standstill period, the Council will undertake an internal review in compliance with the PSR to determine the merits of the representation.

4.11 Responsible officers must keep clear records detailing their decision making processes and rationale. This must be done for all processes. Decision Record Templates are available in the PSR Guide and must be used in all cases.

4.12 The Council must monitor its compliance with the PSR and publish a monitoring report annually.

4.13 Modifications to existing contracts must comply with the PSR. Modifications which make an existing contract or framework agreement materially different in character are not permitted under the PSR and would require a new PSR process to be undertaken. Further information on contract modifications is available in the PSR Guide.

4.14 The PSR does not apply where the council is delegating its functions to an NHS body under a section 75 agreement. Where the council is collaborating with an NHS

Appendix A

body under a section 75 agreement and then jointly commissioning services, these services must be arranged using the PSR.

- 4.15 In urgent situations, the Council may make the following decisions without following the steps normally required under PSR:
- Re-award contracts to existing providers
 - Award contracts for new services
 - Award contracts for considerably changed services
 - Make contract modifications.

However, in making these decisions, the following rules apply:

- The length of the contract must be set for only as long as is strictly necessary to address the urgent situation and a full award process must be conducted as soon as possible. If the term of the contract is longer than 12 months, a record must be made justifying the position.
- Records must be kept of the justifications for the urgency decision made.
- An Urgent Award or an Urgent Modification Notice must be published within 30 days.

5. The Role of the Responsible Officer

- 5.1 The responsible officer will be the officer named in the Procurement Plan or by the director responsible for the budget or, in the absence of the above, the officer responsible for the budget that the expenditure is being made against subject to the delegated authority being adequate.
- 5.2 Responsible officers:
- 5.2.1 Are individually responsible for ensuring that they fully understand and comply with all aspects of the Rules, failure to do so may result in disciplinary action.
- 5.2.2 Must check whether a suitable corporate contract or other publicly available contract/framework agreement is available before seeking to procure another contract. Where such a contract does exist, its use should be considered.
- 5.2.3 Must ensure that they have the correct authorisation to procure and award the contract before proceeding.
- 5.2.4 Add any contract valued at or over £5,000 to the Council's Contract Register to ensure compliance with the Local Government Transparency Code 2015.
- 5.2.5 Must ensure that the contracts for which they are responsible are effectively managed and monitored to ensure they deliver the requirement as intended and to address any performance issues as soon as possible.
- 5.2.6 Must keep a record of all decisions made in connection with the procurement, records should also include minutes from any meetings held.
- 5.2.7 Must consider whether the procurement constitutes a key decision. If it does then the responsible officer must seek approval from the relevant committee before

Appendix A

commencing the procurement. If the responsible officer is unsure, advice on what constitutes a key decision should be sought from Democratic Services.

- 5.2.8 Must ensure that a PDF copy of the signed contract is forwarded to the Procurement and Commercial Team for all contracts valued over £100,000.

- 5.3 Supporting information about the role of the responsible officer can be found in the Procurement Guide.

6. Chief Officer Responsibilities

- 6.1 Chief officers must ensure that they and their officers comply with these Rules at all times.
- 6.2 Chief officers must ensure that value for money is achieved in all procurements.

7. Prevention of Corruption/Declaration of Interests

- 7.1 Where an officer has a potential conflict of interest in a procurement, the officer must declare this immediately to the relevant director. The officer may be required to withdraw from the procurement process. Any officer who fails to declare such a conflict of interest may be subject to disciplinary proceedings and risks being prosecuted under the Bribery Act 2010.
- 7.2 Officers involved in procurement activity must comply with the Council's Code of Conduct and must not offer, promise or give any gift or reward in respect of the award or performance of any contract, unless the contract is financially constructed in such a way to pay the supplier payment by results.
- 7.3 Members involved in procurement activity will at all times act in a manner consistent with their Code of Conduct.

8. Income Generation/Concession Contracts

- 8.1 The responsible officer must seek legal, financial and procurement advice for any contracts which will generate income for the Council, including to determine if the Concession Contract Regulations (2016) apply.

9. Procuring via a Framework Agreement or Dynamic Purchasing System (DPS)

- 9.1 The responsible officer must ensure that there is no corporate contract / framework agreement / DPS available before undertaking an alternative procurement process.
- 9.2 A contract of any value can be procured via a framework agreement or DPS. Compliance with the Rules and relevant national law is achieved through compliance with the framework agreement/DPS terms and conditions. If the proposed call off is valued over £100,000, the Procurement and Commercial must be consulted before the procurement is started.

Appendix A

- 9.3 For the avoidance of doubt, a framework agreement or DPS is considered a compliant procurement route where:
- 9.3.1 It has been entered into by the Council in compliance with the Rules;
- Or
- 9.3.2 Another contracting authority, purchasing consortium or central government has tendered the framework agreement or DPS in compliance with national procurement law and the Council is named as a potential user of the arrangement.
- 9.4 Most framework agreements are available via mini competition or direct award, the responsible officer should always seek to use a competitive process where one is available. Where a direct award is being considered, approval must first be sought from the Procurement and Commercial Team.
- 9.5 The responsible officer shall carry out due diligence checks at contract award and for the duration of the contract. These checks shall include evidence of fulfilment of any selection criteria and that there are no grounds for exclusion.
- 9.6 Approval for award of a contract must be sought in compliance with the Delegated Authorities Matrix at Appendix 2.
- 9.7 The contract must be signed or sealed in accordance with the Delegated Authorities Matrix at Appendix 2. If the contract is valued over £100,000 a signed PDF copy must be sent to the Procurement and Commercial Team.
- 9.8 Where the call-off contract is valued over £25,000 an award notice is required to be published on Contracts Finder.
- 9.9 Where the Council is using an external framework agreement/DPS and the total value of the contract is £5,000 or over, the responsible officer must add the Contract to the Council's Contract Register to ensure compliance with the Local Government Transparency Code 2015.
10. Procurements up to £5,000 in Total Value
- 10.1 Whilst obtaining value for money remains the primary objective, multiple quotations are not essential.
- 10.2 The responsible officer must first ensure that there is no corporate contract, framework agreement or DPS before procuring goods, services or works.
- 10.3 The responsible officer must raise a purchase order. The terms of the purchase order should suffice for a contract, unless the officer believes the complexity of the purchase requires more bespoke terms from Pathfinder Legal Services. The purchase order must specify clearly what the officer requires from the supplier.

Appendix A

11. Procurements valued over £5,000 but below £25,000

- 11.1 The responsible officer must not seek to procure any goods, services or works if the requirement can be satisfied using an existing corporate contract, framework agreement or DPS.
- 11.2 The responsible officer must seek a minimum of three comparable written quotations. Wherever possible at least two quotations must be from a local provider.
- 11.3 The written quotations must include the following information as a minimum:
- Details of the goods, services or works to be supplied;
 - Where and when the supply is to take place;
 - The total value of the contract; and
 - The terms and conditions to apply to the procurement including price and payment terms.
- 11.4 Quotations may be submitted by letter, email or via the Council's e procurement system.
- 11.5 The contract award must be approved in accordance with the Delegated Authorities Matrix at Appendix 2.
- 11.6 A purchase order must be raised, the terms of the purchase order should suffice for a contract unless the responsible officer believes the complexity of the purchase requires more bespoke terms from the Pathfinder Legal Services. The purchase order should include the information provided by the winning supplier as detailed in section 10.3 above.
- 11.7 The responsible officer must add the contract to the Council's Contract Register to ensure compliance with Local Government Transparency Code 2015.

12. Procurements valued between £25,000 and £100,000

- 12.1 The responsible officer must not seek to procure any goods, services or works if the requirement can be satisfied using an existing corporate contract, framework agreement or DPS.
- 12.2 The responsible officer must obtain a minimum of three written quotations and whenever possible, at least two of those quotations must be from a local supplier.
- 12.3 The responsible officer must use the formal Request for Quotation documents available on the procurement pages of the intranet unless otherwise agreed with the Procurement and Commercial Team.
- 12.4 The inclusion of social value criteria in the evaluation methodology should be considered in discussion with the Procurement and Commercial Team if necessary.

Appendix A

- 12.5 An advert and award notice must be placed on Contracts Finder by the responsible officer, usually via the Council's e-procurement system.
- 12.6 The evaluation criteria must be established before the advert is published and those same criteria must be used when evaluating the quotations received.
- 12.7 The responsible officer must raise a purchase order and ensure that the Council's standard terms and conditions (located on the procurement pages of the Intranet) are used unless the responsible officer believes that the complexity of the procurement requires the amendment of those terms by Pathfinder Legal Services.
- 12.8 All bidders must be notified of the award decision simultaneously in writing by the responsible officer either via email or the Council's e-procurement system.
- 12.9 If an unsuccessful bidder makes a written request to the Council for a further debrief in relation to the award decision, the responsible officer must provide appropriate information within fifteen calendar days of receipt of the written request. The confidentiality of the quotations received, and the identity of other bidders must be preserved at all times and information about one bidder's response must not be disclosed to another bidder. Under no circumstances should the responsible officer provide a verbal debriefing to any bidder.
- 12.10 The responsible officer must add the contract to the Council's Contract Register to ensure compliance with Local Government Transparency Code 2015.
- 12.11 Relevant documentation from the procurement process, particularly the quotations received, evaluation process and the signed contract must be retained by the service so that it can be made available for audit purposes.
- 13. Procurements valued over £100,000
 - 13.1 The responsible officer must not seek to procure any goods, services or works if the requirement can be satisfied using an existing corporate contract, framework agreement or DPS.
 - 13.2 The responsible officer must consult with the Procurement and Commercial Team and Pathfinder Legal Services before commencing the procurement.
 - 13.3 A Procurement Plan will be developed by the responsible officer and the Procurement and Commercial Team and will be used to ensure that proper authority is granted for the procurement process and if relevant contract award.
 - 13.4 The inclusion of social value criteria in the evaluation methodology should be considered in discussion with the Procurement and Commercial Team.
 - 13.5 For procurements valued below the relevant UK procurement threshold, an open tender process will be followed. For procurements valued over the relevant UK Procurement Threshold, the Procurement and Commercial Team will provide advice as to the most appropriate process.

Appendix A

- 13.6 The responsible officer will work with the Procurement and Commercial Team to develop all relevant procurement documents and these must include full details of the tender evaluation criteria.
- 13.7 An advert must be placed on Contracts Finder and if the procurement is valued over the relevant UK procurement threshold on Find a Tender Service. These adverts must be placed via the Council's e-procurement system.
- 13.8 The procurement process must be managed electronically via the Council's e-procurement system.
- 13.9 Tenders must be evaluated according to the advertised evaluation criteria. Clarification questions may be asked as long as the response would not have the effect of materially changing the tender received.
- 13.10 The bidder with the highest evaluation score will normally be awarded the contract, if this is not the case further advice must be sought from the Procurement and Commercial Team and Pathfinder Legal Services.
- 13.11 Authorisation of award must be granted in accordance with the Delegated Authorities Matrix in Appendix 2 before award can take place.
- 13.12 All bidders must be notified of the award decision simultaneously via the Council's e-procurement system whether or not their bid was successful using the template letters available on the procurement pages of the intranet.
- 13.13 Where the procurement is valued over the relevant UK procurement threshold, the notification of award letters will take a specific format to be compliant with Public Contract Regulations (2015) and will include a mandatory standstill period of not less than ten days. Such letters must be drafted by the Procurement and Commercial Team. If during the standstill period, a challenge or request for feedback is received from an unsuccessful bidder, the standstill period must be paused until the matter is successfully resolved. No contract award can take place in the intervening period. The officer in receipt of this communication must immediately contact the Procurement and Commercial Team and Pathfinder Legal Services for advice before any response is made.
- 13.14 The responsible officer must raise a purchase order and ensure that the contract and description in that purchase order are sufficiently clear.
- 13.15 The responsible officer must add the contract to the Council's Contract Register to ensure compliance with Local Government Transparency Code 2015.
- 13.16 Relevant documentation from the procurement process, particularly the tenders received and the evaluation process, must be retained by the service so that it can be made available for audit purposes.
- 13.17 The responsible officer must send a signed PDF copy of the contract to the Procurement and Commercial Team as soon as possible.

Appendix A

14. Use of Presentations/Site Visits or Demonstrations

- 14.1 The responsible officer should not use presentations, site visits or demonstrations in the procurement process except in exceptional circumstances where a clear justification has been agreed with the Procurement and Commercial Team
- 14.2 If used, all bidders must be given the opportunity to engage in these presentations, site visits or demonstrations and the procurement documentation must clearly state what weighting these have.

15. Late tenders, Irregular Tenders or Errors in Tenders

- 15.1 Tenders received after the fixed closing date and time or tenders which are not submitted in accordance with the Rules and any criteria set out in the procurement documentation, will be disqualified unless otherwise agreed by the Monitoring Officer.
- 15.2 Irregular tenders must be reported to the relevant chief officer. The chief officer, in agreement with the Monitoring Officer, may accept the irregular tender if they determine that the bidder has gained no unfair advantage from its irregularity. The reasons for such acceptance should be recorded in writing.
- 15.3 The relevant chief officer, with the prior approval of the Monitoring Officer, may permit a bidder to correct an error or omission that, in the opinion of the chief officer, is an obvious one and if they determine that the bidder will gain no unfair advantage from correcting the error. Any such corrections must be recorded.

16. Clarifications and Negotiation

- 16.1 Bidders may seek clarifications throughout the procurement process. Such clarification requests must be recorded in writing and where the response may be of value to all potential bidders, the anonymised response must be circulated to those potential bidders.
- 16.2 Under no circumstances can clarification processes be used as an opportunity to conduct negotiations.
- 16.3 Negotiations are only permitted above the relevant UK procurement threshold and then only in compliance with the Public Contract Regulations (2015). This includes the use of post tender negotiations. If negotiation is being considered, the Procurement and Commercial Team must be contacted as soon as possible.

17. Forming Contracts

- 17.1 All expenditure with external organisations must be confirmed in writing.
- 17.2 Sections 10, 12 and 13 detail the nature of the contract that should be used at each procurement threshold.

Appendix A

- 17.3 All contracts must be approved, signed by an appropriate officer (as detailed in the Delegated Authorities Matrix) or sealed by Pathfinder Legal Services if valued over £500,000 or if deemed necessary for other reasons. **Please note that the use of e sign software is an acceptable method of signature.**
- 17.4 A PDF copy of the signed contract must be forwarded to the Procurement and Commercial Team where the contract value is over £100,000.
- 17.5 All contracts valued over £5,000 must be entered on to the Council's Contract Register by the responsible officer.
- 17.6 Any changes to a contract should also be entered on to the Council's Contract Register by the responsible officer.
18. Bonds, Parent Company Guarantees and Other Sureties
- 18.1 Where a bond or guarantee is required to ensure satisfactory contract performance and/or to protect the Council, the requirement must be notified to bidders in the procurement documentation and must be in place no later than four weeks after contract signature.
- 18.2 The responsible officer should consult with the Chief Finance Officer and Pathfinder Legal Services as to whether such a bond or guarantee is required where:
- The total value of the contract exceeds £500,000; or
 - It is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract; or
 - There is concern about the stability of the supplier no matter what the value.
- 18.3 The Council must never give a bond or other guarantee.
19. Non-Compliance with the Rules
- 19.1 If an officer becomes aware of any non-compliance with the Rules which cannot be remedied, they must notify the Monitoring Officer or Chief Finance Officer at the earliest opportunity. The consequences of such non-compliance may lead to suspension or dismissal from the Council.
20. Contract Management
- 20.1 All contracts valued over £100,000 must have a named contract manager.
- 20.2 During the life of the contract, the contract manager must monitor the overall performance of the contract in line with the specification, agreed service levels and contract terms.
- 20.3 In any case where a variation to an existing contract means that the contract value exceeds the relevant UK procurement threshold, or where there is any material change to the contract, the contract must be treated as a new procurement under these rules. The Procurement and Commercial Team should be contacted for further advice in these circumstances.

Appendix A

20.4 Legal advice must be sought before assignments or novations are entered into.

20.5 Contracts may be extended where:

- There is budgetary provision; and
- Value for money can be clearly demonstrated; and
- There is provision in the original contract for such an extension.

20.6 Extensions are not permitted where they are not provided for in the original contract or where such an extension would take the contract value over the relevant UK procurement threshold.

21. Other Matters

21.1 Abnormally Low Bids

21.1.1 Under the Public Contract Regulations (2015) the Council is required to request an explanation of the price or costs proposed in a tender where that price or those costs appear to be abnormally low in relation to the requirement.

21.1.2 Advice should be sought from the Procurement and Commercial Team during this process to ensure that the legal requirements are adequately complied with.

21.2 UK GDPR

21.2.1 Officers conducting a procurement should ensure that a Data Protection Impact Assessment is conducted prior to the procurement being conducted.

21.2.2 Further advice may be sought from the Procurement and Commercial Team and/or the Data Protection Team before further action is taken.

21.3 Retention of Records

21.3.1 The responsible officer must have due regard to the Council's Retention Policy in all procurement activity and record keeping.

Appendix A

Appendix 1

Definitions

Assignment	Transfer of contractual benefit by one party to another.
Award notice	A notice published on Contracts Finder or Find A Tender which provides details of the winning bidder and the final value of the contract. Award notices are required for all procurements valued over £25,000.
Bidder	Any person or organisation who asks for or is invited to submit a quotation or tender.
Call Off	A specific requirement which can be met under the terms of a framework agreement/DPS and which is issued under the terms of the framework agreement/DPS.
Chief Officer	The Council officer as defined in the Constitution.
Collaborative joint procurement	Combining procurements together with likeminded contracting authorities for mutual benefit.
Contract	A legally binding agreement between two or more parties for performing some specified act(s) in exchange for a lawful consideration.
Contract Extension	An extension to the duration of a contract beyond the initial term but not including any alteration to the scope of the contract.
Contract Management	The process for managing contract creation, execution and analysis to maximise operational and financial performance of an organisation all while reducing financial risk.
Contract Manager	The officer responsible for the budget and the management of the contract, including the performance management and ensuring compliance with its terms and conditions.
Contract Register	The register that stores details of the Council's contracts such as duration and expiry dates.
Contract Term	The length of the contract including the initial terms and any extension periods proposed.
Contract Value	The total value over the whole life of the contract including potential extension periods.

Appendix A

Contract Variation	An alteration to the scope, term or any other part of a contract. The limitations of the Public Contract Regulations should be borne in mind when varying a contract.
Contracting Authority	Has the definition contained with the Public Contract Regulations 2015.
Corporate Contract	A contract that has already been let by the Council.
Council	Cambridgeshire County Council.
Dynamic Purchasing System (DPS)	A completely electronic system of limited duration which is established to purchase commonly used goods, services or works and which is open throughout its duration for the admission of suppliers who satisfy the selection criteria specified.
E-Procurement System	A system that enables the Council and suppliers to conduct the key activities of the procurement lifecycle over the internet.
Exception	Approval given as appropriate to except a procurement or contract from the Rules.
Evaluation	The process of assessing received tenders or quotations against the published criteria to identify the winning bidder.
Framework Agreement	A formal tendered arrangement which sets out the terms and conditions under which specific purchases (call-offs) can be made from the successful bidders in unpredicted quantities at different times throughout the term of the framework agreement.
Goods	Tangible assets including electricity, hardware, software, plant hire etc.
Initial term	The initial period of the contract which may be subsequently extended.
Invitation to Tender	Means the document(s) containing the specification, proposed terms and conditions, and other appropriate information, as issued to bidders to solicit formal tenders.
Irregular Tender	A tender that does not comply with the instructions set out in the Invitation to Tender document.

Appendix A

Light Touch Regime	Refers to those social and other specific services covered by Part 2: Chapter 3 – Section 7 and the CPV codes detailed in Schedule 3 of the Public Contract Regulations (2015).
Local	Areas covered by the Business Board of the Cambridgeshire and Peterborough Combined Authority. An organisation which is not local in its address but that can help the local area may be included in this definition.
Members	Democratically elected representatives that represent the interests of the people of Cambridgeshire at a local, regional and national level.
Monitoring Officer	The officer appointed by the Council under Section 5 of the Local Government and Housing Act 1989.
Novation	The substitution of a new contract for one already existing. The new contract may be between the new parties or may involve the introduction of a new party. A novation also takes place when the original parties continue their obligation to one another but a new agreement is substituted for an existing one.
Officer	An employee of the Council.
Open tender	A one stage tender process whereby all bidders are invited to bid in response to an advertisement.
Pathfinder Legal Services	The Council's legal advisors.
Publicly Available Contract	A contract that has been let by another Contracting Authority or a public purchasing consortium and which is available for use by the Council. The Council must have been named specifically or generally within the procurement documentation in order to enable access.
Quotation	An offer to sell goods, services or works at a stated price under specified conditions.
Responsible Officer	The officer responsible for the procurement and the budget under which the contract is being let.
Services Contract	Means public contracts which have as their object the provision of services other than those referred to in the works definition.

Appendix A

Specification	An exact statement of the particular need to be satisfied or essential characteristics that the Council requires and which a bidder must deliver.
Tender	A formal offer from a bidder which is capable of being accepted by the Council and which is submitted in response to an Invitation to Tender. It shall include all documents comprising the submission including pricing, technical specifications and method statements as well as information about the bidder.
UK GDPR	The UK General Data Protection Regulation which consists of the EU General Data Protection Regulation as incorporated into the law of England and Wales, Scotland and Northern Ireland by virtue of Section 3 of the European Union (withdrawal) Act 2018 and amended by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.
UK Procurement Threshold	The contract value at which the Public Contract Regulations (2015) must be applied. See Appendix 3 for further information.
Value for Money	Not necessarily the lowest price, it combines goods, services or works that fully meet the needs with the level of quality required, delivered at the time needed and at an appropriate price.
Waiver	A means of seeking an exception from one or more of these CPRs.

Appendix A

Appendix 2

Delegated Authorities Matrix

Procurement Stage	Budget support	Budget manager (Project Manager for Capital)	Head of Service	Service Director / Asst Director	Exec Director	Joint Commissioning Board (JCB)	Committee	Central Procurement Team
		Tier 4	Tier 3	Tier 2	Tier 1			
Procurement Plan approval ¹	N/A	N/A	N/A	N/A	N/A	Over £100,000	Inc. to approve start	£100,000 - £500,000 Senior Category Manager Over £500,000 Head of Procurement
'Start procurement' approval ²	N/A	Up to £200,000	Up to £500,000	Up to £500,000	Up to £500,000	Over £25,000 for P&C	Over £500,000 key decision	N/A
Contract award approval ³	N/A	Up to £200,000	Up to £500,000	Up to £500,000	Up to £500,000	N/A	Over £500,000 unless delegated	N/A

¹ Procurement Plans that relate to People and Communities must be approved by the JCB, Plans that are for joint procurements by PCC and CCC must be approved by Heads of Procurement at PCC and CCC. All other Plans should be approved by the relevant Chief Officer or their named delegate.

² Procurements that are not valued over £500, 000 but still are related to Key Decisions need to be approved by the appropriate Committee. Start procurement means publish advert, documents may start to be prepared before approval is granted.

³ Approval to award of contracts valued over £100,000 will require an Award Report to be prepared by the Responsible Officer and the Procurement Officer.

Appendix A

Procurement Stage	Budget support	Budget manager (Project Manager for Capital)	Head of Service	Service Director / Asst Director	Exec Director	Joint Commissioning Board (JCB)	Committee	Central Procurement Team
		Tier 4	Tier 3	Tier 2	Tier 1			
Sign or seal contract ⁴	N/A	Up to £200,000	Up to £500,000	Up to £500,000	Up to £500,000	N/A	N/A	N/A
Official order ⁵	Up to £5,000	Up to £200,000	Up to £500,000	Up to £1m	Unlimited	N/A	N/A	N/A
Enhanced order for specific business areas ⁶	Up to £5,000	Up to £1m	Up to £5m	Up to £1m	Unlimited	N/A	N/A	N/A

⁴ Contracts can be signed up to £500,000 unless the Monitoring Officer requires them to be sealed. Contracts over £500,000 should be sealed by Pathfinder Legal Services.

⁵ Approval of orders (in ERP Gold) are subject to prior thresholds being authorised, e.g. over £500,000 a Committee Report must have been approved

⁶ Approval of orders (in ERP Gold) are subject to prior thresholds being authorised, e.g. over £500,000 a Committee Report must have been approved

Appendix A

Appendix 3

UK Procurement Thresholds

These thresholds are effective from 1st January 2024 and are inclusive of VAT.

Works threshold: £5,372,609

Services threshold: £214,904

Light Touch Regime threshold: £663,540

Concessions threshold: £5,372,609

Constitution and Ethics Committee Agenda Plan

The following are standing agenda items which are considered at every Committee meeting:

- Apologies for Absence and Declarations of Interest
- Minutes of previous meeting and Minutes Action Log
- Committee Agenda Plan

Committee date	Agenda item	Lead officer	Deadline for draft reports	Agenda despatch date
18/06/24	A Review of the Complaints Received Under the Members' Code of Conduct - End May 2024	E Duncan	03/06/24	10/06/24
	Review of Members' Code of Conduct	E Duncan		
05/09/24	Annual Review of the Constitution	E Duncan	20/08/24	28/08/24
	Review of Cambridgeshire County Council's Code of Conduct	E Duncan/ M Rowe		
	A Review of the Complaints Received Under the Members' Code of Conduct - End August 2024	E Duncan		
12/11/24	No reports currently scheduled		28/10/24	04/11/24
28/01/25	A Review of the Complaints Received Under the Members' Code of Conduct - End December 2024	E Duncan	13/01/25	20/01/25
20/03/25	Monitoring Officer Annual Report	E Duncan	05/03/25	12/03/25
	A Review of the Complaints Received Under the Members' Code of Conduct - End February 2025	E Duncan		

Committee date	Agenda item	Lead officer	Deadline for draft reports	Agenda despatch date
10/06/25	A Review of the Complaints Received Under the Members' Code of Conduct - End May 2025	E Duncan	23/05/25	02/06/25

Please contact Democratic Services (democraticservices@cambridgeshire.gov.uk) if you require this information in a more accessible format.