

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

**Date:** Tuesday 28<sup>th</sup> April 2015

**Time:** 2.00pm – 3.15pm

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

**Present:** Councillors S Kindersley (Chairman), P Bullen, S Frost, R Hickford, J Hipkin, P Reeve, M Smith and J Wisson (substituting for Cllr D Brown)

**In attendance:** Councillor P Downes

**Apologies:** Councillors D Brown, M McGuire, J Scutt and A Taylor.

### **53. OPENING REMARKS**

It was noted that changes to the scheduled dates of meetings of the Committee had resulted in Councillor McGuire not being able to attend. The Chairman asked that apologies be offered to Councillor McGuire for the inconvenience caused by the change to the scheduled dates.

The Chairman also welcomed Kathrin John, Democratic Services Officer, to her first committee meeting since joining the County Council.

### **54. DECLARATIONS OF INTEREST**

None

### **55. MINUTES – 3<sup>rd</sup> MARCH 2015**

The minutes of the meeting held on 3<sup>rd</sup> March 2015 were confirmed as a correct record and signed by the Chairman.

### **56. VARIATION OF ORDER OF BUSINESS**

The Chairman gave notice that he intended to exercise his discretion to vary the order of business to bring forward item 6 on the agenda (Annual report on whistleblowing incidents).

### **57. ANNUAL REPORT ON WHISTLEBLOWING INCIDENTS**

The Committee received the annual report on whistleblowing incidents. A copy of the Whistleblowing Policy was appended to the report. Members noted that no whistleblowing incidents had been reported to the Monitoring Officer in the past 12 months preceding the submitted report.

During discussion:-

- Members questioned whether the fact that there had been no whistleblowing reports in the past 12 months should be regarded as healthy and a reflection that the Council had an open and transparent culture or whether, alternatively, staff did not feel able to raise concerns.
- It was confirmed that details of the Council's whistleblowing policy were available on the Council's intranet site and that awareness of the policy formed a part of staff corporate induction.
- It was noted that whilst comparator figures with previous years were not available at the meeting, these could be provided subsequently to the Committee. **Action required**
- Members requested that information also be obtained from neighbouring local authorities on the number of whistleblowing reports received annually. **Action required**
- With a view to further raising awareness, it was suggested that perhaps the Chief Executive could remind staff of the existence and purpose of the Whistleblowing Policy within his blog.

The Committee noted the contents of the annual report on whistleblowing incidents.

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

The Committee received a report which set out the requirements of the Openness of Local Government Bodies Regulations 2014. In particular, the report noted that the requirements within the Regulations in respect of reporting by the public of meetings had already been incorporated within Rule 17, Part 4.4 of the Constitution (Photography and Audio Recordings of Meetings). However, it was necessary to amend the Constitution to reflect new requirements within the Regulations in relation to the recording and inspection of certain officer decisions, as outlined in paragraph 3 of the report. Particular reference was made to the requirement to record decisions under a general authorisation where the effect of the decision was to award contracts or incur expenditure which materially affected the body's financial position. In that context, it was noted that authorities had some discretion as to the financial value of the decisions to be recorded and that the Strategic Management Team had recommended that the figure of £250,000 should be set as the appropriate level to determine materiality.

During discussion upon the report:-

- It was noted that where decisions were already required to be published by any other legislation, they did not need to be recorded again, provided the record included the date and reasons for decision.
- Concern was expressed at the requirement to record as part of the decision any alternative option considered and background documents, which, it was suggested, was overly bureaucratic. It was noted however that this was a requirement under the regulations.
- It was suggested that any officer decision to dispose of land above £250,000 should be recorded. Reference was made to the desirability of Members being aware of land disposals, particularly in view of their local knowledge of their Division. Members commented on the merit in reviewing the delegation of decisions relating to the disposal of assets. In that context, it was noted

that the General Purposes Committee, at its meeting to be held on 19 May 2015, would be considering a report on officer delegations for property decisions. It was accordingly requested that the Committee's comments with respect to the need for greater transparency about decisions concerning the disposal of property should be conveyed to the General Purposes Committee. **Action required**

- Members debated whether the figure of £250,000 was the appropriate materiality level or should be reduced to £50,000. The desirability of minimising the bureaucratic impact of the new duty to record decisions was explained and it was accordingly accepted that the suggested threshold of £250,000 should be adopted and then reviewed again in six months' time in the light of experience. **Action required**

It was resolved to recommend to Council:

1. That the requirement for a written record to be made of any decision taken by an officer of the Council:-
  - (a) under a specific express authorisation; or
  - (b) under a general authorisation where the effect of the decision is to:
    - (i) grant permissions or licences;
    - (ii) affect the rights of individuals;
    - (iii) award contracts or incur expenditure over £250,000be reflected in the Council's Constitution.
2. That the Monitoring Officer, in consultation with the Chairman of the Constitution and Ethics Committee, be authorised to make any other minor or consequential amendments to the Constitution necessary for, or incidental to, the implementation of these proposals.

## **59. PROPOSED AMENDMENTS TO THE COUNCIL'S CONSTITUTION**

The Committee received a report which outlined a number of proposed amendments to the Constitution. Details of the proposed amendments were set out in the appendices to the report.

The Committee proceeded to consider each recommendation in turn. Particular discussion took place on the following items:-

### **(a) Procedure for Members to place items on Committee Agenda**

Members noted the proposal to formalise within the Constitution the arrangements by which Members could request the inclusion of an item of business on a Committee agenda. In particular, it was proposed that the route should be via their relevant Committee spokesman/woman, who would then raise the item at the meeting of spokesmen/women, with the relevant Director, in consultation with the spokesmen/women, being authorised to determine whether to include the item on the agenda.

With respect to the proposal:

- It was acknowledged that the procedure was dependent on the successful operation of the "spokes" system and on regular attendance by spokesmen/women at "spokes" meetings. However it could be operated as proposed and then reviewed over time.

- Reference was made to an earlier request for training for spokesmen/women to ensure that the “spokes” system operated as effectively as possible.
- Attention was drawn to the merit in requests going to “spokes” meetings as business could then be directed in the most appropriate manner.

(b) Motion Similar to One Previously Rejected

The Committee noted that Rule 14 of the Council Procedure Rules provided that at least 14 Members were required to sign a motion to either rescind a decision passed at a meeting of the Council within the past six months or to submit a motion similar to one previously rejected in the past six months. It was suggested that this number was too low and could potentially enable a small number of Members to frustrate business and that it would be preferable if groups had to co-operate to sign such a motion. After discussion, the Committee concurred that there was merit in increasing the number of members required to one third of the total number of Councillors (ie: 23).

With respect to the proposed addition of a similar provision within the Committee Procedure Rules, the Committee was advised that the new Rule provided that a motion to rescind a decision or to submit a motion in similar terms to a previous one, could only be submitted in circumstances where new information had come to light.

Following consideration of the recommendations, it was resolved to recommend to the Council:

1. that Part 4.1 of the Constitution (Council Procedure Rules) be amended as set out at Appendix A of the report:
  - (a) by the addition in Rule 1.3 (Selection of Councillors on Committees and Outside Bodies) of the appointment of the Chairman/woman of the Cambridgeshire Health and Wellbeing Board.
  - (b) by the amendment of Rule 4 (Appointments to Committees), specifically Rule 4.1 and 4.2 relating to allocation of seats to substitutes.
  - (c) By the deletion in Rule 7 (Chairman/woman) of the reference to application to committee meetings.
  - (d) by the addition in Rule 9.4 (Petition Scheme):-
    - (i) of a further exclusion from the petitions scheme relating to Traffic Regulation Orders (TROs) in the light of the proposal to establish a separate procedure for the management of petitions relating to TROs; and
    - (ii) of wording to clarify within the section “Process at the Meeting” that petition organisers will receive confirmation of the outcome of their petitions from the Chairman/woman.
  - (e) by the revision of Rule 14 (Previous Decisions and Motions) relating to the number of members required to rescind a decision or submit a motion similar to one previously rejected to a third of the Council (i.e. 23).

- (f) by the inclusion within Rule 15 (Voting) of provision for recorded votes at budget meetings in accordance with the statutory requirement.
  - (g) by the re-numbering of any Rules required as a consequence of the above amendments.
2. that Part 4.4 of the Constitution (Committee Procedure Rules) be amended as set out in Appendix B to the report:-
- (a) by the addition of a new Rule 3 (Chairman/woman of Meeting) relating to the powers of the person presiding at the meeting.
  - (b) by the addition of a new Rule 7 (Agenda Items Requested by Councillors) to formalise the procedure by which a Councillor can request the inclusion of an item on a committee agenda, together with consequential amendments to Rule 5 (Order of Business) and 22 (Attendance of Other County Councillors).
  - (c) by the addition of a new Rule 10 (Petitions to Committees) setting out the Petition Scheme for Committees.
  - (d) by the addition of a new Rule 17 (Previous Decisions and Motions) regarding a motion to rescind a previous decision/a motion similar to one previously rejected.
  - (e) by the re-numbering of any Rules required as a consequence of the above amendments.
3. that Part 4.6 of the Constitution (Financial and Contract Rules) be amended as set out in Appendix C to the report.

It was additionally resolved:

to note the changes to the functions of the Service Appeals Sub-Committee as set out in paragraphs 5.1 and Appendix D to the report.

## **60. QUESTION FROM COUNCIL: THE RELATIONSHIP BETWEEN COMMITTEES AND FULL COUNCIL**

The Committee received a report which invited consideration of the relationship between Committees and the Council. Members were reminded that at the meeting of the Council held on 24 March 2015, two motions had been referred to a named service committee without being further discussed at Council. Later during the Council meeting, referring to the earlier reference of the motions to a service committee, Councillor Peter Downes had asked a question in which he requested that the Constitution and Ethics Committee review procedures and the relationship between Committees and the Full Council.

With the consent of the Chairman, Councillor Downes was invited to address the Committee. Councillor Downes explained the background to his question at the Council meeting. He believed that the situation had illustrated the gap between “specialist” councillors (who were specialists in the field of their committee) and generalist councillors. However the public expected all councillors to have

knowledge of the Council's business. With the reduction from 17 to 13 Councillors on each policy and service committee, there was a concern that Members could feel excluded from the committee process. Moreover, the decision to refer the motions to committee without discussion and the moving of the motion "that the question be now put" was felt to be unhelpful and not presenting the Council in the best light. It was suggested that such closure motions should only be used in the most exceptional of circumstances.

Councillor Downes then responded to a number of questions from members of the Committee.

During general discussion by the Committee:

- The view was expressed that in a committee system, it was appropriate that issues were dealt with via the relevant committee rather than being brought directly to Council.
- Some resistance was expressed to changing current procedural arrangements since it was felt that closure motions provided a mechanism for controlling potential abuse of debates.
- It was noted that some authorities did try to restrict motions coming before Council, for instance by setting a maximum number of motions per meeting, but that this often caused more difficulties than it solved.
- With respect to the reduction in size of policy and service committees from 17 to 13 members, it was noted that groups who were not represented on a particular committee would still be entitled to appoint a spokesman/woman for that committee.
- Reference was made to the use of the meeting of spokesmen/women as the appropriate vehicle for councillors to take issues forward, rather than taking motions directly to Council.
- There was concern that the "spokes" system was not working as effectively as it should be and that not all spokesmen/women were engaging at the same level.
- The role of the spokesman/woman was acknowledged to be key to ensuring that appropriate information was communicated in a timely manner to group members.
- The importance of providing appropriate training to spokesmen/women at the earliest opportunity was emphasised. In that context, it was noted that arrangements would be made for training to take place early in the new municipal year.
- Members commented that it was essential that Councillors were given appropriate guidance on how to submit items for committees; notices of motion etc.
- Reference was made to the scope for the Member Development Panel to consider how the training issues and knowledge gaps identified during the Committee's discussion could be addressed.
- In response to a suggestion that consideration could be given to introducing a system to filter motions, it was noted that the Council preview meeting already reviewed motions, albeit it was acknowledged that Group Leaders would not have had the chance to consult with their groups upon the motions at that stage.

The Chairman commented that:-

- Councillors who did not sit on a particular committee and wished to raise an item should do so through their spokesmen/women.

- The most successful motions were often those which were submitted on a cross party basis.
- Motions should not be seen in a negative way, instead they could present opportunities to demonstrate how the Council could work together for the good of the community.
- The question raised by Councillor Downes and the referral of the two motions to committee was likely to result in Councillors thinking more carefully about the content of motions in future.

Having been invited to make any concluding remarks, Councillor Downes pointed out that the performance expectations of Councillors were much higher under the Committee system and that there was a need to ensure that all Councillors were equipped to fulfil their roles. He further emphasised the need to provide clear guidance to Members on how to raise issues; request agenda items; submit motions etc.

In conclusion, the Committee concurred that an information sheet and flowchart should be prepared and circulated to all Councillors outlining the appropriate procedures to be followed in order to request the inclusion of items on committee agenda, submission of motions etc and that appropriate training should be provided for committee spokesmen/women. **Action required.**

## **61 FORWARD AGENDA PLAN**

The Committee noted its forward agenda plan.

## **62. DATE OF NEXT MEETING**

The Committee noted that the next meeting was scheduled to take place on Tuesday 23<sup>rd</sup> June 2015 at 2.00pm.

## **63. CHAIRMAN'S CLOSING REMARKS**

Noting that this would be his last meeting as Chairman of the Constitution and Ethics Committee, the Chairman thanked the members of the Committee for their hard work and support over the last two years. He also recorded his thanks to Quentin Baker (Director of Law, Property & Governance and Monitoring Officer) and Michelle Rowe (Democratic Services Manager) for their considerable support during his term of office as Chairman of the Committee.

The Committee in turn recorded its thanks to the Chairman for his excellent chairing of the Committee during his term of office.

Chairman