

CONSTITUTION AND ETHICS COMMITTEE: MINUTES

Date: Tuesday 26th September 2017

Time: 2.00pm – 3.20pm

Place: Kreis Viersen Room, Shire Hall, Cambridge

Present: Councillors M McGuire (Chairman), C Boden (substituting for Cllr Reynolds), A Bradnam, D Connor, L Dupré, L Harford (substituting for Cllr Hickford),

Apologies: Councillors R Hickford, K Reynolds, J Scutt and P Topping

11. DECLARATIONS OF INTEREST

None

12. MINUTES – 20th JUNE 2017

The minutes of the meeting held on 20th June 2017 were confirmed as a correct record and signed by the Chairman.

Following on from the Committee's decision in relation to the terms of reference of the Audit and Accounts Committee (minute 5 refers) to "invite the Audit and Accounts Committee to consider the efficacy of the term 'but not direct' in point 1.2 and its relationship to 1.12, which said 'suggest', and to consider whether this wording was appropriate", the Chairman reported that the Audit and Accounts Committee had considered the matter at its meeting on 25th July 2017, and had been advised that, in accordance with the Public Sector Internal Audit Standards, the wording adopted reflected the roles of Chief Internal Auditor and Audit and Accounts Committee; it was for the Auditor, not the Committee, to determine the Internal Audit Plan.

13. PRINCIPLES AND PROTOCOLS FOR PROACTIVE COMMUNICATIONS WITH MEDIA AND SOCIAL MEDIA OUTLETS

The Committee received a report setting out an updated and revised media protocol and asking the Committee to recommend to full Council that this document be incorporated in the Council's Constitution. Members noted that the current edition of the media protocol dated from 2014, but there was no record of this document receiving formal approval. The revised document incorporated comments from leaders of the Council's political groups, particularly in relation to ensuring that the members affected were given adequate advance notice of media approaches.

In reply to questions raised in the course of discussion, members noted that

- the County Council had a LinkedIn account, but this was largely run by Human Resources, because it was used as a channel for recruitment
- it was open to any school in the County to buy in the services of the Communications Team on a subscription basis, or by the hour.

It was resolved unanimously

to recommend to Council the approach and principles contained within the updated and revised media protocol for Cambridgeshire County Council for inclusion in the Council's Constitution.

14. REVISION OF THE WHISTLEBLOWING POLICY

The Committee considered a report presenting a revised Whistleblowing Policy for approval. Members noted that the policy had already been endorsed by the Audit and Accounts Committee at its meeting on 30th May 2017; the revision aimed to set out more clearly, at the start, key information on how issues should be raised and whom to contact about them. The revision also contained updated officer contact details, including for the Chief Executive, and dealt more fully with the question of harassment following whistleblowing, as well as setting out arrangements for monitoring implementation of the policy.

Members were advised that the draft policy did not include two modifications recently suggested by the Monitoring Officer. He had pointed out that the document did not contain any mention of the statutory obligation on the Monitoring Officer to take action to avoid the Council acting unlawfully (including both civil and criminal illegality). He had therefore suggested that the policy should include a requirement to inform the Monitoring Officer of any whistleblower report received. He also suggested that in Section 7, Roles and Responsibilities, the Monitoring Officer should be shown as leading on any issues where there was alleged unlawfulness or criminality. The Committee was invited to consider whether the draft policy should be amended to incorporate the Monitoring Officer's suggestions.

In discussion, members sought, and received, assurance that there would be no conflict with existing Human Resources policies if the Monitoring Officer were to lead on unlawfulness. They also asked whether the Monitoring Officer would be involved in any complaint against a member of staff that included allegations of criminality, and were advised that he would. The Monitoring Officer explained that he was under a statutory obligation to report criminality, and these modifications to the Whistleblowing Policy would be in line with the norm in other local authorities.

It was resolved unanimously:

to approve the revised Whistleblowing Policy, amended to incorporate the modifications suggested by the Monitoring Officer, namely a requirement that the Monitoring Officer be notified of any whistleblower report received, and that he be included as having the role of leading on any issues where there was alleged unlawfulness or criminality.

15. PROPOSAL FOR THE CORPORATE PARENTING BOARD TO BECOME A SUB-COMMITTEE OF THE CHILDREN AND YOUNG PEOPLE COMMITTEE

The Committee received a report setting out a proposal that the Corporate Parenting Board (CPB) become a sub-committee of the Children and Young People Committee, and presenting suggested terms of reference for the sub-committee. Members noted that the proposal was intended to strengthen the status and accountability of Corporate Parenting in the Council.

In the course of discussion, members

- expressed concern at the apparent loss of expertise arising from the replacement of a large board with a small sub-committee, and were reassured that the officers currently on the CPB would continue to be available to the sub-committee in an advisory capacity
- were advised that the making of decisions in relation to individual children would remain the responsibility of the courts
- noted that it was proposed that the sub-committee would have authority to exercise all the Council's functions relating to the delivery of the County Council's Corporate Parenting functions; any matters outside this remit would remain the responsibility of the Children and Young People Committee
- suggested that the second section of the table of delegated authority in the draft terms of reference, 'Authority for the functions and powers conferred on or exercisable by the County Council as Local Authority in relation to Corporate Parenting' be amended to make it clear that this related to operational decisions, and not to matters of broader policy, which would continue to be determined by the Children and Young People Committee
- asked that the timescale of 'recent' experience of being looked after or receiving services as a care leaver be defined as within the last five years.

It was proposed by the Chairman that the recommendation be amended by the addition of a clause authorising the Head of Countywide and Looked After Children's Services, in consultation with the Chairman of the Committee, to revise the draft terms of reference to incorporate the changes identified above, namely the limitation on the sub-committee's remit, and the definition of 'recent' experience. This proposal found general acceptance.

It was resolved unanimously

- a) to recommend to Council the proposal that the Corporate Parenting Board become a sub-committee of the Children and Young People Committee, and suggested Terms of Reference, in order to strengthen the status and accountability of Corporate Parenting in the Council
- b) to authorise the Head of Countywide and Looked After Children's Services, in consultation with the Chairman of the Constitution and Ethics Committee, to revise the draft terms of reference to incorporate the points identified by the Committee, that the sub-committee's delegated authority related to operational decisions only, and that 'recent' experience of being looked after or receiving services as a care leaver be defined as within the last five years.

16. COUNTY COUNCIL – PROPOSED CHANGES TO THE CONSTITUTION

The Committee received a report inviting it to consider proposed amendments to the Council's Constitution and, if appropriate, to recommend them to Full Council. The Committee's resolution on each proposed amendment is set out at the end of this minute.

Combined Authority Board & Overview and Scrutiny Committee

The Committee considered proposals to reduce the time for, and scope of, oral questions on Combined Authority matters, and to receive only one report on the Authority's decisions. It also considered whether members should be required to give advance notice of questions to be asked at Full Council on Combined Authority decisions.

In discussion, members

- commented that the same decision could be the subject of questions both to the Board member and to the Overview and Scrutiny Committee member; it would be for the Chairman/woman to ensure that the questions adopted different approaches to the issue
- queried the total time allocation, and were advised that the intention was two minutes for the question, two minutes for the answer to it, one minute for the supplementary question and two minutes for the answer to the supplementary
- suggested that the time allocation of 40 minutes was insufficient, given that each question with supplementary and responses could take up to seven minutes
- expressed concern that giving members the opportunity only to ask questions on the Combined Authority's decisions rather than simply comment on concerns or issues could have the effect of cutting off whole areas of questioning, for example on why a decision was not made, or what the Authority's view of an issue might be
- pointed out both that the written questions procedure could be used elsewhere in the meeting to ask the Leader about a Combined Authority matter, such as what the Authority might do in specific circumstances, and that a week's notice was required for such a question
- endorsed the proposal that advance notice of questions requiring a detailed response be given, but pointed out that there could be a meeting of the Combined Authority during the notice period.

It was proposed by the Chairman that paragraphs 4 and 5 of Appendix 2 be amended to read (deletions struck through double, additional text underlined)

If Members wish to raise questions or issues requiring a detailed response, ~~it will usually be helpful if they~~ must give five working days' advance notice so that the necessary information can be obtained in advance of the meeting, unless a meeting of the Combined Authority is due to take place during the notice period, in which case the Chairman/woman will decide whether to accept the question.

Members will have two minutes in which to ask a question and one minute for a supplementary with up to a maximum of two minutes for a direct oral answer to ~~both~~ each.

The proposed amendment met with general support.

Article 4 – The Full Council

The Committee considered a proposal that Full Council should take the recommendation of the relevant Policy and Service Committee rather than of the General Purposes Committee when deciding on the plans whose adoption or approval was statutorily reserved to Full Council. This would remove the need for General Purposes Committee to consider plans which had already been considered by another committee. This proposal was accepted for recommendation to Full Council without discussion or amendment.

Protocol on Member/Officer Relations

The Committee considered a proposal to remove the prohibition on officers attending meetings of elected members to which only members from one party had been invited if the meeting was not being held on County Council premises, noting the proviso that the Chief Executive or Deputy Chief Executive or Monitoring Officer be in attendance at such a meeting.

In discussion, members explored various circumstances and permutations of invitees to which this might apply, and expressed concern at the potential burden on senior officers, and the potential for limiting the scope for convening such meetings if they could only be held in the presence of one of the three officers.

It was proposed by the Chairman and generally agreed that the first sentence of paragraph 6.3 be amended as follows to provide for the Chief Executive, Deputy Chief Executive and Monitoring Officer to nominate another officer to attend in their place (additional wording underlined):

The Chief Executive or Deputy Chief Executive or Monitoring Officer or their nominee will be in attendance.

It was also proposed and agreed that the amended sentence would be better placed as a second bullet point to the previous paragraph, paragraph 6.2.

Decision Review Procedure Rules

The Committee considered a proposal to set out in detail how the decision review process worked, by amending Article 6 and adding Decision Review Procedure Rules to Part 4 of the Council's Constitution. Members noted that only General Purposes Committee, not Full Council, had the power to initiate a review of a decision taken by a Policy and Service Committee.

This proposal was accepted for recommendation to Full Council with little discussion and without amendment.

Cambridgeshire County Council Approach to Public Consultation on the Business Plan

The Committee considered a proposal to recommend to Council that the terms of reference of the Communities and Partnership Committee be amended to give it responsibility for the Council's Consultation Strategy and its approach to future Business Planning consultation. Members noted that the General Purposes Committee had agreed this proposal at its meeting on 19 September 2017.

In discussion, it was suggested that there was a risk that the remit of the Communities and Partnership Committee was straying into that of other Council committees, leading to unnecessary duplication of effort. However, it was pointed out that the Committee had been set up as a cross-cutting committee, and should be accepted as such.

Resolutions

Combined Authority Board & Overview and Scrutiny Committee

It was resolved by a majority to recommend to Full Council

that the protocol for oral questions at Full Council in relation to the Cambridgeshire and Peterborough Combined Authority and Overview and Scrutiny Committee be revised to reduce the number of reports presented from two to one and the time allocated for questions from 60 minutes to 40 minutes, as set out in Appendix 2 of the report before Committee, subject to amending paragraph 4 of the protocol to read 'If Members wish to raise questions or issues requiring a detailed response, they must give five working days' advance notice so that the necessary information can be obtained in advance of the meeting, unless a meeting of the Combined Authority is due to take place during the notice period, in which case the Chairman/woman will decide whether to accept the question', and amending paragraph 5 to read 'Members will have two minutes in which to ask a question and one minute for a supplementary with up to a maximum of two minutes for a direct oral answer to each.'

Article 4 – The Full Council

It was resolved unanimously to recommend to Full Council

that Article 4, The Full Council, be revised to allow the relevant Policy and Service Committee to make recommendations direct to Full Council on plans statutorily approved by Full Council, as set out in Appendix 3 of the report before Committee

Protocol on Member/Officer Relations

It was resolved unanimously to recommend to Full Council

that the Protocol on Member/Officer Relations be revised to remove the prohibition on officers attending political group meetings which are not held on County Council premises, as set out in Appendix 4 of the report before Committee, subject to adding the words 'or their nominee' to the first sentence of paragraph 6.3, and moving that sentence from paragraph 6.3 to become a second bullet point in paragraph 6.2.

Decision Review Procedure Rules

It was resolved by a majority to recommend to Full Council

- i) that the process of Decision Review be set out in the Constitution by revising Article 6, The Statutory Scrutiny Function, and adding Decision Review Procedure Rules to Part 4 of the Constitution, Rules of Procedure, as set out in appendices 5 and 6 respectively of the report before Committee.

Cambridgeshire County Council approach to public consultation on the Business Plan

It was resolved by a majority to recommend to Full Council

- ii) that the terms of reference for the Communities and Partnership Committee be amended to give that Committee responsibility for the Council's Consultation Strategy and its approach to future Business Planning consultation, as set out in Appendix 7 of the report before Committee.

17. A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT TO 14 SEPTEMBER 2017

The Committee received a report setting out the number and nature of the complaints received about Members under the Code of Conduct from 13 June 2017 to 14 September 2017.

It was resolved to note the contents of the report.

18. FORWARD AGENDA PLAN

The Committee received and noted its forward agenda plan.

19. DATE OF NEXT MEETING

The Committee noted that its next meeting was scheduled to take place at 2pm on Tuesday 28th November 2017.

Chairman