

CONSTITUTION AND ETHICS COMMITTEE



Wednesday, 22 April 2020

Democratic and Members' Services
Fiona McMillan
Monitoring Officer

14:00

Shire Hall
Castle Hill
Cambridge
CB3 0AP

COVID-19

During the Covid-19 pandemic Council and Committee meetings will be held virtually for Committee members and for members of the public who wish to participate. These meetings will be held via Zoom and Microsoft Teams (for confidential or exempt items). For more information please contact the clerk for the meeting (details provided below).

AGENDA

Open to Public and Press

CONSTITUTIONAL MATTERS

1 Apologies for absence and declarations of interest

Guidance on declaring interests is available at
<http://tinyurl.com/ccs-conduct-code>

2 Minutes of the meeting held on 14th January 2020

Available at: [Minutes - 14th January 2020](#)

DECISIONS

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The Constitution and Ethics Committee comprises the following members:

Councillor Lis Every (Chairwoman) Councillor Kevin Reynolds (Vice-Chairman)

Councillor David Connor Councillor Lynda Harford Councillor Roger Hickford Councillor David Jenkins Councillor Sebastian Kindersley and Councillor Jocelynne Scutt

For more information about this meeting, including access arrangements please contact

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COMMITTEE STRUCTURES

To: Constitution and Ethics Committee

Meeting Date: 22 April 2020

From: Director of Governance and Legal Services and
Monitoring Officer

Purpose: To consider proposed changes to the Council's committee structures and to the County Council's involvement in two joint committees, the Cambridge Joint Area Committee (CJAC) and the Joint Development Control Committee (JDCC) for Cambridge Fringes.

Recommendation: The Constitution and Ethics Committee is asked to recommend the following changes to the Constitution, as set out in the report, to full Council:

- i) the abolition of the Economy and Environment and Highways and Infrastructure Committees;
- ii) the introduction of the Environment and Sustainability and Highways and Transport Committees;
- iii) revisions to the terms of reference of the General Purposes, Adults, Children and Young People, Commercial and Investment, Communities and Partnership and Health Committees;
- iv) the abolition of the Cambridge Joint Area Committee by the end of July 2020 following the discussions set out in paragraph 3.3 of this report;
- v) the withdrawal from the Joint Development Control Committee for Cambridge Fringes by the end of July 2020 following the discussions set out in paragraph 4.4 of this report; and
- vi) increase the membership of General Purposes Committee from fifteen to seventeen.

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1.0 BACKGROUND

- 1.1 On 11 December 2013, Full Council approved the new Constitution for Cambridgeshire County Council in order to cease operating the existing form of governance and start operating the new committee form of governance from its Annual Meeting on 13 May 2014.

2.0 POLICY AND SERVICE COMMITTEES

- 2.1 In May 2019, Councillor Steve Count proposed an Environment Motion to Full Council and as a result, the Council declared a Climate Emergency. The motion was passed unanimously, and committed the Council to the development of a Climate Change and Environment Strategy and Action Plan.
- 2.2 The Leader then highlighted at full Council on 11 February 2020 the need to review the current committee structures in order to provide sufficient focus on actions to address climate change. A review was undertaken which proposes that the current Economy and Environment and Highways and Infrastructure Policy and Service Committees should be replaced with two new Policy and Service Committees set out below. It is important to note that refocussing committees to increase their attention to environment and sustainability, but restricting the overall number to seven means that there is no increased cost for the policy and service committees.

ENVIRONMENT AND SUSTAINABILITY POLICY AND SERVICE COMMITTEE

Membership

Ten members of the Council. The Chairman/woman and Vice-Chairman/woman of the Committee shall be appointed by Full Council.

Summary of Functions

Delegated authority to exercise all the County Council's functions, not otherwise reserved to Full Council, relating to energy and the environment within Cambridgeshire.

Delegated Authority	Delegation/Condition
Authority for exercising all powers and implementing all strategies associated with the Council's climate change, sustainable development, energy and environment functions which are not otherwise reserved for Full Council or any other body.	
Authority to respond, as appropriate, on behalf of the Council to Government consultation in respect of policy and/or legislation affecting Planning, Clean Growth, Energy and the Environment.	
Authority for exercising the Council's functions in respect of all areas covering the following: <ul style="list-style-type: none">To oversee the funding and implementation of the Climate Change and Environment Strategy, its targets and action plan including the development of new policies that may be required to support delivery including engaging and encouraging residents, businesses,	

Delegated Authority	Delegation/ Condition
<p>community and voluntary groups and other authorities and all stakeholders to adopt environmentally sustainable measures</p> <ul style="list-style-type: none"> • County Planning - Minerals and Waste • Historic environment • Flood and water management • Clean energy and green investments • Growth and development policy and management • Waste management including the Waste Contract • RECAP (Recycling in Cambridgeshire and Peterborough partnership) • Greening the Council's finances and investments and using this to support and develop green innovation • Management of the capital projects within the service committee's portfolio as agreed within the Council's Business Plan • CIL/S106 funding / innovative approaches • Funding bids • Decarbonisation of transport, land and buildings • Identification and management of strategic and project based climate and environmental risks for Council's assets, its service delivery and the wider community 	
<p>To recommend to Council and monitor the Council's Climate Change and Environment Strategy and Environment Fund.</p>	
<p>Authority to exercise the statutory functions in relation to the scrutiny of flood risk management under the provisions of the Flood and Water Management Act 2010.</p>	
<p>Authority to nominate representatives to Outside Bodies other than the Combined Authority, Greater Cambridge Partnership, Cambridgeshire and Peterborough Fire Authority, the County Councils Network Council and the Local Government Association.</p>	

HIGHWAYS AND TRANSPORT POLICY AND SERVICE COMMITTEE

Membership

Ten members of the Council. The Chairman/woman and Vice-Chairman/woman of the Committee shall be appointed by Full Council.

Summary of Functions

Delegated authority to exercise the County Council's functions, other than those reserved to Full Council, in relation to transport.

Delegated Authority	Delegation/ Condition
Authority for exercising all powers and implementing all strategies associated with the Council's Highways functions which are not otherwise reserved for Full Council or any other body.	
Authority to respond, as appropriate, on behalf of the Council to Government consultation in respect of policy and/or legislation affecting transportation.	
<p>Authority for exercising all functions of the Council relating to the following:</p> <ul style="list-style-type: none"> • Major infrastructure delivery projects (transport, highways and cycling) • Transport and Infrastructure Policy • Transport and Infrastructure Funding • Street Lighting Contract • Parking Services • Road, streets, cycleways and paths maintenance – routine and reactive, operations and enforcement • Local Highway Improvement Initiative • Gritting, verge cutting and other routine works • Traffic Management systems and regulations • Road Safety • Maintaining Highways and rights of way records • Asset Management and information • Highways services contract • Public Transport • Cambridgeshire Guided Busway Operations • Park and Ride • Travel for Work • Managing the Highways Capital Programme • Funding bids 	
Authority to approve the annual Parking Operations Report.	
Authority to nominate representatives to Outside Bodies other than the Combined Authority, Greater Cambridge Partnership, Cambridgeshire and Peterborough Fire Authority, the County Councils Network Council and the Local Government Association.	
<p>Authority to exercise, in accordance with the relevant policies of the authority and within the budget allocated for the purpose, the powers of the County Council regarding the following issues within the County's administrative boundary</p> <ul style="list-style-type: none"> • For all districts, authority to determine traffic regulation orders/statutory notices where the completion of the statutory consultation process results in objections, as per the relevant Highway, Road Traffic Regulation and Traffic Management legislation • Authority to approve the Transport Delivery Plan 	Assistant Director, Highways in consultation with the Local Members for all districts, except Cambridge City.

- 2.3. As part of the review, it was considered whether any of the terms of reference should be shifted between policy and service committees, particularly Commercial and Investment Committee. The opportunity was also taken to review the terms of reference of all the other policy and service committees. These are set out overleaf with additions highlighted in green and deletions in strikethrough.

GENERAL PURPOSES COMMITTEE

Summary of Functions

The General Purposes Committee (GPC) is authorised by Full Council to co-ordinate the development and recommendation to Full Council of the Budget and Policy Framework, as described in Article 4 of the Constitution, including in-year adjustments.

In addition, the GPC is authorised to make decisions on the allocation of matters amongst committees where the function does not clearly fall within the remit of one particular committee.

The GPC has a number of specific functions including the following:

- ~~Appointing members to a range of external bodies~~
- o Oversight of 'corporate' or council-wide matters such as customer services unless reserved to Full Council.

Delegated Authority	Delegation/ Condition
In respect of the statutory and local plans, which form the Council's Policy Framework, authority to lead the development of draft proposals, consider and recommend them for approval by Full Council.	In consultation with relevant Service Committees
Authority to lead the development of the Council's draft Business Plan (budget), to consider responses to consultation on it, and inform the draft Business Plan to be submitted for approval by Full Council.	In consultation with relevant Service Committees
Authority to recommend cross-cutting policies for approval by Full Council, e.g. the policy on Disclosure and Barring Service checks for councillors.	
Authority for eight members of General Purposes Committee to initiate a review of a decision taken by a Policy and Service Committee by submitting a request for review to the Monitoring Officer or Chief Executive before the expiry of three full working days from the date on which the decision notice was published.	
Authority to determine an appeal against any decision by or on behalf of the Authority except for those appeals whose determination falls with the remit of another committee, officer or panel of the Council.	
Authority to nominate representatives to Outside Bodies other than the Combined Authority, Greater Cambridge Partnership, Cambridgeshire and Peterborough Fire Authority, the County Councils Network Council and the Local Government Association.	

Delegated Authority	Delegation/ Condition
<p>Authority to lead the Council's work to support sustainable economic growth across the County, including higher level skills and apprenticeships and also through the partnership with the Cambridgeshire and Peterborough Combined Authority.</p>	
<p>Authority to determine the Council's involvement in and representation on County Advisory Groups. The Committee may add to, delete or vary any of these advisory groups, or change their composition or terms of reference.</p>	
<p>Authority to review annual reports and inspection reports not within the remit of another committee.</p>	
<p>Authority for monitoring and ensuring that Policy and Service Committees and the Cambridge City Joint Area Committee operate within the policy direction of the County Council and making any appropriate recommendations.</p>	
<p>Authority for monitoring and reviewing the overall performance of the Council against its Business Plan.</p>	
<p>Authority to determine the most appropriate committee for considering any matter which falls within the remit of more than one committee.</p>	
<p>Authority to respond to any consultations within the remit of more than one committee as and when required.</p>	
<p>Authority for managing those functions relating to elections and local democracy which are not reserved to Full Council.</p>	
<p>Authority for oversight, operation and review of 'corporate' services, for example:</p> <ul style="list-style-type: none"> • the Council's internal and external communications policy and its implementation • Information Governance including but not limited to Data Protection and Freedom of Information • the Council's customer strategy and any matters dealt with by the Contact Centre, via digital channels or face-to-face • the Council's response to its equalities duties • the Council's Risk Management Strategy • the Council's Emergency Planning arrangements 	
<p>Authority to lead the Council's development and delivery of the digital infrastructure strategy for Cambridgeshire and Peterborough, to drive economic growth, help communities thrive and make it easier to access public services. Working in partnership with Government and the Combined Authority.</p>	

Delegated Authority	Delegation/Condition
Authorising budget virement which is not covered within the limits of virement contained in the Council's financial rules, provided there is no change in the approved policy framework of the Council. Virement limits are set out in the Constitution in Part 3D (Scheme of Delegation to Officers) and Part 4 (Financial and Contract Procedure Rules).	
Authorising proposals which are not covered by the finance limits of the Executive and Corporate Directors' delegated powers contained in A3 – A7, as set out in the table at Paragraph 10 of Part 3D of the Constitution, provided there is no change in the Council's approved budget and policy framework.	
Responsibility for the discharge of all functions and exercise of all powers of the County Council not expressly reserved to the Full Council or to any other part of the County Council by statute or by this Constitution.	

ADULTS POLICY AND SERVICE COMMITTEE

Summary of Functions

This committee has delegated authority to exercise the Council's functions relating to the delivery, by or on behalf of the County Council, of social care services to eligible adults within Cambridgeshire.

- Services for people with physical disability
- Services for people with learning disability
- Mental health services
- Preventative services
- Residential care
- Carer support
- Safeguarding

Delegated Authority	Delegation/Condition
Authority to take decisions relating to exercising management, oversight and the delivery of all the Council's relevant adult social care services (i.e. social care services for people aged 18 or over with eligible social care needs and their carers), except for those decisions which are reserved to Full Council.	
Authority to undertake the Council's functions for promoting choice and independence in the provision of all adult social care.	
Authority to approve all strategies associated with the committee portfolio area which are not reserved for Full Council.	
Authority to respond, as appropriate, on behalf of the Council to Government consultation in respect of policy and/or legislation affecting adult social care.	

Delegated Authority	Delegation/Condition
Authority to nominate representatives to Outside Bodies other than the Combined Authority, Greater Cambridge Partnership, Cambridgeshire and Peterborough Fire Authority, the County Councils Network Council and the Local Government Association.	

CHILDREN AND YOUNG PEOPLE POLICY AND SERVICE COMMITTEE

Summary of Functions

This committee has delegated authority to exercise all the Council's functions, save those reserved to Full Council, relating to the delivery, by or on behalf of, the County Council, of services relating to children and young people. These include:

- Child protection
- Children's Centres
- Education, Schools and settings
- ~~Looked After Children~~ **Children in care**
- Mental health services
- Safeguarding
- Special Educational Needs (SEN)
- Youth Offending Services
- Youth services.
- Social and Education Transport

Delegated Authority	Delegation/Condition
Authority for exercising management, oversight and delivery of services to children and young people in relation to their care, wellbeing, education or health, with the exception of any powers reserved to Full Council.	
Authority for the functions and powers conferred on or exercisable by the County Council as Local Authority in relation to the provision of education.	
Authority for working with all schools including academies in relation to raising standards of attainment and developing opportunities.	
Authority for exercising management, oversight and delivery of Learning Outside of the Classroom and environmental education.	
Authority for exercising management, oversight and delivery of Early Years services, including Children's Centres.	
Authority for exercising management, oversight and delivery of Enhanced and Preventative Services and Children's Social Care.	

Delegated Authority	Delegation/Condition
Authority for exercising management, oversight and delivery of the Youth Offending Service.	
Authority for approval of all strategies associated with the committee portfolio area that are not reserved to Full Council.	
Authority to nominate representatives to Outside Bodies other than the Combined Authority, Greater Cambridge Partnership, Cambridgeshire and Peterborough Fire Authority, the County Councils Network Council and the Local Government Association.	
The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools pursuant to section 52 of the Education Act 2002 (appeals against exclusion of pupils).	Delegated to the Executive Director: People and Communities
The making of arrangements pursuant to section 94(1), (1A) and (4) of the School Standards and Framework Act 1998 (admission appeals).	Delegated to the Executive Director: People and Communities
The making of arrangements pursuant to section 95(2) of the School Standards and Framework Act 1998 (children to whom section 87 applies); appeals by governing bodies	Delegated to the Executive Director: People and Communities

COMMERCIAL AND INVESTMENT POLICY AND SERVICE COMMITTEE

Summary of Functions

The Committee has delegated authority to exercise the County Council's functions in respect of the following:

- Creating a commercially focused organisation through the development and implementation of innovative, growth focused, commercial strategy.
- Providing strong leadership which builds a robust commercial culture.
- Encouraging the development of new opportunities through establishing a risk appetite that stimulates the evaluation of new emerging markets and opportunities.
- Oversight and operation of all property-related and **commercially focused services** ~~traded service functions~~.

Delegated Authority	Delegation/Condition
To systematically review all services against the Council's charging model categories to ensure that current delivering vehicles remain fit for purpose. All reviews to review markets, partnership opportunities, other delivery vehicles, rationale for in-house delivery.	
To ensure all traded activities commercially focused services operate within the Council's agreed a commercial framework.	

Delegated Authority	Delegation/ Condition
To plan, develop and implement, a commercial strategy and other initiatives in order to maximise the potential of the Council's existing commercial activities, to support the development of a commercial culture within the organisation and to ensure commercial opportunities are maximised.	
To lead the development of new, and growth in existing, income streams that generate sufficient surplus for investment in further opportunities and to help offset costs of other activities.	
To lead the development of key relationships for the Council with external organisations to enable the delivery of effective outcomes through new business ventures and collaborations.	
To lead the planning and design for a variety of services where new partnerships and delivery vehicles can be developed to support the delivery of the best possible outcomes.	
To review the Council's asset portfolio to identify opportunities and develop policies to reduce the financial impact on the Council's operating position and strengthen its financial sustainability.	
To recommend to Council and monitor the Council's Asset Strategy.	
<p>To recommend to Council the Council's Asset Management Plan, annually, and as a consequence:</p> <ul style="list-style-type: none"> - Consider and recommend Asset Plans as they fall due for review - Approve annual budget proposals from applicable Asset Plans - Monitor the delivery of the asset plans throughout the year 	
To consider and evaluate investment proposals.	
To monitor all commercial and property investment proposals included within the Business Plan to ensure successful delivery.	
To consider and approve all asset disposals.	
To approve the granting of variations, renewal, and termination of leases, licenses, dedications, and easements.	
To consider and approve the use of Council owned assets by the local community and other interested parties.	
To consider, evaluate, and agree potential property disposals and investment opportunities.	
To consider business cases for the sale of assets to the Council's Property Special Purpose Vehicle (SPV) for inclusion within the Business Plan.	

Delegated Authority	Delegation/ Condition
To exercise all and any of the council's rights as shareholder of the Property SPV This Land Limited and its subsidiaries (formerly Cambridgeshire Housing & Investment Company (CHIC)). The committee may authorise its Section 151 Officer Chairman/woman and Vice-Chairman/woman to exercise these rights in appropriate circumstances including urgency in consultation with the Chairman/woman and Vice-Chairman/woman.	
To work with officers to facilitate/promote the development of proposals for sharing property with partner organisations.	
To consider and recommend property rationalisation proposals for inclusion within the Business Plan.	
To approve property rationalisation proposals that are in accordance with the Business Plan.	
To consider and make recommendations to Council for property rationalisation proposals that are outside of the agreed Business Plan.	
Authority to nominate representatives to Outside Bodies other than the Combined Authority, Greater Cambridge Partnership, Cambridgeshire and Peterborough Fire Authority, the County Councils Network Council and the Local Government Association.	

COMMUNITIES AND PARTNERSHIP POLICY AND SERVICE COMMITTEE

Summary of Functions

The Communities and Partnership Committee is authorised by Full Council to deliver the County Council's ambition to build stronger self-sustaining communities as expressed in its Community Resilience Strategy, and to work together with the Mayor, combined authority, district councils and other partners to design and deliver services which best meet the needs of those communities. The committee will develop plans, in this regard, with the Mayor, combined authority, district councils and other partners to deliver or jointly commission services for communities where it makes sense to do so, aligning resources and expertise around an agreed set of outcomes in order to make the most of public sector funds.

The Communities and Partnership Committee will work together with other bodies to deliver against our shared ambition to build stronger self-sustaining communities, such as those supporting Parish and Town Councils, our commissioning partners such as the Cambridgeshire and Peterborough Clinical Commissioning Group and the Cambridgeshire Peterborough Communities Network – a network of senior officers drawn from all local authorities across Cambridgeshire and Peterborough, the Office of the Police and Crime Commissioner, Cambridgeshire Fire and Rescue Service, Cambridgeshire Constabulary, Support Cambridgeshire (the Voluntary and Community Infrastructure partnership), Cambridgeshire Community Services NHS Trust and Cambridgeshire and Peterborough NHS Foundation Trust.

Delegated Authority	Delegation/ Condition
<p>Authority to oversee the Think Communities initiative and deliver appropriate community services deliver the Community Resilience Strategy and services working with the Mayor, the combined authority, district councils and other partners and in particular to –</p> <ul style="list-style-type: none"> • develop and implement joint plans with the combined authority, district councils and other partners for the delivery of community place based services in accordance with the agreed outcomes; • in consultation with the combined authority, district councils and other partners in services within communities approve joint investment in projects, within available resources, that are designed to help manage the demand for high cost services in accordance with the agreed outcomes; • develop and approve business case and plans to devolve services, budgets and assets, and implement subject to Council’s approval of the associated business case in accordance with the agreed outcomes; • decide on funding to be made available for community initiatives through the Innovate and Cultivate Fund; • decide on funding to be made available for community initiatives through the Communities Capital Fund. 	<p>Subject to confirmation from the S.151 of the availability of sufficient resources.</p>
<p>Authority to develop, with the Mayor, combined authority, district councils and other partners plans to enhance customer services, including the better use of assets in communities such as libraries and other community buildings for approval by the relevant committee(s) in the County Council.</p>	
<p>Authority to advise the County Council on opportunities to create a shared workforce or shared arrangements (such as joint ventures) to deliver services across the combined authority, district councils and other partners for approval by the relevant committee(s) in the County Council.</p>	
<p>Authority to approve the Council’s Consultation Strategy and its approach to future Business Planning consultation.</p>	
<p>Authority to exercise the Council’s functions in respect of all areas covering the following:</p> <ul style="list-style-type: none"> • Adult Careers Information and Guidance • Adult Skills including apprenticeships • Learning Services including online • Community Learning • Libraries • Archives 	

Delegated Authority	Delegation/ Condition
<ul style="list-style-type: none"> • Cultural services • Registration service • Coroner service • Trading Standards 	
Authority to agree proposed revisions to Library Byelaws for submission to the Department for Culture, Media & Sport for approval.	Final approval required from DCMS
Authority to agree or revise a scheme for the delivery of registration services in accordance with the Registration Services Acts 1952 and 2007.	In consultation with the General Register Office
Authority to nominate representatives to Outside Bodies other than the Combined Authority, Greater Cambridge Partnership, Cambridgeshire and Peterborough Fire Authority, the County Councils Network Council and the Local Government Association.	

HEALTH POLICY AND SERVICE COMMITTEE

Summary Overview of Functions

This committee has delegated authority to exercise the County Council's functions in respect of the following:

- The County Council's public health duty including health improvement, individual and community wellbeing, and reduction of health inequalities
- Responding as appropriate to central government consultation relating to policy or legislation falling within the remit of the Committee
- The review and scrutiny of any matter relating to the planning, provision and operation of the health services in Cambridgeshire
- To report to the Secretary of State for Health on any proposals for substantial change to any part of the NHS's services within Cambridgeshire.

Delegated Authority	Delegation/ Condition
Authority to exercise the powers conferred by Section 21 of the Local Government Act 2000 and Section 7 of the Health and Social Care Act 2001 as amended by the Health and Social Care Act 2012, and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (SI 2013/218) to review and scrutinise any matter relating to the planning provision and operation of the health service in its area.	
Authority to exercise the power under Section 23 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 to report on a proposal for a substantial health service development or variation to the Secretary of State for Health.	

Delegated Authority	Delegation/ Condition
<p>Authority to delegate its functions under Section 7 of the Health and Social Care Act 2001 as amended by the Health and Social Care Act 2012 to a joint overview and scrutiny committee when this is required by the Direction issued by the Secretary of State for Health in July 2003 or is conducive to the efficient scrutiny of proposals affecting more than one Social Services local authority area.</p>	
<p>Authority to appoint members to a joint overview and scrutiny committee established under the paragraph above. In this case the political balance requirements will apply to such appointments.</p>	
<p>Authority to assist the Director of Public Health in the exercise of the Public Health statutory duties set out in</p> <ul style="list-style-type: none"> • the Health and Social Care Act 2012 • the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012 • NHS Act 2006 • Criminal Justice Act 2003 • Licensing Act 2003 • Water Industry Act 1991 • Water Industry Act 1988 • Mental Health Act 1983 • Mental Capacity Act 2005 	
<p>Authority to oversee and undertake the Council's functions relating to the public health duty of the Council including health improvement, individual and community wellbeing, and the reduction of health inequalities.</p>	
<p>Authority for approving all strategies associated with the committee portfolio area not reserved for approval by Full Council.</p>	
<p>Authority to nominate representatives to Outside Bodies other than the Combined Authority, Greater Cambridge Partnership, Cambridgeshire and Peterborough Fire Authority, the County Councils Network Council and the Local Government Association.</p>	
<p>Authority to respond, as appropriate, on behalf of the Council to Government consultation in respect of policy and/or legislation affecting any of the responsibilities falling with the remit of the Health Committee.</p>	

3.0 CAMBRIDGE JOINT AREA COMMITTEE

- 3.1 At its meeting on 21 May 2013, the Council voted to insert a new article in its constitution relating to Area Joint Committees. The article allows the Council to appoint Area Joint Committees as it sees fit, if it is satisfied that to do so will improve service delivery in the context of best value and more efficient, transparent and accountable decision making. The relevant extract from the Constitution is set out below:

Joint Committees

In conjunction with other authorities, the Council shall establish and participate in the following joint committees:

- Area Joint Committees (where the Council sees fit)
- Cambridgeshire Police and Crime Panel
- Greater Cambridge Partnership Executive Board
- Greater Cambridge Partnership Joint Assembly
- Joint Development Control Committee – Cambridge Fringes
- LGPS ACCESS Joint Committee
- LGSS Joint Committee

The composition and function of each of these committees are set out in Part 3C – Responsibility for Functions: Joint Committees.

- 3.2 At the time, it was proposed that the Council would appoint the Area Joint Committees where there was agreement with the County and relevant City/District Council to do so. The Monitoring Officer then wrote to the Chief Executives of the City/District Councils to seek their views. All the Councils with the exception of Cambridge City declined the invitation to re-establish Area Joint Committees. The main reason for this was that they were considered of limited value by both County and District Councillors in their respective areas and the costs of administering them outweighed any benefits secured. Decisions on scheme implementation details and Traffic Regulation Orders in each of the District Council areas have proceeded efficiently since the withdrawal of the Area Joint Committees and there are no calls to reinstate the Committees.
- 3.3 As part of the review of the committee structures, it is proposed that the Council abolish the Cambridge Joint Area Committee. The process leading to the abolition of the Cambridge Joint Area Committee should follow best practice and should therefore involve discussions with the City Council to prepare for its abolition. The basis for the abolition is twofold.
- 3.4 The first is that it is not considered reasonable or appropriate that one area in the county should receive a different service than others and withdrawing from the Committee will provide equity of service across Cambridgeshire and will allow officer time to be used more effectively on schemes across the county.
- 3.5 Secondly, there is already a clearly established alternative process to make the decisions that are currently made in the Cambridge Joint Area Committee and this is working well across the rest of the county. This involves decisions being made by officer delegation or when appropriate, issues being considered by the appropriate Council committee. The creation of the new Highways and Transport

Policy and Service Committee will make such decisions even more effective with Members having a clear oversight over all policy issues when making decisions.

- 3.6 It is important to note that if a Traffic Regulation Order is contentious, the officer with the relevant delegation will refer it back to the Highways and Transport Committee. At the meeting, Local Members and members of the public will be able to, in line with the provisions set out in the Constitution, make their views known.
- 3.7 On this basis, it is proposed to speak to the City Council in preparation for abolishing the Cambridge Joint Area Committee by the end of July 2020. After which the Council would rely on the existing processes described for decision making going forward.

4.0 JOINT DEVELOPMENT CONTROL COMMITTEE FOR CAMBRIDGE FRINGES (JDCC)

- 4.1 At its meeting on 15 May 2007, Council approved the new arrangements for planning of the major development sites, in particular, the creation of:
- A member-level Joint Strategic Growth Implementation Committee;
 - Two officer-level Growth Area Delivery Boards;
 - Two joint Development Control Committees (one for Cambridge Fringes and one for Northstowe); and
 - A joint planning policy committee (established separately under Section 29 of the Planning and Compulsory Purchase Act 2004)
- 4.2 At the 15 May 2007 meeting, the background given to the need for the joint committees was outlined in the report of the Cabinet meeting held on 17 April 2007. This stated that ‘Cabinet has been reminded that following a review of Cambridgeshire Horizons, the Minister for Housing and Planning had expressed concern about the current capacity and mechanisms for delivering growth given the “...major increase in the complexity and size of the task” and had requested a review of structures, capacity and a need for a shared leadership agenda, linking this to a willingness on the part of the Government to provide greater certainty of support on investment for the future. Following the review, officers from the County, Cambridge City and South Cambridgeshire District Councils and Horizons wrote back in December 2006 setting out proposals for joint working to address the concerns raised by the Minister. These included the creation of cross authority groups to drive the growth agenda forward through more efficient working practices and an increase in resource levels to support them.’
- 4.3 Whilst only the JDCC for Cambridge Fringes still exists, as both the Northstowe and joint policy committees have been dissolved, legal advice relating to the City Deal amendments to the JDCC Terms of Reference provided in 2016 suggested that planning decisions should where possible be made across the relevant geography – in this case Cambridge City and South Cambridgeshire. By doing so, it was possible to ensure that planning decisions most accurately reflected local circumstances, ambitions and constraints. It was therefore recommended that the most appropriate way to implement this principle would be to modify the remit of the Joint Development Control Committee for Cambridge Fringes, which included Members from all three partner Councils, to include planning permission for City Deal infrastructure schemes. Although the City Deal Agreement itself does not appear to restrict decisions to such a joint committee, the principle of joint working and a joint committee is endorsed in all related officer reports and the City Deal

Agreement where specific reference is made to '*established elected member Joint Development Control Committees dedicated to this task.*'

- 4.4 The process leading to the withdraw from the JDCC for Cambridge Fringes should follow best practice and should therefore involve discussions with Central Government (with regard to the City Deal), as well as with the other two Councils to ensure that the relevant constitutional changes are made. The original paper to Council in creating the JDCC first set out the functions delegated to include the power of the Councils to determine planning applications by virtue of Regulation 3 of the Town and Country Planning General Regulations 1992 (which are effectively planning applications for County Council's own development such as Schools and Libraries etc.), before changes were made to include the "City Deal" governance. There is nothing to stop this committee continuing without the County Council, but it would not be able to exercise the powers delegated to it by the Council, and would therefore only deal with applications within the major growth sites in the Greater Cambridge area that are not Greater Cambridge Partnership (GCP) funded or Regulation 3 planning applications.
- 4.5 Legal advice has been obtained to help support this paper and review the process to allow the Council to be able to withdraw from the JDCC. As part of the legal advice received it was acknowledged that there is nothing in the City Deal Document or terms of reference that prevents the Council from withdrawing from the JDCC, either in terms of the delegation of City Deal and Regulation 3 planning applications, or their membership in the JDCC. Furthermore, whilst a termination clause does not exist to specify the precise process for pulling out or dissolving the JDCC, there are a number of areas of work that would need to happen such as rewriting the committee's Terms of Reference (if not being totally dissolved) and getting those changes agreed by both councils, so a reasonable notice period of two months should be considered, particularly given the current coronavirus situation.
- 4.6 As part of the review of the committee structures, it is therefore proposed that the Council withdraw its membership and delegation to the JDCC. The basis of this is twofold.
- 4.7 Firstly, JDCC runs on different democratic processes and templates, which means that applications and officer reports that go in front of the JDCC are in different formats and have different process expectations such as the necessity of a Development Control Forum, which the County Council's Planning Committee does not have.
- 4.8 Secondly, there is not another joint committee in any other part of the County, so the issue of equity identified for CJAC in paragraph 3.4 is also relevant here, so there are similar grounds for withdrawing from this arrangement moving forward.
- 4.9 In the event that delegations to JDCC are withdrawn then planning applications would be determined either by officers using delegated powers or by the Council's Planning Committee, as they are with all other planning applications in the County that do not fall within the remit of JDCC. If the planning applications are contentious, and do not allow officer delegations to be used, then at the Planning Committee meeting Local Members and members of the public will be able to, in line with the provisions set out in the Constitution, make their views known, as is the case for the wider County planning applications.

4.10 On this basis, it is proposed to start the discussions with Central Government and the other two Councils in preparation for withdrawing from the JDCC by the end of July 2020. After which the Council would rely on the existing processes through the Council's Planning Committee for decision making going forward.

5.0 GENERAL PURPOSES COMMITTEE MEMBERSHIP

5.1 The membership of General Purposes Committee currently comprises fifteen members of the Council. Subject to proportionality, the Committee shall include the Chairman/woman of the Adults Committee, the Children and Young People Committee, the Economy and Environment Committee, the Health Committee, the Highways and Infrastructure Committee, the Commercial and Investment Committee, and the Communities and Partnership Committee.

5.2 As set out in the Terms of Reference at 2.3, General Purposes Committee has a number of delegations which cover the whole Council such as leading on the development of the Council's draft Business Plan (budget) and budget virements. It is therefore important that the Chairman/woman of each Policy and Service Committee is represented on the Committee. In order to ensure that is the case, it is proposed to increase the membership of General Purposes Committee from fifteen to seventeen.

Source Documents	Location
Constitution	https://www.cambridgeshire.gov.uk/council/council-structure/council-constitution/

PROPOSED CHANGES TO THE CONSIDERATION OF ADULT MENTAL HEALTH GUARDIANSHIPS

To: **Constitution and Ethics Committee**

Meeting Date: **22 April 2020**

From: **Director of Governance and Legal Services and
Monitoring Officer**

Electoral division(s): **All**

Purpose: **The Committee is asked to consider a change to the way Adult Mental Health Guardianships are determined. Decisions on Guardianships are currently considered by the Service Appeals Sub-Committee, but it is proposed that this decision should be delegated to officers.**

Recommendation: **The Committee is asked to:**

Recommend the changes to the Constitution, as set out in paragraph 2.5 of the report, to Full Council for approval.

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1. BACKGROUND

- 1.1 Adult Mental Health Guardianship provides a legal framework to support vulnerable service users in the community, where positive outcomes for them may not be achieved without the use of such authority. Guardianship is usually used for people that can be cared for in the community. Once received into Guardianship, the guardian can require the person to live at a specific place, attend particular places at specific times for treatment, occupation education or training and to allow a doctor, Approved Mental Health Professional (AMHP) or other specific person to enter where he or she is living.
- 1.2 The application must be supported by recommendations from two doctors, and at least one must be approved under the Mental Health Act. Both doctors and the AMHP must agree that a Guardianship application is appropriate and necessary. Further information on Guardianships can be found at **Appendix 1**.

2. MAIN ISSUES

- 2.1 Guardianships are currently considered and approved by the Service Appeals Sub-Committee, a Member Panel. The Service Appeals Sub-Committee has considered two Guardianships in the last five years. By contrast, the Service Appeals Sub-Committee's main duty is to consider Education Transport Appeals. On average, the Sub-Committee considers 10-12 Education Transport appeals each year, enabling the pool of Members to develop a good knowledge and experience of this area of the Council's work.
- 2.2 The Member element of the guardianship process essentially involves members signing off the final documentation for the application (delegated responsibility). Although supported by LGSS Law colleagues at the meetings, Members have often expressed that they feel ill equipped to make such decisions. Guardianship also requires ongoing operational oversight which sits with operational managers.
- 2.3 In summary, the current process is as follows:
 - i. Request made to the Approved Mental Health Professional (AMHP) service following a discussion with the appropriate line manager
 - ii. AMHP leads on the application
 - iii. Application signed off by two Councillors in the presence of legal representation
 - iv. The Deprivation of Liberty Safeguards (DoLS) manager holds the list and ensures reviews are undertaken
 - v. DoLS manager completes the Department of Health & Social Care returns. (annual)
- 2.4 The proposed process is set out below:
 - i. The authority for sign off is delegated to the Service Director: Adults and Safeguarding.
 - ii. The lead on owning the process moves from the DoLS manager to AMHP service (i.e. holding guardianship list, ensuring reviews are undertaken and completing annual returns)

2.5 The changes required to the Constitution to effect this change are as follows:

Remove the following Delegated Authority in Section 3B11.1 - SERVICE APPEALS SUB-COMMITTEE:

Authority to discharge the guardianship provisions under the Mental Health Act 1983

Add the following Delegated Authority to Service Director: Adults & Safeguarding, in Part 3D - Scheme of Delegation to Officers:

Authority to discharge the guardianship provisions under the Mental Health Act 1983

2.6 The briefing note to Members on Adult Mental Health Guardianships is attached as **Appendix 1**.

Source Documents	Location
Sections 3B and 3D of the Constitution	https://cambridgeshire.cmis.uk.com/ccc_live/Documents/PublicDocuments.aspx

GUARDIANSHIP

The purpose of Guardianship is to provide a legal framework to support vulnerable services user in the community where you may not be able to achieve positive outcomes for them without the use of such authority. Guardianship is commonly used for people that can be cared for in the community.

If a person has a mental disorder, a court can appoint a Guardian for them. This can only happen if the local authority considers it necessary for the person's welfare or for the protection of others. This arrangement is known as a Guardianship Order. The Guardian has powers and responsibilities to make decisions on behalf of and for the benefit of the person.

Guardianship can apply whether or not the person has the capacity to make decisions about care and treatment.

Who can be a Guardian?

Under Section 7 of the Mental Health Act 1983 as amended [2007] (MHA), Guardianship can be arranged if an Approved Mental Health Professional (AMPH) on behalf of the Local Authority or the person's Nearest Relative.

What powers does a Guardian have?

Section 8 of the MHA describes **three powers** that the Guardian has. These are:

1. **Residence** - The power to require the person (referred to in the act as the patient) to live at a specified place - but in doing this they cannot deprive the person of their liberty
2. **Attendance** -The power to require the person to attend specified places for medical treatment, occupation, education or training
3. **Access** - The power to require that access be given to the patient by a doctor, approved social worker or other specified person in order to check on their welfare

The decisions made by a Guardian must be the least restrictive option for the person with a mental disorder, and must always be made in the person's best interests.

The Guardian **cannot** detain the person and cannot restrict his/her movements. All they can do is insist that the person lives at the place specified and return the person to that place if appropriate. A Guardian **cannot** authorise the physical removal of someone from a place if they are unwilling. The Guardian **cannot** make you have medical treatment without your agreement. The Guardian has **no control** over the person's money or property. It is an offence to mistreat or wilfully neglect a person subject to a Guardianship Order.

Applying for Guardianship

An application can be made for a person who has a mental disorder to be received into guardianship under section 7 of the MHA 1983 when:

- the person is over 16 years;
- they have a mental illness, severe mental impairment, psychopathic disorder or mental impairment that is serious enough to justify guardianship;

- guardianship is necessary in the interests of the welfare of the person or to protect other people;
- the relevant people agree that an application should be made – this is normally recommendations from two doctors and an approved social worker; and
- the person's nearest relative does not object.

How long does Guardianship last and can it be renewed?

A Guardianship Order initially lasts for up to 6 months but can be renewed for a further 6 months and a further 12 months if it is renewed. The renewal must happen within the last 2 months of the Guardianship period and is led by Responsible Clinician. This is best done at a multi-disciplinary review and the care plan must be reviewed by the Care Co-ordinator.

Can Guardianship be discharged?

Guardianship can be discharged and at every renewal point the professionals must consider whether Guardianship can be discharged. The discharge must be accepted by the Local Authority and the Responsible Clinician can recommend the discharge, the Local Authority itself could recommend discharge or the Tribunal could recommend discharge.

A Guardianship would end straight away if the person was detained in hospital for treatment of a Mental Disorder.

What are a person's rights under Guardianships?

It is really important that service user has access to their rights whilst they are subject to Guardianship. They have a right to ask for a Tribunal and also a right to an Independent Mental Health Advocate. The responsibility to trigger an appeal is with the Care Co-ordinator or Social Worker responsible for the case. They are the link person between the service user and the Tribunal office.

Objecting to a Guardianship Order

If the Nearest Relative objects to the Guardianship application then the application cannot proceed. In these circumstances and where appropriate the AMPH may have to consider if there is sufficient evidence to support an application to the Court to displace the Nearest Relative (s.29 MHA 1983).

The nearest relative can also appeal to a Mental Health Review Tribunal (MHRT) if they wish to challenge the Guardianship Order. The MHRT may end the Guardianship Order, decide not to end it, or make certain other orders. The MHRT must end the Guardianship if:

- At the time the MHRT considers the case, the person does not have mental illness or impairment, or psychopathic disorder
- The Guardianship Order is not necessary for the welfare of the person or for the protection of others.

SCHEME OF DELEGATION

To: Constitution and Ethics Committee

Meeting Date: 22 April 2020

From: Director of Governance and Legal Services and Monitoring Officer

Electoral division(s): All

Purpose: To consider 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 invited to:

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).

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1. BACKGROUND

- 1.1 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. MAIN ISSUES

- 2.1 Section 1.2 (vi) 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).
- 2.2 A review of the Scheme of Delegation is currently being undertaken to ensure consistency with other sections of the Constitution, such as the renaming of officer roles and Council directorates. Any minor amendments that are identified by this review will be made by the Monitoring Officer, under her delegated authority.

Source Documents	Location
Council's Constitution	https://www.cambridgeshire.gov.uk/council/meetings-and-decisions/council-constitution

CONSTITUTION AND ETHICS COMMITTEE AGENDA PLAN

22.04.20	AGENDA ITEMS		
	1.	Apologies and Declarations of Interest	
	2.	Minutes of Previous Meeting	
	3.	Committee Structures	M Rowe & F McMillan
	4.	Proposed Changes to the Consideration of Adult Mental Health Guardianships	M Rowe
	5.	Scheme of Delegation	M Rowe
	6.	Agenda Plan	

30.06.20	AGENDA ITEMS		
	1.	Apologies and Declarations of Interest	
	2.	Minutes of Previous Meeting	
	3.	A Review of the Complaints Received under the Members' Code of Conduct to End of June 2020	F McMillan
	4.	Agenda Plan	

29.09.20	AGENDA ITEMS		
	1.	Apologies and Declarations of Interest	
	2.	Minutes of Previous Meeting	
	3.	Review of Social Media Guidance	F McMillan
	4.	A Review of the Complaints Received under the Members' Code of Conduct to End of September 2020	F McMillan
	5.	Agenda Plan	

17.11.20	AGENDA ITEMS		
	1.	Apologies and Declarations of Interest	
	2.	Minutes of Previous Meeting	
	3.	Agenda Plan	

28.01.21	AGENDA ITEMS		
	1.	Apologies and Declarations of Interest	
	2.	Minutes of Previous Meeting	
	3.	A Review of the Complaints Received under the Members' Code of Conduct to End of January 2021	F McMillan
	4.	Agenda Plan	

04.03.21	AGENDA ITEMS		
	1.	Apologies and Declarations of Interest	
	2.	Minutes of Previous Meeting	
	3.	Agenda Plan	

06.04.21	AGENDA ITEMS		
	1.	Apologies and Declarations of Interest	
	2.	Minutes of Previous Meeting	
	3.	A Review of the Complaints Received under the Members' Code of Conduct to End of March 2021	F McMillan
	4.	Agenda Plan	