

PROPOSED REVISIONS TO THE COUNCIL'S CONSTITUTION

To: Full Council

Date: 16th July 2013

From: The Monitoring Officer

- Purpose:**
- i) To advise Full Council of the outline timetable for working up detailed proposals for the operation of the committee system**
 - ii) To advise Full Council of the outcome of the proposal to change arrangements for the overview and scrutiny of Cabinet decisions**
 - iii) To seek the approval of Full Council for the Constitution and Ethics Committee's proposal that Full Council delegate to the Adults, Wellbeing and Health Overview and Scrutiny Committee the power of referral of health service proposals to the Secretary of State for Health.**

Recommendation: It is recommended that Full Council:-

- i) Note the timetable for working up detailed proposals for the operation of the committee system**
- ii) Note that the proposal to change arrangements for the overview and scrutiny of Cabinet decisions has been withdrawn**
- iii) Delegate to the Adults Wellbeing and Health Overview and Scrutiny Committee the power of referral of health service proposals to the Secretary of State for Health**
- iv) Approve the content of the proposed amendments to the Council's Constitution**
- v) Authorise the Monitoring Officer, in consultation with the Chairman of the Constitution and Ethics Committee, to implement the amendments set out in this report with effect from 30th July 2013, and to make any other amendment to the Constitution necessary for, or incidental to, the implementation of these proposals.**

Officer contact:		Member contact:	
Name:	Quentin Baker	Name:	Cllr S Kindersley
Post:	Director of Legal Services and Monitoring Officer	Portfolio:	Chairman of the Constitution and Ethics Committee
Email:	quentin.baker@cambridgeshire.gov.uk	Email:	skindersley@hotmail.com
Tel:	01223 727961	Tel:	01223 699171

1. BACKGROUND

- 1.1. At its meeting on 21st May 2013, Council resolved to start to operate a committee system form of governance with effect from its annual meeting in May 2014, and to request the Constitution and Ethics Committee to work up detailed proposals for the operation of the committee system.
- 1.2. On 21st May 2013, Council also asked the Constitution and Ethics Committee to consider Councillor Leeke's proposal to change the current arrangements for reporting Overview and Scrutiny Committee recommendations to Cabinet and Council.
- 1.3. Until 1st April 2013, local authority Health Overview and Scrutiny Committees (OSCs) had a specific power under the Health and Social Care Act 2001 to refer a proposal for a substantial change or variation in the provision of the health service in the authority's area to the Secretary of State for Health, if the OSC considered that it had not been adequately consulted on the proposal or that the proposal was not in the interests of the health service in its area. This legislation has now been superseded by the Health and Social Care Act 2012 and associated regulations, under which the Council as a whole, rather than the Health OSC, has the power to refer to the Secretary of State.

2. CHANGING TO THE COMMITTEE SYSTEM

- 2.1. At its meeting on 25th June 2013, the Constitution and Ethics Committee received a report informing it of the approach being undertaken in relation to the process and timescale for changing the County Council's governance arrangements.
- 2.2. Members noted that the timeline for the process of change included workshops with members of the Committee, Group Leaders, and other interested members. Some additional meetings of the Constitution and Ethics Committee would be required, as it was proposed to bring a report detailing the new arrangements to Full Council for approval on 11th December 2013. There would then be time for members and officers to prepare for implementation of the new arrangements in May 2014.
- 2.3. The Constitution and Ethics Committee resolved unanimously to ask
 1. That officers be instructed to prepare detailed proposals on changing the Council's governance arrangements to the committee system and to bring the proposals to Constitution and Ethics Committee and Full Council for approval;
 2. That the public and partners be informed as soon as reasonably practicable of the intention to return to the committee system; and
 3. That officers undertake the necessary preparation including, as appropriate, briefings, training and modifications to ways of working.

3. OVERVIEW AND SCRUTINY COMMITTEE RECOMMENDATIONS TO CABINET AND COUNCIL

- 3.1. The proposal to change arrangements for the overview and scrutiny of Cabinet decisions was on the agenda for the meeting of the Constitution and Ethics Committee on 25th June 2013. However, at that meeting, Councillor Leeke stated that he wished to withdraw the proposal on the grounds that any such change would only apply for a short time, given the changes to the Council's governance arrangements being implemented in May 2014.
- 3.2. There is therefore no further action required in relation to this proposal. The existing arrangements set out in the Constitution (Part 4.5 (Rules of Procedure) Paragraph 11) will continue to apply up to May 2014.

4. REFERRAL TO THE SECRETARY OF STATE FOR HEALTH

- 4.1. The Constitution and Ethics Committee, at its meeting on 25th June 2013, considered the implications of the Health and Social Care Act 2012 and associated regulations (The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013) in relation to the power to refer proposals for a substantial change or variation in the provision of the health service to the Secretary of State for Health. Members noted that Cambridgeshire had only made one such referral since health overview and scrutiny was established in 2003.
- 4.2. Although the referral power now rests with the Council as a whole, where the Council has a Health OSC, the Council can choose to delegate to that OSC this power of referral to the Secretary of State for Health.
- 4.3. The Constitution and Ethics Committee considered the relative merits of the referral power being delegated to the Adults, Wellbeing and Health Overview and Scrutiny Committee and of the power being retained by the full Council. The Committee came to the view that at present it would be better to continue with the arrangements in place up to 1st April 2013, under which the power to refer rested with the OSC, and to include the matter in deliberations about the new governance arrangements coming into force in May 2014.
- 4.4. The Constitution and Ethics Committee therefore resolved to recommend to Full Council that it delegate to the Adults, Wellbeing and Health Overview and Scrutiny Committee the power of referral of health service proposals to the Secretary of State for Health.
- 4.5. If Council were minded to approve this delegation, it would be necessary to make the following amendments to the Constitution.

At Part 3C – Committees of Council, paragraph 8.1, Adults, Wellbeing and Health Overview and Scrutiny, Delegated Authority, insert a third delegation,

3) To exercise the power under The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 to refer a proposal for a substantial health service development or variation to the Secretary of State for Health.

At Part 4.5 – Overview and Scrutiny Procedure Rules, Table 1, paragraph 2.2, Adults, Wellbeing and Health Overview and Scrutiny, Terms of Reference, insert a third term,

- 3) To exercise the power under The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 to refer a proposal for a substantial health service development or variation to the Secretary of State for Health.

5. MISCELLANEOUS AMENDMENTS

- 5.1. As part of the ongoing updating of the Constitution a number of minor miscellaneous amendments are also proposed as follows.
- 5.2. In order to reflect changes in legislation, the references to the statutory functions of the Adults, Wellbeing and Health Overview and Scrutiny Committee at Part 3C, paragraph 8.1 and at Part 4.5 paragraph 2.2 should be updated by adding the words “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)” after “Section 7 of the Health and Social Care Act 2001”.
- 5.3. In the tables identifying the finance limits of delegated powers at Part 3D – LGSS Joint Committees Scheme of Delegation, Table 1A (page 38) and at Part 3E – Scheme of Delegation to Officers, paragraph 3.8 (page 3), two changes should be made. At A2, Revenue virement, amend “Revenue virement £160,000” to “Revenue virement (including operational savings) £160,000”. in order to bring the approval process for the use of operational savings in line with that for the approval of virements. Line A7, Exemptions to contract regulations, should be deleted, and the following line be renumbered, because there is no longer a set finance limit for contract regulation exemptions; the levels of authorisation currently required are set out within the Contract Regulations (Part 1, Section 4).

Source Documents	Location
Council Constitution	SH 1201, Shire Hall, Cambridge http://tinyurl.com/ccc-constitution
Reports to the Constitution and Ethics Committee, 25th June 2013	SH 1102, Shire Hall, Cambridge http://tinyurl.com/ccc-cec-250613