

## Annual Review of the Constitution

- To: Constitution and Ethics Committee
- Meeting Date: 13 September 2023
- From: Service Director of Legal and Governance
- Outcome: The committee is asked to consider changes to the Constitution for recommendation to Full Council. The establishment of a small working group of committee members will ensure member involvement in a revised Constitution, Members' Code of Conduct and Social Media Protocol, before consideration by Full Council.
- Recommendation: The committee is asked to:
- a) Recommend the following changes to the Constitution, as set out in Section 2 of the report, to Full Council:
    - (i) Clarification on the consultation process for decisions delegated to officers.
    - (ii) Additional provision for local members participating in committee meetings.
    - (iii) Restrictions on public questions or petitions that have been put in the past six months.
    - (iv) Removal of references to named social media companies.
    - (v) Amendments to the Terms of Reference for the Assets and Procurement Committee.
    - (vi) Changes to the media protocol.
  - b) Agree to the development of a Social Media Protocol for the Council; and
  - c) Establish and appoint members to a Constitution Working Group, as set out in paragraphs 2.20-2.23 of the report.

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# 1. Background

## Constitution

- 1.1 The Local Government Act 2000 requires all local authorities to have a constitution that covers standing orders, delegation processes and a code of conduct for councillors. Changes to the Council's Constitution are considered by the Constitution and Ethics Committee before being recommended to Full Council for approval.
- 1.2 In order that the Constitution remains updated, the committee previously agreed to an annual review, which has resulted in the proposed changes set out in Section 2 of this report.

## Members' Code of Conduct

- 1.3 At its meeting on 29 September 2021, the committee reviewed the new Local Government Association Model Code of Conduct against the Council's current Members' Code of Conduct. It agreed to retain the Council's current Members' Code of Conduct for the time being and keep it under review, pending a response from the Government to the recommendations from the Committee on Standards in Public Life.
- 1.4 The committee was asked, at its meeting on 26 April 2022, to consider the Government's response to the individual recommendations in the Committee on Standards in Public Life report on Local Government Ethical Standards and consider any future actions, including revisiting its previous review of the Council's Code of Conduct.

## Social Media Protocol

- 1.5 At its meeting on 27 June 2019, the committee considered a report proposing the introduction of a Social Media Code for Members, which it agreed unanimously. Then at its meeting on 1 October 2019, at the request of Full Council, it considered amendments to the Social Media Code, which had been approved at the committee meeting in June. At this committee in October 2019, it was agreed unanimously to:
  - a) Withdraw the County Council's Social Media Code;
  - b) Consult with a Member representative from each district council, along with their Monitoring Officers, to develop a countywide approach to social media guidance;
  - c) Request an update on the process from the Monitoring Officer at the Committee meeting on 21st November 2019; and
  - d) Request the Monitoring Officer to present a new County Council social media guidance at a future Committee meeting.
- 1.6 At the meeting on 30 June 2020, it was agreed that a report on a Review of Social Media Guidance, would be deferred to a later date following the completion of a review by the Local Government Association (LGA) of the model code of conduct. At the meeting in September 2021, the committee reviewed the LGA's new model code of conduct and

agreed to retain the Council's current code for the time being, but to keep the code under review, pending a response from the Government to the recommendations from the Committee on Standards in Public Life.

## 2. Main Issues

- 2.1 Following the annual review of the constitution, the changes set out below are proposed for the committee's consideration.

### Consultation for delegated decisions

- 2.2 Chapter 3D (Scheme of Delegation to Officers) of the constitution states that where an officer takes a decision under delegated authority on a matter which has significant policy, service or operational implications or is known to be politically sensitive, the officer shall first consult with the appropriate committee chair and vice-chair before exercising the delegated powers.
- 2.3 The absence of either the chair or vice-chair could result in a delay to such a decision being made. It is therefore proposed to amend paragraph 6.1 of the Scheme of Delegation as follows (addition in bold):

- 6.1 Where an officer takes a decision under delegated authority on a matter which has significant policy, service or operational implications or is known to be politically sensitive, the officer shall first consult with the appropriate committee chair and vice-chair before exercising the delegated powers. **In either Member's absence, consultation with either the chair or vice-chair will be sufficient.**

### Attendance of other county councillors at committee meetings

- 2.4 Section 22 of Chapter 4-4 (Procedure Rules for Committee and Sub-Committee Meetings) of the constitution sets out Members' rights to attend committee meetings when they are not a member of the committee as follows:

#### 22. Attendance of Other County Councillors

Any County councillor who wishes to attend a meeting of a committee or subcommittee of which they are not a member will be entitled to do so. With the consent of the meeting they will be entitled to speak but not vote:

- (a) On any matter affecting their electoral division or its inhabitants; or
- (b) On an item which they have requested be included on the agenda in accordance with Procedure Rule 7.

A county councillor who attends a meeting in this capacity will be entitled to remain in the meeting when a resolution excluding the public is in force.

These provisions do not apply where a committee or sub-committee is

exercising a function which is judicial in nature.

- 2.5 Contributions from local members can add value to a committee's consideration of a matter, and on occasions when local members have previously been unable to attend a committee meeting to speak on such issues, chairs have used their discretion with the consent of the meeting to allow written statements from local members to be read out. The following addition is proposed for inclusion in Section 22 of the committee procedure rules:

If a county councillor is unable to attend a committee meeting to speak on a matter affecting their electoral division or its inhabitants, a written statement may be read out on their behalf by another member of the committee.

### Public questions or petitions in the past six months

- 2.6 To avoid repetition of questions and answers at Full Council or committee meetings, public questions and petitions are currently not allowed if they are substantially the same as a question or petition that has been put to Full Council (in the case of Full Council) or a committee (in the case of committees) in the past six months. However, there is no restriction on questions or petitions being put if they have been put to Full Council (in the case of a committee) or a committee (in the case of Full Council).

- 2.7 It is proposed to amend Section 9.3 of Chapter 4.1 (Council Procedure Rules) as follows (addition in bold):

A question which is substantially the same as a question which has been put at a meeting of the Council **or one of its committees** in the past six months will not be allowed.

- 2.8 It is proposed to amend Section 9.4 of the Council Procedure Rules as follows (removal in strikethrough, addition in bold):

Petitions will not normally be considered within six months of another petition on the same matter having been considered by ~~a committee of the Council~~ **or one of its committees**.

- 2.9 It is proposed to amend Section 9.1 of Chapter 4-4 (Procedure Rules for Committee and Sub-Committee Meetings) as follows (additions in bold):

Permission to speak may be refused if the anticipated contribution:

- (a) Is not relevant to the agenda items of the meeting;
- (b) Is substantially the same as a question which has been put at a meeting of **the Council**, a committee, or **a** sub-committee in the past six months;

### Social Media Channels

- 2.10 Section 20 of Chapter 4-1 (Council Procedure Rules) and Section 21 of Chapter 4-4 (Procedure Rules for Committee and Sub-Committee Meetings) emphasise the Council's

support for the principle of transparency, including the use of social networking and micro-blogging websites to communicate with people about what is happening, as it happens during meetings. Examples of such social media channels are then listed, and following the change of name of one of these companies it is proposed to remove references to specific companies in order to future-proof the constitution.

- 2.11 It is therefore proposed to amend the identical sections in Chapter 4-1 and 4-4 as follows (removal in strikethrough):

The Council supports the principle of transparency and encourages filming, recording and taking photographs at its meetings that are open to the public. It also welcomes the use of social networking and micro-blogging websites (~~such as Twitter and Facebook~~) to communicate with people about what is happening, as it happens. These arrangements will operate in accordance with a protocol agreed by the Chair of the Council and political group leaders. This protocol will be published on the Council's website.

## Terms of Reference for the Assets and Procurement Committee

- 2.12 The summary of functions listed in Chapter 3B-13 (Assets and Procurement Committee), states that the committee has delegated authority to take decisions or delegate decisions around contract award / land and property decisions where the value exceeds £175k. This figure reflects the Council's financial limit for revenue virement, when it should actually reflect the key decision threshold and other property thresholds across the constitution, which is £500k.
- 2.13 The reference in this delegated authority to decisions around contract award is also not in line with the Council's process of seeking approval from committees only to commence procurement, with the award and execution of contracts usually delegated to a relevant officer.
- 2.14 It is therefore proposed to amend function (c) as follows (removals in strikethrough, additions in bold):

(c) Take decisions or delegate decisions around ~~contract award~~ **procurement** / land and property decisions where the value exceeds ~~£175k~~ **£500k**.

## Media Protocol

- 2.15 A planned two-year review of the media protocol has been undertaken by the Head of Communications and the Service Director of Legal and Governance, in consultation with Group leaders. While the main elements of the protocol remain unchanged, some revisions are proposed to improve the way the Council manages its communications operation, to update where technological advances have rendered earlier points obsolete, to provide greater clarity and support for Members relating to communications activities, and to ensure the Council fully meets the guidance of the Code of Recommended Practice on Local Authority Publicity.

- 2.16 The main proposed changes, set out fully in Appendix 1 to this report, include:
- (i) Comments on national issues which relate to the Council's operation or services will set out the local authority's views and reasons for holding those views, but should avoid anything likely to be perceived by readers as constituting a political statement,
  - (ii) Officers will clear all external communications from a technical point of view, but Members will continue to approve any direct quotes / be advised of highly sensitive issues
  - (iii) Members should advise the communications team of any media approaches, in order to ensure consistency and accuracy of response as well as to ensure that they remain within the Member Code of Conduct requirements
  - (iv) An agreed protocol for dealing with shared media activities with the Combined Authority.

## Social Media Protocol

- 2.17 Councillors are personally responsible for the social media content they create, publish and share. Being a councillor will not prevent someone else pursuing legal action following the publication of an untrue statement. In such a situation, it is likely that a councillor will be held personally liable. The Local Government Association (LGA) has developed national guidance for social media. [An introduction to social media for councillors | Local Government Association](#)
- 2.18 It is proposed that the Council should develop a Social Media Protocol for Councillors and Co-opted Members in line with best practice, to be included in the constitution, to provide a structured approach to using social media which will ensure that it is effective, lawful and does not compromise Council information or computer systems/networks. The protocol will give guidelines on how to use social media, set out how Councillors and Co-opted Members can effectively manage social media usage and indicate how any risks or pitfalls can be minimised or mitigated. The protocol will aim to ensure appropriate use of social media, that Council information remains secure and is not compromised through use of social media, and that the Council's reputation is not damaged or adversely affected.
- 2.19 It is important that this Social Media Protocol is developed in consultation with Members so it is proposed that that the working group proposed in paragraphs 2.20-2.23 of the report should also develop a Social Media Protocol for consideration by the committee at a future meeting.

## Constitution Working Group

- 2.20 The 2024 annual review of the constitution will consist of an extensive, in-depth review of the structure and content of the constitution to develop it into a more modern and accessible document. This will include input from members and officers from across the Council, as well as other stakeholders, and it is proposed to establish a Constitution Working Group (CWG) to facilitate this process and participate in the development of proposals that will then be considered by the committee in September 2024.

- 2.21 If agreed by the committee, the CWG will consist of one member of the committee from each political group, with other committee members and substitutes able to attend meetings as substitutes. Meetings of the CWG would be chaired by the Monitoring Officer and held periodically over the next twelve months with the involvement of various officers.
- 2.22 All work on proposed changes to the constitution carried out by the CWG would be subject to subsequent consideration by the committee and approval by Full Council.
- 2.23 Isolated issues requiring changes to the constitution that emerge over the next year would not necessarily be considered by the CWG prior to the committee, as its remit would be focussed on the wider review of the constitution and would give greater Member engagement in the process of constitutional development.

### 3. Source documents

- 3.1 [Council Constitution - Cambridgeshire County Council](#)
- 3.2 [Guidance on the LGA Model Code of Conduct](#)
- 3.3 [Best Value Standards and Intervention \(DLUHC\)](#)
- 3.4 [Constitution and Ethics Committee - 27 June 2019](#)
- 3.5 [Constitution and Ethics Committee - 1 October 2019](#)
- 3.6 [Constitution and Ethics Committee - 14 January 2020](#)
- 3.7 [Constitution and Ethics Committee - 29 September 2021](#)
- 3.8 [Constitution and Ethics Committee - 26 April 2022](#)