

CONSTITUTION AND ETHICS COMMITTEE: MINUTES

Date: Thursday 4th April 2019

Time: 2:00pm – 3:40pm

Venue: Kreis Viersen Room, Shire Hall, Cambridge

Present: Councillors M McGuire (Chairman), I Bates, D Connor, L Dupre, R Hickford, L Nethsingha and J Scutt

Apologies: Councillors K Reynolds (Vice-Chairman) and P Topping

61. APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies were received from Councillor Reynolds (substituted by Councillor Bates) and Councillor Topping.

A non-statutory disclosable declaration of interest under the Code of Conduct was made by Councillor Connor with regard to Minute No. 67 as the Chairman of the Planning Committee.

Non-statutory disclosable declarations of interest were also made by Councillors Bates and Nethsingha with regard to Minute No.70, as they were named in two of the cases contained within the report.

62. MINUTES – 28TH FEBRUARY 2019

The minutes of the meeting held on 28th February 2019 were approved as a correct record and signed by the Chairman.

63. SCHEME OF FINANCIAL MANAGEMENT

The Committee received a report detailing proposed changes to the Council's Scheme of Financial Management (SoFM). A fundamental review of the SoFM had been carried out following the change of financial system from Oracle e-Business Suite to ERP Gold at the beginning of 2018/19, and the proposed changes were a reflection of the recommendations that had arisen following the review. The Head of Finance noted that it had also provided an opportunity to resolve various administrative issues and other inconsistencies that had been identified within the document.

While discussing the report, Members:

- Sought confirmation that when the Chief Finance Officer made use of the delegated power to approve capital bids, as outlined in the second bullet point of Section 2.2 of the report, such action would be reported to Members. The Head of Finance affirmed that any such approvals would be reported to the General Purposes Committee (GPC).

- Suggested that £250k was a relatively low figure to be considered as the cut off point for the delegated power of approval, given that many projects had costs that were significantly higher than this. It was acknowledged that the figure was perhaps low but that it would still reduce the number of projects requiring approval by the GPC.
- Agreed to include a link to an online version of the updated Scheme of Financial Management in the forthcoming Council agenda, rather than include the whole document itself.

It was resolved unanimously to:

- a) Review the updated Scheme of Financial Management; and
- b) Recommend to Full Council that it approves the revised Scheme of Financial Management for inclusion in the Council's Constitution.

64. CHANGES TO CONSTITUTION – HIGHWAYS & COMMUNITY INFRASTRUCTURE AND COMMUNITIES & PARTNERSHIP COMMITTEES

The Committee received a report that proposed a series of changes to the Constitution in relation to the responsibilities of the Highways & Community Infrastructure (HCI) Committee and the Communities & Partnership (CP) Committee. The proposed changes reflected the senior management restructure that had resulted in most of Cultural and Community Services (C&CS) moving in to the People and Communities directorate, within Community and Safety.

While considering the proposals, Members:

- Discussed the capacity of the CP Committee to absorb the highly significant role, given that it already had a busy schedule of meetings and workshops with full agendas. It was, however, noted that the CP Committee itself had for some time been requesting such a change, based on the belief that it would develop stronger links in its wider work and strategy, and that it had not expressed any reservations about taking on the extra responsibility.
- Suggested that the C&CS had always been a peculiar partner for Highways, although it was noted that there had been only four committees when the committee structure was adopted in 2014 and there had not been a suitable committee for it to sit in at the time. Now that the CP Committee had been established, it made sense for C&CS to sit within that committee's remit.
- Acknowledged that the Chairmen of both the CP Committee and the HCI Committee had been consulted over the proposals and given their approval.
- Recognised that Members of the HCI Committee had always been highly interested in the topics under discussion and had shown great diligence in addressing them.
- Sought clarification over the cost implications of changing the HCI Committee's name to the Highways Committee. The Democratic Services Manager informed Members that the cost implications were minimal.

- Considered that given Economy & Environment (E & E) Committee had also seen a large portion of its work taken over by the Cambridgeshire and Peterborough Combined Authority, a merging of the E & E Committee and Highways Committee would cut costs and streamline work. It was agreed to recommend to Group Leaders that the overall committee structure be reviewed in light of the changes to the overall governance of the Council and the Combined Authority.
- Agreed to amend recommendation (b), noting that there was no need for Council to approve an update of the Scheme of Authorisation, whereas it would need to approve the change to the Scheme of Delegation to Officers.

It was resolved unanimously to:

- a) Transfer responsibility for the following functions from Highways & Community Infrastructure Committee to Communities & Partnership Committee:
 - Libraries
 - Archives
 - Culture (Partnerships, Projects & Funding Team)
 - Registration
 - Coroners
- b) Update the Scheme of Delegation to Officers
- c) Rename the Highways & Community Infrastructure Committee as the Highways Committee
- d) Recommend these changes to Council for approval at its meeting on 14th May 2019.
- e) Recommend to Group Leaders that the overall committee structure be reviewed in light of the changes to the overall governance of the Council and the Combined Authority.

65. UPDATE FOLLOWING PUBLICATION OF THE COMMITTEE ON STANDARDS IN PUBLIC LIFE'S REPORT ON LOCAL GOVERNMENT'S ETHICAL STANDARDS IN JANUARY 2019.

The Committee received a report highlighting the key recommendations drawn from the recent Local Government Ethical Standards Review Report from the Committee on Standards in Public Life. It was noted that many of the suggested changes required primary legislation to the Localism Act 2011, while others were awaiting the publication of a new model code of conduct by the Local Government Association and the Monitoring Officer was unable to provide a timescale for either of these. Despite this, there were many points of best practice that could be implemented immediately. The Monitoring Officer noted that any proposed changes by Members would need to be considered in a further specific report at a later Committee meeting, with some then proceeding to Council for approval if necessary.

While considering the recommendations listed in the report's appendix, Members:

- Discussed the need for a social media code in order to adapt the changes expected in R3 of Appendix 1. Members established that both the current and the proposed rules were only applicable with regard to public arenas, excluding closed or private websites, as well as private exchanges. It was agreed for the Monitoring Officer to present a report on adopting a social media code of conduct at the next meeting.
- Noted that there was a lack of clarity over rules regarding gifts and hospitality. An example was given of whether Members were required to include the value of an accompanying partner when declaring an invitation to an event, as this often affected whether the value was over or above the £25 level adopted by the Council. It was suggested that £25 was a low requirement for declarations of gifts and hospitality, considering that some neighbouring local councils set the requirement as high as £100. It was agreed for the Monitoring Officer to present a report at the next meeting concerning the requirement for making a declaration, which would include a proposal to raise the financial level, as well as providing more detailed guidance than was currently provided.
- Considered the proposal for political groups to require Members to attend formal induction training, as suggested in R25 of Appendix 1, noting that it was difficult to obligate Members to undertake training. It was agreed for the political groups to discuss the matter among themselves.
- Expressed concern over the Council policy of publishing decision notes upon the completion of preliminary considerations of complaints made against Members, noting that other councils were known to publish information only if the complaint led to a formal investigation. It was argued that the guidance in the report supported the idea of publishing a decision notice only when the Monitoring Officer had judged the complaint to warrant an investigation. Members acknowledged the value of informing the public when a person was exonerated, as well as the fact that it was difficult to restrict members of the public from making their initial complaints public. It was agreed that the Monitoring Officer would present a report at the next meeting proposing changes to the decision notice publication process.

It was resolved unanimously to:

- a) Note the recommendations contained within the Committee on Standards in Public Life report on Local Government Ethical Standards;
- b) Request the Monitoring Officer to revise the Members' Code of Conduct, Constitution or Guidance as necessary, in consultation with the Constitution and Ethics Committee, to bring in to effect the required changes when appropriate; and
- c) Agree that the Committee should receive reports at its next meeting on the social media code of conduct, gifts and hospitality, and complaint decision notices.

66. ARRANGEMENTS FOR THE APPOINTMENT OF INDEPENDENT PERSON(S)

The Committee received a report outlining proposed arrangements to be recommended to Council regarding the appointment of an Independent Person or Persons. Members were informed of the recently published report on Local Government Ethical Standards by the Committee on Standards in Public Life detailing best practice in relation to the appointment of Independent Persons including the need for local authorities to have access to two Independent Persons. It was noted that the Council currently had one Independent Person, as the second appointee had resigned in October 2017.

A review of the Committee's Terms of Reference was also proposed, in order to assign the duty of selecting candidates for recruitment as Independent Persons to the Constitution and Ethics Committee, although the duty of appointing Independent Persons would remain with the Council.

While considering the proposals, Members:

- Sought clarification over why the process of recruitment had not been initiated 18 months previously, when one of the Independent Persons had resigned his post. Members were informed that the Cambridgeshire and Peterborough Combined Authority had proposed forming a pool of Independent Persons which could be accessed by local authorities across the County, although little work had been done on forming such a joint panel and the proposal had now seemingly been dissolved.
- Established that the role description required any potential Independent Person to declare their political affiliation.
- Discussed whether the Council would be able to unappoint an Independent Person, were it deemed necessary. The Monitoring Officer informed Members that the position was a non-contractual appointment which carried an honorarium, meaning that the Council could simply stop using an Independent Person in the event of such a situation. It was noted that this served to highlight another benefit of having more than one Independent Person.
- Agreed that £500 was a reasonable remuneration for the level of work required of an Independent Person, although some members suggested that it was low and that further payments could be given on the basis of the number of cases on which they worked. It was noted that the average remuneration across a sample of 20 local authorities was £636, with some neighbouring authorities offering higher remuneration £1000, although Members argued that this was not a fair comparison as the quantity of work differed between authorities.

It was resolved unanimously to recommend to Council to:

- a) Authorise the Monitoring Officer, in consultation with the Chairman/woman of the Constitution and Ethics Committee, to take all necessary steps towards the selection of suitable candidates to be recommended to Full Council for appointment as an Independent Person; and

- b) Amend the Constitution and Ethics Committee's Terms of Reference to include the authority to select and recommend to Council persons for appointment as an Independent Person.
- c) Set the level of remuneration at £500 for each Independent Person so that it can be included in information supplied to applicants for the post of Independent Person.

67. CHAIRMEN/WOMEN AND VICE-CHAIRMEN/WOMEN OF COMMITTEES

The Constitution and Ethics Committee received a report detailing proposed changes to the Constitution regarding the appointment and removal of Chairmen/women and Vice-Chairmen/women of Committees. In the presentation of the report it was noted that all Chairmen/women that received a Special Responsibility Allowance (SRA) were appointed by Council, except for those in the Audit & Accounts, Pension Fund and Planning Committees. It was also argued that if Council had the power to appoint Chairmen/women, it should also have the power to remove them.

While discussing the proposals contained within the report, Members:

- Noted that the three Committees in question were based on impartiality, and some Members expressed concern that giving Full Council the ability to remove the Chairmen/women would at the very least detract from the perception of impartiality. Other Members argued that the important issue was that the committee itself remained impartial and that the position of the Chairman/woman did not affect that.
- Praised the current independent nature of the three committees, noting that this was not always the case in other counties. Some Members objected that the proposed changes would potentially make it more likely for problems in the future, even though the committees were currently functioning well.
- Considered whether there would be a shift in the power balance, as the proposed changes would allow the majority group to remove the Chairmen/women of some committees which were by convention chaired by another Group to the majority. Normally such decisions would be made by the Group to which the Chairman/woman belonged.
- Suggested that any report that came to Full Council requesting the removal of the Chairman/woman of one of the committees would lead to the discussion being held in public and would therefore increase transparency and accountability.
- Sought clarification over whether Full Council could currently remove Chairmen/women of the other committees appointed by Council and it was confirmed by the Monitoring Officer that this was the case. It was also clarified that the Chairmen/women of these committees would be appointed at each Annual Meeting.

Having considered the proposed amendments, it was resolved by majority to:

Recommend the changes to Full Council.

68. PROTOCOL ON MEMBER/OFFICER RELATIONS

Following a review of the protocol on Member/Officer Relations, the Committee received a report proposing some slight changes. Special emphasis was placed on the suggestions made in sections 2.7 and 2.8 of the report, with regard to Officers meeting non-County Council elected representatives and keeping local Members informed.

While considering the proposals, Members:

- Sought clarification over which Council employees were classed as officers. The Monitoring Officer confirmed that all employees working for the Council were classed as officers and were covered by the protocol.
- Noted that while Section 3.1 of the protocol ensured that officers were able to seek assistance from Local Members in the same way as any other member of the public, the same assurances were not given for Members themselves. The Monitoring Officer informed Members that they would be treated like any other member of the public whenever they asked for it to be so, although she agreed to one Member's request to include such a guarantee within the protocol.
- Obtained agreement from the Monitoring Officer to add 'or any other personal matter' to the end of Section 5.8 of the protocol.
- Established that Section 7.1 of the protocol did not prevent Members from disclosing information to other Members within either their own Group or any other Group. It was noted that the restrictions on disclosing information were limited to officers.
- Agreed to amend the first section of Section 7.6 of the protocol in the following way (addition in bold, removal in strikethrough):
*Finally, any Council information provided to a Member must ~~only~~ be used by the Member **solely** for the purpose for which it was provided...*
- Expressed concern that the proposed addition to Section 8.2 of the protocol would risk slowing down processes due to the difficulty in ensuring a time when both Local Members would be available. The Monitoring Officer noted that the important issue was that both Local Members needed to be aware of any meeting and suggested overcoming this concern by amending the proposed amendment as follows (additions in bold, removal in strikethrough):
*The officer will then meet the Councillor or elected representative ~~in the presence of the relevant~~ **and the** County Councillor for the Division **will be invited**.*
- Discussed replacing the phrase 'can expect to' in Section 10.1 of the protocol with the word 'should', to place greater importance on the responsibility of keeping Local Members informed. It was eventually agreed to replace the phrase with the word 'will'.

- Expressed a preference for maintaining a reference to the contribution to decisions in Section 10.2 of the protocol. The Monitoring Officer suggested amending the second paragraph to the following, which was agreed by the Committee (addition in bold):

*Local Members shall also be kept informed about matters affecting their decisions during the formative stages of policy development and discussion at informal meetings, **to enable them to contribute to the decision-making process.***

- Expressed concern that the proposed addition to Section 10.6 of the protocol was impractical and hard to define. It was noted that the key issue was ensuring that officers were kept abreast of any meetings so that they were not put in a difficult position at a later date due to being unaware of what had been said.
- Noted that it could be confusing for officers establishing which division they were in, often leading to them approaching incorrect Members. Websites such as www.my.cambridgeshire.gov.uk and www.writetothem.com were both identified by Members as helpful tools for establishing the local Member for a certain area and then communicating with them.

Having considered the amendments laid out in Appendix 1 of the report and pending the changes raised during the discussion, it was resolved unanimously to:

Recommend the changes laid out in Appendix 1 to Full Council.

69. SCHEME OF DELEGATION

The Committee received a report on the Scheme of Delegation for its consideration. It was noted that the Constitution required the Scheme of Delegation to be considered at each Annual Meeting of the Council. Members agreed to a request to provide a link to the document when published in the Council agenda for the meeting on 14th May 2019, as opposed to publishing the whole document.

It was resolved unanimously 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.

70. A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT TO END OF MARCH 2019

The Committee received a review of the complaints received under the Members Code of Conduct up until the end of March 2019. Three complaints had been completed and after the Monitoring Officer and Independent Person had considered the matters, it was decided that no breaches of the code had occurred and that no further action was required. The decision notices were published on the Council website.

In the course of the discussion, Members expressed concern about Bullying UK's definition of bullying, noting that by limiting use of the term to only repeat offences there was a risk of ignoring aggressive behaviour that occurred as a one off event.

It was resolved to:

Note the contents of the report.

71. AGENDA PLAN

While considering the Committee's agenda plan, one Member requested a report on introducing substitute members to the Pension and Investment Sub-Committee who were not members of the Pension Committee. The Democratic Services Manager advised Members that such a process was complicated by the fact that members of that particular committee required training and induction, although she committed to investigate the possibility.

Members noted that further additions would be made to the agenda plan including reports on the introduction of a social media code of conduct, declarations of gifts and hospitality, as well as the publication of decision notices.

Noting that it would be his last meeting as Chairman of the Constitution and Ethics Committee, Councillor McGuire thanked the members of the Committee for their support and input over the last two years.

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

Chairman
27th June 2019