

CONSTITUTION AND ETHICS COMMITTEE: MINUTES

Date: Thursday 27th September 2018

Time: 2.00pm – 3:01pm

Place: Kreis Viersen Room, Shire Hall, Cambridge

Present: Councillors M McGuire (Chairman), K Reynolds (Vice-Chairman), S Bywater (substituting for Councillor Hickford), L Nethsingha and J Scutt.

Apologies: Councillors D Connor, L Dupre, R Hickford and P Topping.

39. DECLARATIONS OF INTEREST

None

40. MINUTES – 24th APRIL 2018

The minutes of the meeting held on 24th April 2018 were confirmed as a correct record and signed by the Chairman.

41. MONITORING OFFICER

The Chairman asked the Deputy Monitoring Officer, Fiona McMillan, to leave the meeting for the duration of this item.

The Committee received a report on the proposed changes to the Constitution following the proposal to appoint a shared post of Director of Governance and Legal Services for Cambridgeshire and Peterborough. In presenting the report, the Chief Executive noted that it would be beneficial to have a monitoring officer at the heart of management in Cambridgeshire County Council, which was why she was recommending the role and subsequent amendments.

It was also noted that the Constitution and Ethics Committee's responsibility was to consider the necessary amendments to the Constitution and recommend the changes to Full Council, although any amendments would not be made until recruitment for the new position was complete. It was also recognised that Councillor Reynolds' position on the Staffing and Appeals Committee involved in the recruitment did not represent a conflict of interest.

In discussing the proposed changes Members:

- Expressed their support for the role and queried whether the position would be for a single in-house lawyer working across both councils. It was noted that the position would operate in this way with the Monitoring Officer commissioning legal work from LGSS Law Limited. It was likely that a deputy would also be appointed further down the line according to the requirements of the post holder. Queried how the position would differ from the current arrangement. Members were informed that the Monitoring Officer was previously employed by LGSS Law Limited. It was noted that the proposed arrangement involved an officer employed by the Council to provide dedicated advice and support but working across two authorities.

- Were informed that the arrangements for appointing a deputy at Cambridgeshire and Peterborough and would be decided by the appointee and considered during the interview process.

Having considered the amendments to the Constitution, it was resolved unanimously to:

Recommend the changes as set out in the report to Full Council.

42. GUIDANCE FOR MEMBERS AND OFFICERS ON OUTSIDE BODIES

The Committee received a report on guidance to the law for Members and officers who were appointed to represent the Council on outside bodies, which had been drafted as part of the Council's consideration of actions flowing from an investigation into complaints involving community transport organisations FACT, HACT and ESACT. In presenting the report, the Acting Monitoring Officer informed Members that currently there were no guidelines on these issues for Members or officers and that some were perhaps unaware of responsibilities and potential conflicts of interest. It was noted that the guidance was presented in draft format and that the Committee was being asked to propose amendments and decide whether to issue the guidance or refer it to Full Council for approval.

In discussing the report, Members:

- Noted that they had found themselves in situations where they were judged to have held an interest without their knowledge and that while there were brief mentions of these issues in the Localism Act and the Council's Code of Conduct, these mentions were insufficient and had left Members and officers uninformed of their obligations. It was agreed that potential liability arising from such confusions would be reduced through the formalised guidance under consideration.
- Proposed that before taking the guidance to Full Council a full review should be carried out, as quickly as possible, of all the outside bodies that had a relationship with the Council to establish their relevance and current status, noting that some bodies might not require a representative of the Council. After the review, the outside bodies nomination list would be redrawn and all relevant Members and officers briefed and informed of their legal status e.g. observer, director or trustee.
- Considered the role of the Strategic Management Team (SMT) in the review process, noting that most appointments to outside bodies were made by the relevant Policy and Service Committee. It was suggested that each Service should assign an officer to review the outside bodies relating to their area and following consultation the Policy and Service Committee Chairs, Vice-Chairs and Lead Members determine the necessity for a Member to be appointed to them.
- Noted that individual Members would be informed of the review early in the process to avoid conflict if positions on outside bodies were removed without prior knowledge and also to ensure that they were alerted to guidance as soon as possible.

- Observed that the procedure with officers would be different and that the SMT would need to include officers in the review as well as the Members.
- Proposed categorising the involvement of Members and officers on outside bodies according to the level of the position held, as well as differentiating between appointed and nominated positions. Current position holders would be advised and given the opportunity to acknowledge any potential conflicts or step down.
- Considered that taking the guidance to Full Council would allow all Members the opportunity to become aware of its existence while emphasising its importance to them.
- Expressed concern that the guidance be issued in a timely manner. It was noted that the review process would be completed by the following Constitution and Ethics Committee meeting (29th November 2018) and at that point it would be decided whether to issue the guidance or refer to Full Council.
- Noted that the guidance was unclear on who the Members and officers were responsible to with respect to the Council and LGSS. The presenting officer suggested that including a list of scenarios would help and that each situation was different, which was why the review of each individual body was so important.
- Suggested that training could be conducted following the review, which would include informing Members on their responsibilities and liabilities depending on their specific level of involvement.

It was resolved unanimously to:

- a) Consider and note the draft guidance for Members and officers
- b) To instruct officers to carry out a fundamental review of appointments to all outside bodies and the way they were categorised, to sit alongside the guidance. The result of the review to be brought back to Constitution and Ethics Committee.

43. COUNCIL – PUBLIC QUESTION TIME

The Committee received a report proposing changes to rules relating to public questions to Council and Committees/Sub-Committees, including repeat questions, exceeding the number of questions allowed and the scope of questions. It was noted that the changes were essentially tidying up wording and bringing the Council's constitution in line with those of other councils and that any changes would be recommended to the Full Council.

In response to Members' questions, the officer:

- Confirmed that the Monitoring Officer would be responsible for making any decision regarding the rejection of questions.
- Clarified that questions were currently limited to four, with any further questioners invited to defer to a later meeting, although the Chairman had the

discretion to accept more questions if deemed appropriate. It was also noted that while this provision already existed in the Constitution for questions asked during committee meetings, it was not included for Full Council.

- Acknowledged that the Chairman of the Council could currently suspend standing orders to allow further questions and had the discretion to allow further questions but emphasised that this was not included in the constitution and that the amendments would clarify the situation. It was noted that the Chairman's discretion was rarely needed and would not set a precedent. It was also confirmed that the Chairman would be under no obligation to extend the limit.
- Assured Members that the proposer of any questions exceeding the set limit for Council and not deferred to the next meeting would receive a written replay following consultation with Group Leaders, ensuring transparency,
- Noted that excess questions regarding items that appeared on the meeting agenda would be more likely to be accepted than questions unrelated to topics discussed at the meeting, while questioners seeking to ask various questions on a similar or identical topic would be encouraged to put one question forward to allow space for others.
- Confirmed that the public's rights were not being limited as the amendments would improve communication and ensure their rights. The only limit being added was regarding the six month rule, which was already enforced for committee meetings.
- Acknowledged that the wording in the Constitution for the scope of permitted questions was broad and as a result questions had never been turned down.

Having considered the amendments to the constitution, it was agreed unanimously to:

Recommend the changes set out in Appendices 1 and 2 of the report to Full Council.

44. TRANSFER OF DELEGATED RESPONSIBILITY FOR THE COUNCIL'S WHISTLEBLOWING POLICY

The Committee received a report recommending the transfer of its delegated responsibility for the Council's whistleblowing policy to the Audit and Accounts Committee in order to address the current overlap regarding responsibility for whistleblowing reports and oversights of the whistleblowing policy. The Acting Monitoring Officer reported as the Internal Auditor was responsible for the policy it was appropriate that reports should be made to the Audit and Accounts Committee.

In response to questions, Members:

- Noted that complaints against Councillors would continue to be dealt with by the Constitution and Ethics Committee.
- Noted that whistleblowing issues had initially been assigned to the Constitution and Ethics Committee following the abolition of Standards Committees. One Member queried whether Audit and Accounts Committee would consider

inherent ethical issues and expressed concern that these issues might not be treated adequately. The Acting Monitoring Officer reported that she attended Audit and Accounts Committee meetings in both Cambridgeshire and Peterborough when necessary.

- Noted that only two whistleblowing cases had occurred over the past year.

It was resolved unanimously to:

Recommend to Full Council that the constitution be amended to pass the delegated responsibility for the Council's whistleblowing policy and oversight from the Constitution and Ethics Committee to the Council's Audit and Accounts Committee.

45. A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT TO 18 SEPTEMBER 2018

The Committee received a report on the number and nature of complaints received about Members between 13th April and 18th September 2018. Of the three complaints received during this period, one investigation had been completed and was included in the report for noting, while the remaining two would be presented to the Committee once the investigations were completed.

In discussing the report, Members:

- Considered the fact that committees often presented public reports on complaints only when the investigation determined that a breach of regulations had occurred. It was noted that evidence of an investigation, regardless of the outcome, was beneficial and increased transparency.

It was resolved unanimously to:

Note the report.

46. AGENDA PLAN

The Committee considered its agenda plan, noting that an additional item had been identified for its next meeting, namely the report on the review of outside bodies.

Chairman