

PROPOSED REVISIONS TO PART 3 OF THE COUNCIL'S CONSTITUTION

To: **Constitution and Ethics Committee**

Meeting Date: **14th January 2020**

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

Electoral division(s): **All**

Purpose: **To consider proposed revisions to Part 3 of the Council's
Constitution.**

Recommendation: **The Constitution and Ethics Committee is asked to:**

**Consider amendments to the Constitution, as set
out in Appendices 1 and 2, and recommend any
changes to full Council, if appropriate.**

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1. BACKGROUND

- 1.1 Part 3 of the Council's Constitution sets out the responsibility for functions as follows:

Part 3A – Responsibility for Functions
Part 3B – Committees of Council
Part 3C – Joint Committees
Part 3D – Scheme of Delegation to Officers
Part 3E – Shareholder Rights in LGSS Law Ltd.

2. MAIN ISSUES

Terms of Reference of General Purposes Committee

- 2.1 General Purposes Committee has the following delegated authority from full Council:

Delegated Authority	Delegation/condition
Authority to lead the development of the Council's draft Business Plan (budget), to consider responses to consultation on it, and recommend a final draft for approval by Full Council	In consultation with relevant Service Committees

- 2.2 It is proposed to change this delegation to allow the Chief Finance Officer (CFO) to present to full Council an overview of the proposed Business Plan. Council will then be asked to balance the budget from within the total resources detailed in the CFO's report. **Appendix 1** sets out the proposed changes to the Constitution with deletions in strikethrough and additions in bold.

Scheme of Delegation to Officers

- 2.3 The Constitution contains one delegation to officers in consultation with Local Members as set out below:

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. <ul style="list-style-type: none">For all districts except Cambridge City, 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, with the exception of traffic regulation orders/statutory notices sought as part of a Greater Cambridge Partnership (formerly City Deal) Infrastructure scheme as defined in the Terms of Reference for Joint Development Control Committee for Cambridge Fringes	Assistant Director, Highways in consultation with the Local Members for all districts, except Cambridge City.
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This is the only delegation to officers in consultation with Local Members set out in the Constitution. The only other time where Local Members may be involved is when a Committee delegates to an officer in consultation with the Local Member.

- 2.4 Policy and Service Committees will also on a regular basis delegate decisions to an officer in consultation with the Chairman/woman.
- 2.5 However, there is no reference in the Constitution to managing disputes when decisions are made. There may be occasions when a Local Member is reluctant to support the determination of a traffic regulation order in their Division for example.
- 2.6 It is therefore proposed to add clarification for managing such disputes in the Constitution. **Appendix 2** sets out the proposed changes with additions in bold.

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

1. GENERAL PURPOSES COMMITTEE**Membership**

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 Community Infrastructure Committee, the Commercial and Investment Committee, and the Communities and Partnership Committee. The Chairman/woman and Vice-Chairman/woman of the General Purposes Committee shall be appointed by Full Council and shall be, ex officio, the Council Leader and Deputy Council Leader.

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
- 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 by the Chief Finance Officer recommend a final draft 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.	

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	
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	
Authority to review annual reports and inspection reports not within the remit of another committee	
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	
Authority for monitoring and reviewing the overall performance of the Council against its Business Plan	
Authority to determine the most appropriate committee for considering any matter which falls within the remit of more than one committee	
Authority to respond to any consultations within the remit of more than one committee as and when required	
Authority for managing those functions relating to elections and local democracy which are not reserved to Full Council	
<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 	
<ul style="list-style-type: none"> 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) 	

Delegated Authority	Delegation/ Condition
<ul style="list-style-type: none"> 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 	
<ul style="list-style-type: none"> 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 	

Part 3D - SCHEME OF DELEGATION TO OFFICERS

1. Introduction

This section describes the extent and nature of the authority delegated to officers to undertake functions on behalf of Cambridgeshire County Council. The delegations are made by either the Full Council or one of its committees.

2. General Principles

The Chief Executive and the Chief Officers, where they consider it necessary and expedient, may authorise officers within their respective service Directorates to undertake functions on their behalf. If such authorisations are made, the relevant Chief Officer shall prepare and maintain a written schedule of authorisations to be available for inspection by the Monitoring Officer and published on the Council's website.

Where an officer listed in this Scheme of Delegation is absent for any period, the Chief Executive may nominate in writing another officer to act in his/her place during their absence and shall make a record of all such nominations.

The Chairman/woman of the relevant committee may request an officer not to exercise their delegated power in any particular case and, if so, a report will be taken to the next available meeting of this committee for consideration.

Chief Officers shall agree with the Chairman/woman and Vice-Chairman/woman of the relevant committee the nature and level of information the committee requires regarding the exercise of officers' delegated powers.

Chief Officers shall exercise their delegated powers in accordance with any requirements of the Chief Executive.

General Delegation

The Chief Executive and Chief Officers/Directors are authorised to discharge all the functions of the authority within their areas of responsibility as defined below and subject to the General Conditions and Limitations set out below.

Conditions Relating to the Exercise of Delegated Authority

The exercise of functions delegated to officers under this scheme must comply with:

- i) any legal requirement or restriction
- ii) any relevant provision in the Council's Constitution
- iii) the Council's policy framework and any other plans and strategies approved by the Council
- iv) the relevant in-year budget
- v) the relevant officers' code of conduct
- vi) the Council's Financial and Contract Procedure Rules
- vii) the requirements of the Openness of Local Government Bodies Regulations 2014 and any supporting guidance
- viii) all other relevant policies, procedures, protocols and provisions.

Limitations to the Exercise of Delegated Powers

Officers in the exercise of functions delegated by this scheme may not:

- i) make Key Decisions as defined in the relevant Council's Constitution unless it is specifically delegated to the officer. An officer making a Key Decision specifically delegated to him/her shall first consult with the Chairman/woman and Vice-Chairman/woman of the relevant committee before exercising such delegation.
- ii) change or contravene policies or strategies approved by the Council or its committees or joint committees in the absence of specific delegated authority to do so
- iii) create or approve new policies or strategies, in the absence of specific delegated authority to do so
- iv) take decisions to withdraw public services, in the absence of specific delegated authority to do so
- v) take decisions to significantly modify public services without consulting the appropriate committee chairman/woman and vice-chairman/woman before exercising the delegated power.

Consultation

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 chairman/woman and vice-chairman/woman before exercising the delegated powers.

If the committee chairman/woman and vice-chairman/woman do not agree with the proposed officer decision, the decision will be taken to the next available meeting of the committee for consideration.

When exercising delegated powers, officers shall ensure that local Members are kept informed of matters affecting their divisions.

If consultation involves a Local Member who does not agree with the proposed officer decision, the officer taking the decision will then consult the chairman/woman of the relevant committee to see if agreement can be reached. If agreement cannot be reached, the decision will be taken to the next available meeting of the committee for consideration.