

CONSTITUTION AND ETHICS COMMITTEE: MINUTES

Date: Thursday, 27th June 2019

Time: 2:00pm – 2.54pm

Venue: Room, Shire Hall, Cambridge

Present: Councillors L Every (Chairman), D Connor, L Harford, R Hickford, D Jenkins, S Kindersley, K Reynolds and J Scutt

72. ELECTION OF VICE-CHAIRMAN/WOMAN

It was resolved to elect Councillor Reynolds as the Vice-Chairman for the municipal year 2019-20.

73. APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

No apologies received or declarations of interest made.

74. MINUTES – 4TH APRIL 2019

The minutes of the meeting held on 4 April 2019 were approved as a correct record and signed by the Chairwoman.

75. PROPOSAL TO UPDATE THE TERMS OF REFERENCE FOR THE CAMBRIDGESHIRE HEALTH AND WELLBEING BOARD AND TO CREATE A FURTHER JOINT SUB-COMMITTEE WITH PETERBOROUGH BOARD

The Committee received a report detailing a proposed update to the terms of reference for the Cambridgeshire Health and Wellbeing Board and the creation of a further Joint Sub-Committee with the Peterborough Board. In presenting the proposal officers explained that the update to the terms of reference had involved aligning them with those of the Peterborough Health and Wellbeing Board, and amended the terms of reference for the Joint Cambridgeshire and Peterborough Health and Wellbeing Board (a sub-committee of the Cambridgeshire and Peterborough Health and Wellbeing Boards) agreed previously by full Council.

The Chairman of the Health and Wellbeing Board, Councillor Hickford, acknowledged the work that had gone into the review of the terms of reference including a workshop, and that the Health and Wellbeing Board had voted unanimously to approve the proposed changes.

It was resolved unanimously to:

- a) recommend the updated terms of reference for the Cambridgeshire Health and Wellbeing Board and the Joint Cambridgeshire and Peterborough Health and Wellbeing Board (a sub-committee comprising both boards) to full Council for approval; and

- b) recommend the proposed terms of reference for the new sub-committee of the Health and Wellbeing Board to full Council for approval.

76. REVIEW OF COMPLAINTS PROCEDURE FOR CONDUCT COMPLAINTS

The Committee received a report that proposed amendments to the current complaints procedure for code of conduct complaints, to introduce a requirement of confidentiality where appropriate. In presenting the Monitoring Officer stated that currently all decision notices were published on the website irrespective of whether a breach of the code of conduct had been found. It was increasingly common for complainants to put their complaints into the public domain at the same time as lodging them with the council either by using social media or informing the press that a complaint had been made. Applying the confidentiality requirement where appropriate would prevent “trial by media” where a media story was run on a complaint, potentially damaging the councillor’s reputation, and the individual was then found not to be in breach of the code of conduct.

In discussing the report Members:

- expressed concern in relation to recommendations one and two. Many complaints historically were made to achieve trial by media and there was a further political drive behind them which was not going to change.
- queried whether the proposed change to confidentiality covered members of the public as well as Members of the Council. The Monitoring Officer stated that confidentiality could now not be enforced, following the demise of the statutory regime when it was an offence to reveal details of any conduct complaint whilst it was ongoing. Members agreed that there should be an expectation of confidentiality and that this could be enforced from a member point of view via the current provisions of the code of conduct on confidentiality, particularly if the complaint was politically motivated and there was not much substance to it. The Committee discussed the issue of not being able to respond to a complaint that was in the public domain. Members requested an amendment to allow for members to respond if confidentiality was breached by a member of the public. **ACTION.** It was agreed to add additional wording to point one of the recommendations on the lines of ‘then the member is now not subject to confidentiality’. **ACTION.**
- questioned what the term ‘alternative resolution’ covered. The Monitoring Officer explained that this usually involved a member agreeing to make an apology or going on a training course. Members requested that this point be clarified in the guidance. **ACTION**

It was resolved unanimously that:

- a) all code of conduct complaints be subject to a requirement of confidentiality by all participants in the process until such time as the complaint case was concluded; however if this requirement is breached by a member of the public and information about the complaint is put in the public domain then the councillor who is the subject of the complaint would no longer be bound by the requirement of confidentiality;

- b) where a conclusion had been reached that the code of conduct had not been breached or where the Monitoring Officer concluded, following an initial assessment of a complaint, that no further action needed to be taken that the identity of the councillor who was the subject of the complaint remained confidential unless that councillor wished it to be made public;
- c) where a complaint had been informally resolved by agreement without the need for a formal investigation that the identity of the councillor who was the subject of the complaint and a summary of the complaint was reported back to the committee;
- d) where a conclusion had been reached that the code of conduct had been breached but that no hearing is necessary due to an agreed alternative resolution that the investigation report would be published when the case was reported back to the committee; and
- e) where a conclusion had been reached that the code of conduct had been breached and that alternative resolution was not appropriate/ possible that the investigation report would remain confidential until such time as the hearing into the complaint took place, at which stage it would be published.

77. SELECTION AND APPOINTMENT OF INDEPENDENT PERSON(S)

The Committee considered a report outlining the interview process for the selection and appointment of an Independent Person. In presenting the report officers drew the Committee's attention to the draft timetable and explained that the proposal was to have a small interviewing panel of four Members, to include a representative from the Fire Authority. Nominations were sought from the Committee for the interview panel and it was agreed that Councillors Connor, Kindersley, Harford and Scutt would make up the panel.

It was resolved unanimously to:

agree the interview process for the selection and appointment of an Independent Person, including the following as set out in the report:

- The advert and advertising process;
- The establishment of a four member interview panel;
- The application pack; and
- The timetable

78. SOCIAL MEDIA CODE FOR COUNCILLORS

The Committee received a report which it had requested at a previous meeting proposing the introduction of a Social Media Code for Members. In introducing the report the Monitoring Officer explained that the current Code of Conduct did not contain reference to documents providing guidance on the standards of conduct expected of members and the proposal sought to cross reference and link other protocols together within the Code of Conduct. The Monitoring Officer reiterated that many code of conduct complaints over the last few years had related to the use of social media. The main issues that had arisen were in relation to Councillors not having separate social

media accounts for personal and Council matters, and therefore giving the impression of acting in their official capacity when this was not intended. General Information on social media best practice produced by the Council's Communications Team, would be circulated to members in due course following the approval of the code. **ACTION**

In discussing the report Members:

- queried why there was a separate document for the Social Media Code and why the principles were not included in the current Code of Conduct. The Monitoring Officer explained that social media use by members had only become prevalent over the last few years. It was therefore important that the protocol had prominence as any opinions expressed on social media were there for all time.
- highlighted the need to add blogging to the list of websites and online tools on page 59.
- highlighted the immediacy of social media and that Councillors needed to think carefully about what they posted. One Member also commented that Members needed to be aware of conversations on mobile phones that related to their work as a Councillor to ensure privacy was maintained.
- acknowledged the work that had gone into preparing the protocol and noted that it was a good start to ensuring Members understood their responsibilities as Councillors when using social media.
- queried under 'Practices to avoid' on page 60 of the papers, in relation to criticising decisions due to, or that had been made by the Council. Members noted that this occurred regularly on social media, and that Councillors stood by the manifestos' of their parties.
- noted examples of good practice on page 61 of the papers and requested that the wording under the paragraph 'Do not bring the council into disrepute' should contain a footnote on "outside of expected political discourse and challenge". It was also proposed that "as a councillor" should be added after "yourself" for additional clarification. **ACTION**

It was resolved unanimously to:

- a) agree the Social Media Code with any appropriate amendments;
- b) issue it to all Members of Council with immediate effect; and
- c) recommend to Full Council associated amendments to the Members' Code of Conduct.

79. GIFTS AND HOSPITALITY

The Committee received a report that considered whether the financial level for declaring gifts and hospitality should be increased, and if more detailed guidance given on making declarations should be included in the constitution.

In presenting the report officers stated that the previous Chairman of the Committee had raised the issue of whether partners should be included in the total declared for gifts and hospitality, as well as consideration on reviewing the level at which declarations should be made. Members noted further amendments that had been made to the guidance on page 70 of the papers under point four 'Registering gifts and hospitality', which now included the wording 'and any hospitality provided to your partner', and on Page 73 point 20 '(This includes hospitality offered to you and your partner which in total is £XX or over). Attention was drawn to page 71 of the papers to remind Members that they should only accept a gift or hospitality if there was a commensurate benefit to the Council.

In discussing the report Members:

- agreed to set the financial limit for declarations at £100 as this would also cover the Chairman/woman of the Council acting in their civic capacity.
- agreed to add an additional column to gifts and hospitality forms explaining the commensurate benefit to the Council of the gift/hospitality and that the form should be an online form. **ACTION.**

It was resolved unanimously to:

- a) review and comment on the guidance set out in Appendix C for inclusion in the Council's Constitution and to recommend it to Full Council for approval;
- b) review and recommend the financial level for declaring gifts and hospitality to Full Council for approval; and
- c) approve the introduction of a new Gifts and Hospitality Declaration Form set out in Appendix D.

80. SCHEME OF DELEGATION TO OFFICERS

The Committee received a report that proposed the inclusion of the Director: Business Improvement and Development in the Scheme of Delegation to Officers.

In discussing the report Members queried the use of the words 'Shared Services'. Officers clarified that this wording had come from the job description of the post.

It was resolved unanimously to:

recommend the changes to full Council.

81. PENSION FUND COMMITTEE INVESTMENT SUB-COMMITTEE – SUBSTITUTION ARRANGEMENTS

The Committee received a report outlining the substitution arrangements for the Pension Fund Committee Investment Sub-Committee. In presenting the report officers informed Members that Councillor Hickford, who was a substitute on the Pension Fund Committee, had raised this as an issue. It was noted that the Sub-Committee often invited financial advisers traveling across the Country to present items so it was

important that the Sub-Committee was quorate. The report proposed that substitutes on the Pension Fund Committee should be eligible to sit on the Sub-Committee and the relevant training would be made available to them.

It was resolved unanimously to:

consider amendments to the constitution and recommend changes to full Council.

82. A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT TO END OF JUNE 2019

The Committee received a review of the complaints received under the Members' Code of Conduct up until the end of June 2019. In presenting the report the Monitoring Officer stated that since 27 March 2019 one new complaint had been received and that after discussion with the complainant they had decided not to progress this complaint therefore no further action was taken.

It was resolved unanimously to:

note the contents of the report.

83. AGENDA PLAN

An update on the recruitment and appointment of an Independent Person would be added to the agenda plan for the October meeting. **ACTION**

Chairwoman
1st October 2019