

## **CONSTITUTION AND ETHICS COMMITTEE: MINUTES**

**Date:** Tuesday 14th January 2020

**Time:** 2:00pm – 2:55pm

**Venue:** Kreis Viersen Room, Shire Hall, Cambridge

**Present:** Councillors L Every (Chairwoman), I Bates (substituting for Councillor Reynolds), L Harford, R Hickford, D Jenkins, S Kindersley and J Scutt

**Apologies:** Councillors D Connor and K Reynolds (Vice-Chairman)

### **91. APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

Apologies were received from Councillor Reynolds and Councillor Connor.

There were no declarations of interest.

### **92. MINUTES OF THE MEETING HELD ON 1ST OCTOBER 2019**

The minutes of the meeting held on 1st October 2019 were approved as a correct record and signed by the Chairwoman.

### **93. CHANGES TO THE CONTRACT PROCEDURE RULES**

The Committee received a report which contained proposed changes to the Contract Procedure Rules (CPR). Members were advised by the Head of Procurement that procurement legislation, as well as legislation in areas that affected procurement, such as the General Data Protection Regulation, had been implemented since the previous update to the document. A number of case laws had also guided public procurement behaviour and therefore it had been decided to review the current rules and align them to these changes. It was noted that the CPR were not updated on a regular basis because they did not represent a strategy or best practice; the document was written to minimise risk while also establishing minimum rules for procuring and contracting. Attention was drawn to the wide range of relevant stakeholders that had been involved in the update process, as laid out in section 2.1 of the report.

While discussing the proposed changes to the CPR, Members:

- Paid tribute to the Head of Procurement's longevity of service.
- Noted that the Committee had only been asked to consider the matter because it represented an amendment to the constitution and that it was essentially a framework for officers.
- Proposed the following amendments to Appendix 2 before its submission to Council:

- Insert the word ‘to’ between ‘unique’ and ‘the’ in criteria 2 of the third box of the first row in the table on page 58 of the agenda; and
  - Replace a bullet point for the icon at the beginning of the eighth line in the third box of the fourth row in the table on page 59 of the agenda.
- Observed that the Public Services (Social Value) Act 2012 required officers to have regard for the environmental well-being of the County while considering procurement, as laid out in section 9 of the CPR. Noting that the Council was unable to amend legislation, one Member suggested that the wording used in the CPR should be stronger and more proactive in order to reflect the issue of climate change, particularly following the Council’s declaration of a climate and environment emergency. The Head of Procurement acknowledged the proposal and assured Members that the authority was developing a tool kit to measure social value, which would be included in all procurement tender documents. He suggested that a social value impact assessment could be included in all Committee reports but including it in the CPR was difficult as it did not fit with each procurement case. Another Member argued that as the climate emergency became more critical, the Council would be forced to apply stricter criteria in contracting and procuring.

It was resolved to:

Recommend the amended Contract Procedure Rules, as set out in Appendix 1, to Full Council for approval.

#### **94. PROPOSED REVISIONS TO PART 3 OF THE COUNCIL’S CONSTITUTION**

The Committee received a report that contained proposed revisions to Part 3 of the Constitution. The Democratic Services Manager suggested an amendment to the proposed revision to the ‘Terms of Reference of General Purposes Committee’ (as laid out in Appendix 1 of the report), by removing “by the Chief Finance Officer”. It was confirmed that, regardless of the amendment to the proposed revision, the Chief Finance Officer would update Council to any changes that had occurred to grants or funding between the approval of the draft Budget Plan by the General Purposes Committee (GPC) and its consideration by Council. Members were informed that the GPC would consider the draft Business Plan at its meeting on 28th January 2020 and recommend it to Council along with a number of options for balancing the budget.

While discussing the proposed revisions, Members:

- Clarified that under the proposed revision to the GPC’s terms of reference, the GPC would recommend a budget to Council, although it would not be a balanced budget as this would be resolved at full Council.
- Established that all political groups would be able to submit amendments with proposals for how they would achieve a balanced budget 5 working days before the Council meeting. Members received confirmation from the Democratic Services Manager that this was the same procedure as in previous years.
- Expressed concern that the proposed revision to the budget process would not afford Councillors, the press or members of the public sufficient time for adequate scrutiny of the draft budget or any amendments submitted.

- Noted that the Business Plan had been considered by all the policy and service committees before being considered by the GPC, although it was requested for future versions of the Business Plan to include clear flowcharts of the budget process, in order to understand how it progressed to its final, approved form.
- Considered the effectiveness of the committee system in fulfilling its scrutiny function, with some Members arguing that a cabinet system afforded greater levels of scrutiny. One Member suggested that items were not added to committee agendas for the express purpose of scrutiny and that the proposed revision would represent a failure of the GPC to reach a decision by consensus, as mandated by the committee system. Another Member argued that the majority party was able to avoid real scrutiny because it held a majority in all the committees. The Monitoring Officer clarified that the committee system was intended to provide scrutiny due to its inherent cross-party nature, although the only committees holding statutory scrutiny roles were the Health Committee and the Economy & Environment Committee.
- Observed that the GPC's membership consisted of the Chairmen/women of all the Council's committees and it should therefore be able to resolve the disparities that arose. One Member suggested that the majority held by one party implied that any proposed budget would effectively be that party's budget proposal and therefore its refusal to submit one indicated a lack of leadership and responsibility. Another Member argued that, as far as he was aware, none of the political groups were prepared to share their budget proposals and that the ideal process would involve the different budget proposals being scrutinised together.
- Agreed to remove the word "available" from both additional paragraphs of the proposed revision to the Scheme of Delegation to Officers.
- Clarified that the proposed revision to the Scheme of Delegation to Officers did not affect Local Members whose divisions were in Cambridge City, as the relevant decisions were considered by the Cambridge City Joint Area Committee.

The Chairwoman resolved to take two separate votes on the proposed revisions.

It was resolved by majority to:

Recommend amendments to the Constitution, as set out in Appendix 1, subject to the removal of "by the Chief Finance Officer" from the amendment.

It was resolved unanimously to:

Recommend amendments to the Constitution, as set out in Appendix 2, subject to the removal of the word "available" from both additional paragraphs in the amendment.

## **95. CIVILITY IN PUBLIC LIFE AND THE REVIEW OF THE MODEL CODE OF CONDUCT**

The Committee received a report from the Local Government Association (LGA) on work it was undertaking regarding civility in public life and its model code of conduct. The Monitoring Officer informed Members that, as requested by the Committee at its

meeting on 1st October 2019, she had consulted Monitoring Officers across the County regarding the development of a County-wide approach to social media guidance. Due to the ongoing review of the national model code of conduct, it had been decided to await guidance from the publication of the new model code of conduct at the LGA annual conference in July 2020 before establishing a local approach.

While discussing the work being undertaken by the LGA, Members:

- Suggested that intimidation, abuse and harassment were terms that could be interpreted differently by each Councillor, noting that something considered as harmless banter by one person might be considered as inappropriate by others. It was a difficult issue to police and even more so on social media, where it was sometimes impossible to detect the tone of a comment.
- Observed that since government sanctions had been abolished, elected councillors could effectively behave as they wished (within the constraints of the law) without the means to be removed from office before the next election. It was suggested that the threat of being barred or facing a by-election was the only effective way to ensure Councillors behaved appropriately. The Monitoring Officer noted that such sanctions would require parliamentary legislation and could not be instigated by the LGA or local authorities, although she informed Members that a formal response by the government to proposals of additional sanctions was pending.
- Considered whether civility should be treated any differently in public life to that of private life, noting that the negative aspects of social media were an issue for the social media companies to confront, rather than the LGA or local authorities.
- Requested an update on the LGA review of the model code of conduct following the LGA annual conference, where it is due to be published. The Monitoring Officer agreed to provide an update at the meeting on 29th September 2020.
- Noted that the LGA organised helpful workshops and seminars on the issues that had been discussed during the meeting.

It was resolved unanimously to:

Note and comment on the report.

#### **96. A REVIEW OF THE COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT TO END OF DECEMBER 2019**

The Committee received a review of complaints received under Members' Code of Conduct to 31st December 2019, which reported that two complaints were in the process of being assessed. A third complaint had been passed to the relevant district council to process, as it related to the Councillor's role in that council.

It was resolved unanimously to:

Note the contents of this report.

**97. CONSTITUTION AND ETHICS COMMITTEE AGENDA PLAN**

The Committee noted its agenda plan.

Chairwoman  
7th April 2020