

**DECISION REVIEW PROCESS**

*To:* **Constitution and Ethics Committee**

*Meeting Date:* **30th June 2020**

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

*Electoral division(s):* **All**

*Purpose:* **The Committee is asked to consider changes to the  
Decision Review Procedure rules set out in the Council's  
Constitution.**

*Recommendation:* **The Committee is asked to:**

- a) Consider amendments to the Constitution, as set  
out in Appendices 1 and 2, and recommend any  
changes to full Council, if appropriate; and**
- b) Recommend to full Council an increase in the  
number of members of General Purposes  
Committee required to initiate a review of a decision  
taken by a Policy and Service Committee from eight  
to nine.**

<b><i>Officer contact:</i></b>		<b><i>Member contact:</i></b>	
Name:	Michelle Rowe	Name:	Councillor Lis Every
Post:	Democratic Services Manager	Chairman:	Constitution and Ethics Committee
Email:	<a href="mailto:michelle.rowe@cambridgeshire.gov.uk">michelle.rowe@cambridgeshire.gov. uk</a>	Email:	<a href="mailto:lis.every@cambridgeshire.gov.uk">lis.every@cambridgeshire.gov.uk</a>
Tel:	01223 699180	Tel:	01223 706398 (office)

## 1.0 BACKGROUND

### *Environment and Sustainability Committee*

- 1.1 In May 2019, Councillor Steve Count proposed an Environment Motion to Full Council and as a result, the Council declared a Climate Emergency. The motion was passed unanimously, and committed the Council to the development of a Climate Change and Environment Strategy and Action Plan.
- 1.2 Full Council at its meeting on 19 May 2020 approved the Council's Climate Change and Environment Strategy and Action Plan, and the establishment of the Environment and Sustainability Policy and Service Committee in order to provide sufficient focus on actions to address climate change. The summary of functions for the new committee is set out below:

### Summary of Functions

Delegated authority to exercise all the County Council's functions, not otherwise reserved to Full Council, relating to energy and the environment within Cambridgeshire.

Delegated Authority	Delegation/Condition
Authority for exercising all powers and implementing all strategies associated with the Council's climate change, sustainable development, energy and environment functions which are not otherwise reserved for Full Council or any other body.	
Authority to respond, as appropriate, on behalf of the Council to Government consultation in respect of policy and/or legislation affecting Planning, Clean Growth, Energy and the Environment.	
<p>Authority for exercising the Council's functions in respect of all areas covering the following:</p> <ul style="list-style-type: none"><li>• To oversee the funding and implementation of the Climate Change and Environment Strategy, its targets and action plan including the development of new policies that may be required to support delivery including engaging and encouraging residents, businesses, community and voluntary groups and other authorities and all stakeholders to adopt environmentally sustainable measures</li><li>• County Planning - Minerals and Waste</li><li>• Historic environment</li><li>• Flood and water management</li><li>• Clean energy and green investments</li><li>• Growth and development policy and management</li><li>• Waste management including the Waste Contract</li><li>• RECAP (Recycling in Cambridgeshire and Peterborough partnership)</li><li>• Greening the Council's finances and investments and using this to support and develop green innovation</li><li>• Management of the capital projects within the service committee's portfolio as agreed within the Council's Business Plan</li></ul>	

Delegated Authority	Delegation/ Condition
<ul style="list-style-type: none"> <li>• CIL/S106 funding / innovative approaches</li> <li>• Funding bids</li> <li>• Decarbonisation of transport, land and buildings</li> <li>• Identification and management of strategic and project based climate and environmental risks for Council's assets, its service delivery and the wider community</li> </ul>	
To recommend to Council and monitor the Council's Climate Change and Environment Strategy and Environment Fund.	
Authority to exercise the statutory functions in relation to the scrutiny of flood risk management under the provisions of the Flood and Water Management Act 2010.	
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.	

1.3 Article 6 – The Decision Review Process and Statutory Scrutiny Function, set out in the Council's Constitution, provides an explanation of the Decision Review process (**Appendix 1**).

1.4 The Decision Review Procedure Rules, as set out at Part 4.7 of the Council's Constitution (**Appendix 2**), sets out how the Review process will be managed.

### ***General Purposes Committee***

1.5 As set out in Part 3B – Responsibility for Functions, Committees of Council, General Purposes Committee, eight members of General Purposes Committee may 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.

## **2. MAIN ISSUES**

### ***Environment and Sustainability Committee***

2.1. The Constitution and Ethics Committee at its meeting on 22nd April 2020 considered and welcomed a proposal to establish an Environment and Sustainability Committee.

2.2 As part of its discussions, it was also considered whether the Environment and Sustainability Committee's proposed delegation "to recommend to Council and monitor the Council's Climate Change and Environment Strategy and Environment Fund", was strong enough to ensure that climate change issues were acted on. It was suggested that the Committee should be able to scrutinise decisions that were felt likely to cause any negative impacts on sustainability and/or climate change, with one Member proposing that the Committee would benefit from the ability to initiate reviews of decisions made

by policy and service committees – a power currently only held by the General Purposes Committee.

- 3.3 The report template for Policy and Service Committee includes a number of references to the environment including specific sign offs (highlighted in **Appendix 3**).
- 3.4 The following delegation would need to be added to the summary of functions for the Environment and Sustainability Committee, if the Constitution and Ethics Committee was minded to recommend to Council that the Committee should have powers to review the decisions of Policy and Service Committees, which it felt had made a decision which was likely to cause negative impacts on sustainability and/or climate change:

Authority for five members of Environment and Sustainability Committee to initiate a review of a decision taken by a Policy and Service Committee, if it is of the view that the decision is likely to cause negative impacts on sustainability and/or climate change, 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.

- 3.5 Article 6 – The Decision Review Process and Statutory Scrutiny Function of the Council's Constitution provides an explanation of the Decision Review process (**Appendix 1**) and will need to be amended if the Environment and Sustainability Committee is given decision review powers (*see additions in bold*). The same action will need to be taken in relation to the Decision Review Procedure Rules as set out at Part 4.7 of the Council's Constitution (**Appendix 2**) (*see additions in bold and deletions in strikethrough*).

#### **General Purposes Committee**

- 3.6 The figure of eight members of General Purposes Committee initiating a review of a decision taken by a Policy and Service Committee was based on half the membership of the Committee – 15. Following the decision of full Council, on 19 May 2020, to increase the membership of General Purposes Committee to 17, it is proposed that the figure for initiating a review should be increased to nine.

Source Documents	Location
Constitution	<a href="https://cambridgeshire.cmis.uk.com/ccclive/Documents/PublicDocuments.aspx">https://cambridgeshire.cmis.uk.com/ccclive/Documents/PublicDocuments.aspx</a>

## ARTICLE 6 – THE DECISION REVIEW PROCESS AND STATUTORY SCRUTINY FUNCTION

### 6.01 Decision Review

The decision-making powers of each committee are specified in their terms of reference in Part 3B, Responsibility for Functions: Committees of Council.

In the case of decisions made by one of the seven Policy and Service Committees (Adults; Children and Young People; Commercial and Investment; Communities and Partnership; Environment and Sustainability; Health; and Highways and Transport) there is a process by which particularly controversial decisions may be reviewed by the General Purposes Committee which shall be known as Decision Review.

**In the case of decisions made by one of the seven Policy and Service Committees (Adults; Children and Young People; Commercial and Investment; Communities and Partnership; General Purposes Committee; Health; and Highways and Transport) there is a process by which decisions likely to cause negative impacts on sustainability and/or climate change may be reviewed by the Environment and Sustainability Committee which shall be known as a Sustainability Decision Review.**

The decision review procedure is set out in Part 4.7, Rules of Procedure: Decision Review Procedure Rules.

### 6.02 The Council's Statutory Scrutiny Function

There is a statutory requirement for Council to make arrangements for scrutiny of certain matters, as specified in the following legislation:

- Section 21 of the Local Government Act 2000 and Section 7 of the Health and Social Care Act 2001 as amended by the Health and Social Care Act 2012, and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (SI 2013/218).

These powers shall be exercised by the Health Committee.

- The Flood and Water Management Act 2010.

These functions shall be exercised by the Economy and Environment Committee.

## **DECISION REVIEW PROCEDURE RULES**

### **1. Overview**

As set out in Part 3B – Responsibility for Functions, Committees of Council, General Purposes Committee, eight members of General Purposes Committee may 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.

**Five members of Environment and Sustainability Committee may initiate a review of a decision taken by a Policy and Service Committee, if it is of the view that the decision is likely to cause negative impacts on sustainability and/or climate change, 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.**

Due to the costs and delay caused by review, it is intended that it should only be used in exceptional circumstances as a last resort.

Where the review process is initiated the implementation of the decision subject to the review shall be suspended until the process is complete or the review withdrawn.

### **2. Decisions which may be subject to review**

As provided in Article 6 and subject to the exceptions set out below, the Decision Review procedure shall apply to any decisions made by Policy and Service Committees (Adults, Children and Young People, Commercial and Investment, Communities and Partnership, Environment and Sustainability, **General Purposes Committee**, Health and Highways and Infrastructure).

The General Purposes Committee **and the Environment and Sustainability Committee** may not review its own decisions.

### **3. Decisions which may not be reviewed**

The following categories of decision are exempt from the decision review process:

- i) A decision in respect of which no decision review request was received within the requisite timescales prescribed in these Rules and has therefore come into effect.
- ii) A decision which satisfies the criteria for urgent decisions as set out in the Council's Rules of Procedure.
- iii) A decision by Full Council or subject to Full Council approval.
- iv) ~~A decision by General Purposes Committee.~~

- v) Decisions made by regulatory committees and/or decisions of a quasi-judicial or regulatory nature.
- vi) A decision which has been rescinded by the relevant committee or decision maker prior to the determination of any request for a decision review in accordance with Rule 4.2.
- vii) A decision which has been made in accordance with Rule 17 of the Committee and Sub-Committee Procedure Rules, Previous Decisions and Motions.

#### **4. Decision Review Process**

##### **4.1 Publication of Decision Statement**

Where a decision has been made by a Policy and Service Committee, the decision shall be published in the form of a decision statement, within two working days of the decision being made, on the Council's public website. The decision statement shall also be sent to members of the relevant committee within the same timescale.

The decision statement will bear the date on which it is published and will specify that the decision will be effective on the expiry of three full working days after the publication of the decision statement and may then be implemented, unless the subject of a decision review request under this provision within that three full working day period. The deadline for a decision review request shall be specified in the decision statement.

##### **4.2 Review by General Purposes Committee**

Where at least **9** & *full* members of the General Purposes Committee wish to initiate a review of a decision which falls within the remit of the procedure, they may do so by submitting a written request for review to the Monitoring Officer or Chief Executive.

Such a request must be received by the Monitoring Officer or Chief Executive before the end of three full working days from the date on which the decision notice was published.

Where this criterion is met, the matter shall be referred to the General Purposes Committee for consideration as to whether the review request should be dismissed or upheld.

If the request is dismissed, those members requesting the review will be notified and the original decision shall take effect by 9.30am the next working day following the day of the General Purposes Committee meeting which reviewed the request.

If the review is upheld the matter shall be referred back to the relevant committee with a recommendation from the General Purposes Committee. The relevant committee shall reconsider the matter, taking into account any concerns and recommendations of the General Purposes Committee, and decide whether to amend the decision or not before reaching a final decision. The decision of the relevant committee will take effect at 9.30am on the fourth full working day from the date on which the decision notice

was published.

A decision may be subject of a decision review by the General Purposes Committee once only. Once the review has been considered by the General Purposes Committee, the decision may not be subject of a further decision review by that Committee.

#### **4.3 Review by Environment and Sustainability Committee**

**Where at least 5 full members of the Environment and Sustainability Committee wish to initiate a review of a decision which falls within the remit of the procedure, they may do so by submitting a written request for review to the Monitoring Officer or Chief Executive.**

**Such a request must be received by the Monitoring Officer or Chief Executive before the end of three full working days from the date on which the decision notice was published.**

**Where this criterion is met, the matter shall be referred to the Environment and Sustainability Committee for consideration as to whether the review request should be dismissed or upheld.**

**If the request is dismissed, those members requesting the review will be notified and the original decision shall take effect by 9.30am the next working day following the day of the Environment and Sustainability Committee meeting which reviewed the request.**

**If the review is upheld the matter shall be referred back to the relevant committee with a recommendation from the Environment and Sustainability Committee. The relevant committee shall reconsider the matter, taking into account any concerns and recommendations of the Environment and Sustainability Committee, and decide whether to amend the decision or not before reaching a final decision. The decision of the relevant committee will take effect at 9.30am on the fourth full working day from the date on which the decision notice was published.**

**A decision may be subject of a decision review by the Environment and Sustainability Committee once only. Once the review has been considered by the General Purposes Committee, the decision may not be subject of a further decision review by that Committee.**

#### **5. The Decision Review Procedure Timescales**

Where a valid review request is received, the Monitoring Officer shall convene a meeting of the General Purposes Committee **or Environment and Sustainability Committee** as appropriate, to take place within 10 working days or as soon as is practically possible thereafter.

In setting the date of the review hearing, all reasonable efforts will be made to enable attendance by Members, relevant Officers and other witnesses. Councillors who have requested the review shall have the right to address the Committee when it deals with the issue subject to the usual limits on speeches.





## **1. BACKGROUND**

- 1.1 Essential background to explain the context of the current report and any previous decisions related to it / relevant legislation / issues that may have resulted in the report being required.
- 1.2 All reports must have a clear description of intended outcomes in this introductory section. This should cover financial and service outcomes as well as the impact on the public.

## **2. MAIN ISSUES**

- 2.1 Detail of the report.

## **3. ALIGNMENT WITH CORPORATE PRIORITIES**

Report authors should evaluate the proposal(s) in light of their alignment with the following four Corporate Priorities.

### **3.1 A good quality of life for everyone**

*There are no significant implications for this priority.*  
**or**

The following bullet points set out details of implications identified by officers:  
**or**

The report above sets out the implications for this priority in **[ref paragraph]**

### **3.2 Thriving places for people to live**

See wording under 3.1 above.

### **3.3 The best start for Cambridgeshire's children**

See wording under 3.1 above.

### **3.4 Net zero carbon emissions for Cambridgeshire by 2050**

See wording under 3.1 above.

## **4. SIGNIFICANT IMPLICATIONS**

Report authors should evaluate any further significant implications using the seven sub-headings below. These significant implications should also be evaluated using the questions detailed in the table below. Each specific implication must be signed off by the relevant Team within the Council before the report is submitted to Democratic Services.

Further guidance and a checklist containing prompt questions are included at Appendix 2.

#### 4.1 Resource Implications

*There are no significant implications within this category.*

**or**

*The following bullet points set out details of significant implications identified by officers:*

**or**

*The report above sets out details of significant implications in [ref paragraph]*

#### 4.2 Procurement/Contractual/Council Contract Procedure Rules Implications

*See wording under 4.1 and guidance in Appendix 2.*

#### 4.3 Statutory, Legal and Risk Implications

*See wording under 4.1 and guidance in Appendix 2.*

#### 4.4 Equality and Diversity Implications

*See wording under 4.1 and guidance in Appendix 2.*

#### 4.5 Engagement and Communications Implications

*See wording under 4.1 and guidance in Appendix 2.*

#### 4.6 Localism and Local Member Involvement

*See wording under 4.1 and guidance in Appendix 2.*

#### 4.7 Public Health Implications

*See wording under 4.1 and guidance in Appendix 2.*

*The contacts for the sign off process are as follows:*

- Resource Implications – Finance (**Tom Kelly (GPC)/Ellie Tod (C&I)/Sarah Heywood (E&E & HC&I)/Martin Wade (C&YP, C&P, & Health)/ Stephen Howarth (Adults)**)
- Procurement/Contractual/Council Contract Procedure Rules Implications – Procurement (**Gus de Silva**)
- Statutory, Legal and Risk – Legal (**Fiona McMillan [fiona.mcmillan@peterborough.gov.uk](mailto:fiona.mcmillan@peterborough.gov.uk)**)
- Equality and Diversity – Service Responsibility (**Service to nominate a contact**)
- Engagement and Communications – Communications (**Comms Service Lead**)
- Localism and Local Member Involvement – Service Responsibility (**Service to nominate a contact**)
- Public Health – Public Health (**Kate Parker. Reports should ideally be shared at drafting stage. If not a minimum of one week will be needed to provide clearance.**)

Implications	Officer Clearance
Have the resource implications been cleared by Finance?	Yes or No Name of Financial Officer:
Have the procurement/contractual/Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement?	Yes or No Name of Officer:

<b>Has the impact on statutory, legal and risk implications been cleared by the Council's Monitoring Officer or LGSS Law?</b>	Yes or No Name of Legal Officer:
<b>Have the equality and diversity implications been cleared by your Service Contact?</b>	Yes or No Name of Officer:
<b>Have any engagement and communication implications been cleared by Communications?</b>	Yes or No Name of Officer:
<b>Have any localism and Local Member involvement issues been cleared by your Service Contact?</b>	Yes or No Name of Officer:
<b>Have any Public Health implications been cleared by Public Health</b>	Yes or No Name of Officer:

Please include the table at the end of your report so that the Chief Executive/Executive Directors/Directors clearing the reports and the public are aware that you have cleared each implication with the relevant Team.

### **SOURCE DOCUMENTS GUIDANCE**

*It is a legal requirement for the following box to be completed by the report author.*

<b>Source Documents</b>	<b>Location</b>
<p><i>List here details of any supporting or background documents which have been relied upon to a material extent when preparing the report which are not confidential. Democratic Services can help if you are unsure of what to include. Source documents are open for inspection by the public and must be retained for a period of 4 years (by the report author's records section) from the date of the meeting.</i></p> <p><i>If no supporting or background documents were used insert the word <b>None</b> and delete any text in the location column.</i></p>	<p>This should identify where these documents are held should anyone want to look at them. This will usually be the report author's location – e.g.</p> <p>Room XXX, Shire Hall, Cambridge</p> <p>Where the document is held electronically, please provide a web link(s) if appropriate.</p>

## **APPENDIX 2 – GUIDANCE AND CHECKLIST FOR IMPLICATIONS**

Report authors should decide whether in each category there are no, some or significant implications, considering each of the prompt questions. A commentary need only be included within the report where there are significant implications. Report authors will need to clear each implication category with the relevant Team. They may wish to do this before the drafting a report particularly if the issue is contentious.

**A working definition of “significant”** is where the broader implications of a proposal are so evident /substantial that they need to be taken into consideration when Members are making a decision on the proposal.

All headings (in bold below) should be included. However, if the implications have been referenced earlier in the report, the detail does not need to be repeated – just a reference made to the relevant text.

<b>Resource Implications</b>	<ul style="list-style-type: none"><li>• What are the capital and revenue costs?</li><li>• What is the availability of current and future budget provision?</li><li>• Is the organisation delivering value for money?</li><li>• Is the best placed organisation delivering this service?</li><li>• What are the implications for our property assets?</li><li>• What are the implications for Information and Communications Technologies (ICT) and data ownership?</li><li>• What are the impacts on human resources – employees’ Terms &amp; Conditions, work location, staffing levels, industrial relations, Human Resources (HR) policies and if so has advice on the report been sought?</li><li>• Are resources being used in a sustainable way, with regard to carbon dioxide (CO<sub>2</sub>) emissions, climate change adaptation/mitigation, and long-term impact on environment?</li><li>• Have we considered and are we in line with best practice?</li><li>• Is our performance as an authority or partnership impacted?</li></ul>
<b>Procurement/ Contractual/ Council Contract Procedure Rules Implications</b>	<ul style="list-style-type: none"><li>• Have you evidenced compliance with the Council’s Contract Procedures Rules?</li><li>• Have you identified where you are seeking Committee to approve an exemption from the Contract Procedure Rules and detailed the risks and mitigations?</li><li>• Have you identified any EU or UK legislative risks associated with the exemption process such as non-compliance with the Public Contract Regulations Act 2015, transparency and open competition?</li><li>• Have you identified the procurement or contractual risks associated with a contract?</li><li>• Has the contract/procurement been subjected to the Council’s Commercial Board?</li><li>• This includes re-procurement</li></ul>
<b>Statutory, Legal and Risk Implications</b>	<ul style="list-style-type: none"><li>• Did the proposal originate as a result of statute?</li><li>• What is the relevant statutory guidance?</li><li>• Are there any legal implications?</li><li>• Are there any reputational implications?</li><li>• What are the key risks and how might they be managed?</li><li>• Are there any community safety implications?</li><li>• Are there any health and safety implications?</li><li>• Are there any human rights implications? Please consult with the Legal Team for advice on completing this section?</li></ul>

<b>Equality and Diversity Implications</b>	<p>The completion of this paragraph should include the need to have due regard to the Council's equalities duties under the Equality Act 2010. Where you are recommending changes that impact on a community, a community impact assessment needs to be carried out).</p> <ul style="list-style-type: none"> <li>• How would the proposal affect access to services by the full range of communities in Cambridgeshire?</li> <li>• What are the implications for fairness, equality and diversity, within the workforce as well as for customers?</li> <li>• Have you had due regard to the Council's Equalities duties under the Equality Act 2010?</li> <li>• Have you carried out a Community (Equality) Impact Assessment? If so, this should be attached as an Appendix to this report and reference made to it in the report and recommendations. If not, the report should explain why this is not necessary.</li> <li>• Guidance on carrying out a Community Impact Assessment is available on Camweb</li> </ul>
<b>Engagement and Consultation</b>	<ul style="list-style-type: none"> <li>• Has there been community engagement / public consultation and if so, what were the results?</li> <li>• Has discussion on the proposals taken place across directorates and with other relevant councils / agencies?</li> <li>• What are the implications for engagement with voluntary/community sector?</li> <li>• Have affected employees been consulted?</li> <li>• Have local Members been consulted and their views taken into consideration?</li> <li>• Where you are recommending changes that impact on a community, has a Community Impact Assessment (incorporating requirements under the Equality Act) been carried out incorporating feedback from community engagement where appropriate? (see link above)</li> </ul>
<b>Localism and Local Member Involvement</b>	<ul style="list-style-type: none"> <li>• Does the proposal empower communities to do more for themselves?</li> <li>• How will the proposal harness the energy of local communities to work with the County Council?</li> <li>• Does the proposal involve devolving decision-making and delivery to a more local level?</li> <li>• Have you fully informed Local Members about matters affecting their divisions during the formative stages of policy development and discussion at informal meetings, as required by Part 5.3 – Member/Officer Relations of the Council's Constitution?</li> </ul>
<b>Public Health</b>	<ul style="list-style-type: none"> <li>• Will the proposal have an impact on the health of Cambridgeshire residents?</li> <li>• Will the proposal support improving the health of the worst off fastest?</li> <li>• Will the proposal impact on a key health and wellbeing need identified in the Cambridgeshire Joint Strategic Needs Assessment (JSNA)</li> <li>• How does the proposal ensure that public health preventative measures for COVID-19 are being adhered to.</li> <li>• What national guidance on COVID-19 is relevant to this proposal. All national guidance can be reviewed at the following link: <a href="https://www.gov.uk/coronavirus">https://www.gov.uk/coronavirus</a></li> </ul> <p>The suite of Cambridgeshire JSNA documents are available on the Council website at the following link: <a href="http://www.cambridgeshireinsight.org.uk/jsna">http://www.cambridgeshireinsight.org.uk/jsna</a> Please consult with the Public Health Team for advice on completing this section. Contact number: 01223 699689.</p>