

**COUNCIL CONSTITUTION – FURTHER UPDATE
(Joint Report by the Heads of Legal & Democratic Services
and Financial Services)**

1. INTRODUCTION

- 1.1 Members will recall that, in accordance with its terms of reference, the Corporate Governance Panel undertook its biennial review of the Constitution at a meeting held on 2nd November 2011 and subsequently made a series of recommendations which were approved by the Council.
- 1.2 At that time, it was noted that any proposed modifications to the Codes of Financial Management and Procurement would be reported to the Panel at its March 2012 meeting. Proposals to vary both Codes are now enclosed within this report.
- 1.3 Because of continuing changes to the structure of the Council and working practices, several other “constitutional” issues have arisen since the November meeting and it would be expedient if these also were considered by the Panel and, if appropriate, adjustments made to the Constitution at an earlier stage than perhaps was originally anticipated.
- 1.4 Members may wish to refer to the Constitution which is available electronically on both the Council’s website and intranet and in hard copy in the Members’ Room.

2. CODES OF FINANCIAL MANAGEMENT AND PROCUREMENT

- 2.1 The Code of Financial Management and Code of Procurement are important elements of the Council’s Constitution that detail sound governance principles for key activities. It is important that they are dynamic documents that adapt to the changing needs of the Council and so they are reviewed each year.

Code of Financial Management

- 2.2 The draft code is attached as Annex A and includes some minor changes to tidy up the wording, changes to job titles and some more significant changes outlined below:
- ◆ **Interests (para. 1.7)**
Revision to the definition of interests and involvement of the Monitoring Officer.
 - ◆ **Budget Manager (para. 1.12)**
The use of the term Budget Manager throughout the document.
 - ◆ **Budget Manager extra responsibilities (para. 1.12)**
 - effective financial and resource management and the prevention of fraud and corruption;
 - Internal Audit & Risk Manager of all suspected or notified cases of fraud, corruption or impropriety.

- ◆ **Promptly Report (para. 3.1)**
A requirement to report any significant issues to COMT promptly.
- ◆ **Controllable Budget (para. 3.6)**
Change of emphasis to focus on the controllable budget.
- ◆ **Bank Credit Rating (para. 4.1)**
Reference is made to an “appropriate” credit rating as there is now much more movement in ratings with only one high street bank (Barclays) now having a rating above “A”.
- ◆ **Money Laundering (para. 4.2)**
A limitation on cash that will be accepted.
- ◆ **Capital Definition (para. 6.3)**
Clarification of “de minimis” limits.
- ◆ **Valuations (para. 6.7)**
Revised need for periodic valuations due to IFRS.

Code of Procurement

- 2.3 The draft code is attached as Annex B and includes some minor changes to tidy up the wording and revise EU thresholds as well as some more significant changes outlined below:

- ◆ **EU Thresholds (Sections 2.1 and 2.2)**
The revised (increased) EU thresholds have been incorporated into the tables. The new thresholds were effective from 1 Jan 2012 and details were circulated to all Activity Managers in the New Year.
- ◆ **Quotation opening (Section 9.4 - 2nd bullet)**
The Internal Audit & Risk Manager wishes to be notified of the time and place appointed for the opening to ensure appropriate control and sample checks can take place.
- ◆ **Post Tender Debriefs (Section 13)**
It is a statutory requirement to offer post-tender debriefs for EU level competitions and it is increasingly common for suppliers to request debriefs for other contracts. As the debrief is the first occasion a supplier may become aware of an alleged breach of procedure it is also the usual starting point for a legal challenge. The new section requires Heads of Service to maintain records of evaluations, provide debriefs where requested and seek the Procurement Manager’s advice regarding debriefs for contracts (>£50k).

- 2.4 **The Panel is requested to recommend to Council the adoption of revised Codes of Financial Management and Codes of Procurement.**

3. PART 4 RULES OF PROCEDURE: COUNCIL PROCEDURE RULES (STANDING ORDERS), DEVELOPMENT MANAGEMENT APPLICATIONS – PUBLIC SPEAKING AT DEVELOPMENT MANAGEMENT PANEL (Pages 202 and 210 – 212)

- 3.1 Rule 27 (a) and Annex (iii) cover the procedure for public speaking on planning applications at Development Management Panel.

- 3.2 The scheme for public speaking was introduced in 2007 and then subjected to review by the Overview and Scrutiny Panel (Service Support) after one year’s operation (in July 2008). Several minor adjustments to the scheme were made as a result.

- 3.3 Although the current arrangements generally appear to be working satisfactorily, issues continue to arise in relation to those individuals/organisations that are permitted to address the Panel.
- 3.4 Currently the scheme permits 'Other Members (including from neighbouring authorities where applicable)' to speak. This provision was put in place to allow Members to address the Panel if proposed development had an impact on neighbouring wards. In practice, it has presented an opportunity for Members with arguably limited connection (and possibly some interest) to speak on an application. Whilst it remains appropriate for the scheme to allow 'Other Members' to speak, it is considered prudent, in the light of experience, for this category of speaker only to be permitted to address the Panel at the discretion of the Chairman and only if they can demonstrate a material planning interest.
- 3.4 There also appears to be continuing confusion as to the ability of County Councillors to speak at Panel meetings. Having regard to the other opportunities which exist for County Councillors to make representations, it was never the intention that County Councillors should be permitted to speak at District Council Panel meetings. However, this understanding was never formally written into the scheme. For clarity, therefore, it is proposed that the scheme be adjusted so it specifically states that County Councillors should not be permitted to speak at Panel meetings.
- 3.5 Lastly and more recently, the Panel has been required to consider major applications of strategic importance to the economic development of the District ie. the proposed enterprise zone at Alconbury and the re-development of Chequers Court in Huntingdon. On these occasions, the Executive Leader as Portfolio Holder for Strategic Economic Development has asked to address the Panel and this request has had to be accommodated by a special Panel resolution. As there may be further occasions, in the future, when it might be equally as valuable to the Panel to receive representations from a relevant Portfolio Holder, it is proposed that the scheme be extended to enable an Executive Councillor to address the Panel on proposed development matters which are considered to be of strategic importance to the Huntingdonshire District.
- 3.6 **In conclusion, it is recommended that Annex (iii) to the Council Procedure Rules (Standing Orders) be amended as follows:-**

“Who is permitted to speak to the Panel?

The Planning Officer will give a short presentation to the Panel outlining the details of the proposal, after this the following individuals/organisations are permitted to address the Panel in the following order:-

- ◆ **a representative of the Town or Parish Council or Parish Meeting;**
- ◆ **Ward Members;**
- ◆ **Other Members (*including from neighbouring authorities, where applicable, at the discretion of the Chairman and***

only if they can demonstrate a material planning interest in an application);

- ◆ objectors to the application;
- ◆ supporters of the application*;
- ◆ the applicant or agent for the application;

* Supporters of an application may speak on any application but will only be permitted to do so if an applicant or his representative decides not to speak or to use less than the time permitted. In any case, the time limit of three minutes for speaking in support of an application should not be exceeded.

NB the relevant Executive Councillor or Portfolio Holder shall be permitted to address the Panel on those occasions when development applications, considered to be of strategic importance to Huntingdonshire, are to be determined by the Panel.

Membership of Cambridgeshire County Council shall not entitle a Councillor to address the Panel.”

4. TABLE 2 – RESPONSIBILITY FOR COUNCIL FUNCTIONS: CORPORATE GOVERNANCE PANEL – PROPOSED CHANGES TO TERMS OF REFERENCE AND MEMBERSHIP (Page 72)

4.1 Following a review by the Panel of its own effectiveness, its terms of reference have been revised to improve clarity and these are attached at Annex C.

4.2 The significant changes are evident in paragraph 2 which highlight the need for all decision makers to ensure they take account of the impact that their decision could have on corporate governance. Paragraphs 13 and 14 provide the ability for the Panel to gain any internal or external assistance they require to carry out their responsibilities.

4.3 **The Panel are requested to recommend to Council the adoption of revised terms of reference as set out in Appendix C to the report.**

5. PART 4 – RULES OF PROCEDURE, COUNCIL PROCEDURE RULES (STANDING ORDERS) – ANNUAL STATE OF THE DISTRICT ADDRESS (Paragraph 12, Page 197)

5.1 There is provision within the Council Procedure Rules (Standing Orders) for the Executive Leader to address the Council at its Autumn meeting on the State of the District. Since the introduction of the 2000 Local Government Act, this address has been presented to the Council by the elected Leaders with varying degrees of success. Due to limited interest, the address has not been repeated in recent years.

5.2 The Panel may recall that at the Council meeting in December 2011, the Executive Leader and Executive Councillors chose to give presentations on the achievements of their respective portfolio areas over the previous six months. The Executive Leader then took the opportunity to describe the Council’s ‘direction of travel’ and priorities in the twelve months ahead. An opportunity for questions and answers followed. This presentation took the place of the Council debate and

occurred in advance of the Agenda Item on the draft revenue budget. It was well received and the Council Programme Group which comprises the Chairman and Vice-Chairman of the Council, the Deputy Leader and Group Leaders has subsequently commended the format and suggested that it should continue to feature on the Agenda for the December Council meeting.

- 5.3 **The Panel may wish to consider whether the Council should retain provision for a State of the District Debate in the Council Procedure Rules or whether any new arrangement should formally take its place.**

*(In terms of the current practice elsewhere in the County, there is now no provision for 'state of the district' debate in South or East Cambridgeshire. The practice is under review by Fenland District Council and whilst remaining in the Constitution, Peterborough City Council do not appear to have held a debate for over 2 years. A section remains in the Constitution of Cambridgeshire County Council which states that 'the Chairman, in consultation with the Leader **may** convene meetings of the County to discuss matters relating to the state of the County.)*

6. RECOMMENDATION

- 6.1 The Panel is requested to consider the recommendations contained in the foregoing paragraphs and to recommend to the Council accordingly.

BACKGROUND DOCUMENTS

Huntingdonshire District Council Constitution.

Contact Officer: Christine Deller, Democratic Services Manager
Tel: 01480 388007.