

## CENTRAL BEDFORDSHIRE COUNCIL

At a meeting of the **CONSTITUTION ADVISORY GROUP** held at Committee Room 15, Priory House, Monks Walk, Shefford on Tuesday, 25 August 2009

### PRESENT

Cllr Male (Chairman)

Cllrs Mrs C F Chapman MBE  
D Jones

Cllrs M R Jones  
A D Shadbolt

Apologies for Absence: Cllr D J Lawrence

#### CAG/09/12 **Notes of Previous Meeting**

The Advisory Group in receiving the notes of the meeting held on 21 July 2009 discussed its Terms of Reference in context of the addition of new point 5 - To consider the outcomes of the constitution for the Council and propose any changes considered necessary to improve the Council's efficiency.

The Advisory Group acknowledged that any proposals brought forward under this additional role would need to be balanced alongside the democratic needs of the Council. Members in discussing whether its role should be to proactively look for improvements agreed with the suggestion that, as the Council's Constitution had been in place for 5 months, the additional role should be brought to the attention of members and senior officers who should be asked if there are any operational issues that they want the Constitutional Advisory Group to look at.

#### **AGREED:**

- 1. That the notes of the meeting held on 21 July 2009 be confirmed as a correct record.**
- 2. That the Head of Democratic Services write to all members and officers advising of the Constitutional Advisory Group's additional role added to its terms of reference and, as the Council's Constitution had been operating for five months, asking whether there are any operational issues that need to be looked at.**

#### CAG/09/13 **Licensing Sub Committee**

The Advisory Group considered a report from the Assistant Director of Community Safety and Public Protection drawing attention to consideration being given to reviewing the governance arrangements for consideration of liquor licensing applications.

Members were advised that concerns had been expressed by the Licensing Committee at its meeting on 18 June 2009 at the concept of only having one sub committee to deal with liquor licensing applications. The matter was raised again at the meeting of the Regulation Committee on 15 July and the principle of all members of the Licensing Committee forming a pool from which the sub committee could be drawn was suggested.

The Advisory Group noted that when the Licensing Act 2003 came into force Counsel's opinion was taken by Mid Bedfordshire District Council which suggested that the legality of operating a "pool" of members was questionable and should therefore be avoided. However, in view of the request of the Licensing/Regulation Committee, and given the length of time since the legal position was last reviewed, further legal advice was obtained which suggests that a pool of Members could be used. It was further noted that the legal position would be reported back to the Licensing Committee on 14 October for it to decide whether it wishes to proceed with establishing a pool of members from which the sub committee would be drawn or if wishes to appoint more than one sub-committee.

Members in considering the report and receiving legal advice on local members speaking at licensing meetings noted that the Council's Ethical Framework, at the back of the Council's Constitution, at Part 3 contained the Council's Licensing Code of Good Practice which included advice on this issue. Members went on to discuss the disclosure of members' interests generally. Whilst acknowledging that there was guidance on interests in the Constitution, they suggested that further guidance notes would be useful in the Councillors' Guide and asked officers to report back to a future meeting on such guidance.

**AGREED:**

- 1. The Advisory Group notes that the Licensing Committee, at its meeting to be held on 14 October 2009, will be reviewing the governance arrangements for consideration of liquor licensing applications.**
- 2. That in light of (1) above any minor consequential adjustments required to the Constitution be reported back to the Constitution Advisory Group.**

CAG/09/14 **Development Management Committee**

The Advisory Group considered a report of the Head of Development Management seeking endorsement to amendments to the Terms of Reference of the Development Management (Part E2, Page 1) and the Scheme of Delegation with regards to the handling of Regulation 3 & 4 planning applications and applications for planning permission on Council owned land.

The proposal had originated from the Chairman and Vice-Chairman of the Development Management Committee with officers' support. The Advisory Group having considered the request at its meeting on 21 July agreed that the Development Management Committee and all members of the Council should

be consulted before making a decision and agreed to defer making a decision on whether to recommend that Development Management Committee meetings should be held in one location on a three-weekly cycle to enable the consultation to be carried out.

The Advisory Group was reminded, however, that at the meeting on 21 July it had agreed a variation to the Scheme of Delegation to officers with regard to the handling of Regulation 3 & 4 Planning Applications. Regulation 3 applications being applications for planning permission by the Authority to develop any land of the authority either solely or jointly with another party. Regulation 4 applications being applications for planning permission to develop land of the authority where they do not intend to develop the land themselves or jointly with any person.

The Advisory Group was reminded that the Constitution was currently unclear on the handling of these two types of regulations and needed to be amended. The Advisory Group on 21 July 2009 agreed the following:

- That the scheme of delegation for Regulation 3 applications be amended to allow delegation to officers unless an objection is received to the proposed development. Regulation 4 applications are specifically excluded from the delegations and have to be determined by the Committee.

The recommendation at the 21 July 2009 meeting that was agreed would be put to Council was as follows:

- Paragraph 4.3.93 of Part H3 of the Constitution remains as drafted but with an additional exception being created to exclude Regulation 3 applications where an objection has been received.
- Paragraph 4.3.93.5 of Part H3 of the Constitution be amended to concern itself solely with Regulation 4 applications which would be reported to, and determined by, Committee.

The suggested wording for this amendment was agreed as follows:-

Paragraph 4.3.93.5      The application is made on land owned by the Authority for development which the Authority does not intend to develop either themselves or jointly with any person in accordance with Regulation 4 of the Town and Country Planning (General) Regulations 1992.

Since the above endorsement a form of words had been drafted to cover the proposed variation, which the Advisory Group now endorsed, as follows:-

**That Paragraph 4.3.93.5 of the Scheme of Delegation (Part H3) be varied to the following: –**

**“The application is made under Regulation 3 of the Town and Country Planning (General) Regulations 1992 or is for development on the Council’s own land and in either case a material planning representation(s) has been received in writing that is contrary to the Officer delegated decision otherwise to be made and in the case of objections these cannot be resolved through the imposition of conditions”**

**A new paragraph - 4.3.93.6 - had also been drafted to specifically deal with Regulation 4 applications with the following suggested wording:-**

**“The application is made under Regulation 4 of the Town and Country Planning (General) Regulations 1992”.**

The Advisory Group then considered the proposal to change the Development Management Committee venue and cycle. It was noted that the issues were debated by the Development Management Committee at its meeting on 5 August where it endorsed future meetings being held at one location, namely Priory House, Chicksands, on a three-weekly cycle, subject to a video link being installed at the Council Offices, Dunstable so that interested parties could make representations without travelling to Chicksands. The Advisory Group also noted the result of consultation carried out with all members, attached as Appendix B to the submitted report, and that the Portfolio Holders for Sustainable Communities supported the proposed changes.

The Advisory Group discussed Development Management Committee’s suggestion about the use of a video link to broadcast proceedings. Recognising that such technology was both complex and costly but being anxious to support those interested in observing Council meetings the Advisory Group agreed that the Executive be asked to investigate and report back on proposals for increasing public involvement at meetings.

Members then considered the future venue and frequency of Development Management Committee meetings. In view of the complexity of changing the Council’s Committee Meeting Calendar to accommodate a move to 3-weekly meetings, the Advisory Group concurred with the suggestion that the 2009/10 dates currently scheduled for Development Management Committee at Chicksands be used on a four-weekly meeting cycle with the dates scheduled for Dunstable held as reserve dates. It was pointed out that should there be a major application the meeting would be held in a location appropriate to the application. Members’ view was that the wording in Part E2, Page 1 of the constitution should be kept flexible enough to accommodate any future changes in the frequency of meetings should the workload require it, on the clear understanding that all dates would be publicised in the Calendar of Meetings.

**AGREED TO RECOMMEND:**

- 1. That Paragraph 4.3.93.5 of the Scheme of Delegation (Part H3) referred to in the preamble above be varied to the following –**

**“The application is made under Regulation 3 of the Town and Country Planning (General) Regulations 1992 or is for development on the Council’s own land and in either case a material planning representation(s) has been received in writing that is contrary to the Officer delegated decision otherwise to be made and in the case of objections these cannot be resolved through the imposition of conditions”.**

- 2. The insertion of a new paragraph 4.3.93.6 of the Scheme of Delegation (Part H3) to specifically deal with Regulation 4 applications as follows:-**

**“The application is made under Regulation 4 of the Town and Country Planning (General) Regulations 1992”.**

- 3. That the Development Management Committee’s Terms of Reference be amended so that future meetings of the Committee be held in one location at Priory House, Chicksands on a four-weekly cycle using the dates currently scheduled for Chicksands in the Committee meetings calendar with the dates scheduled for meetings of the Committee in Dunstable held as reserve dates.**

**AGREED:**

**That the Executive be asked to investigate and report back on proposals for increasing public involvement at meetings.**

**CAG/09/15 Outcomes of the Constitution: Review of Provisions Relating to the Capital Programme**

This item was withdrawn from the agenda.

**CAG/09/16 Town Centre Management Committees - Chairmanship**

The Advisory Group considered a report from the Head of Democratic Services seeking to clarify the provision at Part J2, page 6, paragraph 9.2 of the Constitution regarding the chairmanship of joint committees.

Members were advised that at a recent meeting of the Leighton-Linslade Town Centre Management Committee a point of contention arose among members over the correct interpretation of Part J2, paragraph 9.2 of the constitution which sets out the Joint Committee’s terms of reference and states that “a Central Bedfordshire Councillor will take on the role of Chairman and a Town Councillor will take on the role of Vice-Chairman”.

Members’ attention was drawn to Leighton-Linslade Town Centre Management Committee which comprised 5 councillors appointed by Central Bedfordshire Council and 5 councillors appointed by Leighton-Linslade Town Council. The 5 Central Bedfordshire members were appointed at the Council’s annual meeting on 18 June 2009.

The Advisory Group noted that the point of contention at the recent meeting of Leighton-Linslade Town Centre Management Committee was whether a member who had been appointed by the Town Council, but was also a Central Bedfordshire councillor, was permitted to take the role of Chairman. Officers had been asked prior to the meeting for their interpretation of paragraph 9.2 and advised that, in their view, the intention was that only one of the five councillors appointed to the Joint Committee by Central Bedfordshire Council could take the role of Chairman. However, that advice was contested at the meeting.

The Advisory Group then considered the interpretation of the wording of the chairmanship in the Council's Constitution. Members were in agreement that the wording in the Constitution meant a councillor appointed by Central Bedfordshire Council would take on the role of Chairman and a councillor appointed by the Town Council would take on the role of Vice-Chairman.

Members then discussed the membership of the committee and agreed that paragraph 7 of the terms of reference should be amended to read 5 Councillors appointed by Central Bedfordshire Council and 5 Councillors appointed by Leighton-Linslade Town Council. The Advisory Group agreed that the Constitution does not, and should not, preclude dual-hatted councillors but that their role was to represent the appointing authority at meetings.

**AGREED TO RECOMMEND:**

1. **That the wording of paragraph 9.2 of the terms of reference of the Leighton-Linslade Town Centre Management Committee, as set out in Part J2 of the Constitution be interpreted as meaning "A councillor appointed by Central Bedfordshire Council will take on the role of Chairman and a councillor appointed by the Town Council will take on the role of Vice-Chairman" and that the wording in the Constitution be amended accordingly.**
2. **That paragraph 7 of the terms of reference of Leighton Linslade Town Council be amended to read as follows:-**  
  
**"Membership:**
  - **5 Councillors appointed by Central Bedfordshire Council**
  - **5 Councillors appointed by Leighton-Linslade Town Council"**
3. **That parallel amendments be made to clarify the wording of the provisions relating to the chairmanship and membership in the terms of reference of both the Dunstable Town Centre Management Committee (Part J2, paragraphs 9.2 and 7) and the Houghton Regis Town Centre Management Committee (Part J2, paragraphs 6.3 and 4) as detailed in Recommendation 1 above.**

CAG/09/17 **Outside Bodies: Advice Provided by the Monitoring Officer**

At the request of the Chairman the Advisory Group considered a paper on advice provided by the Monitoring Officer to all Members of the Council in relation to their role on Outside Bodies, with particular reference to indemnity cover for Members serving on outside bodies.

In response to the Chairman seeking advice as to whether the Council's insurance extended to providing indemnity cover for members serving on outside bodies the Head of Legal Services clarified that, whilst the Council's insurance provided members and officers indemnity cover when acting on behalf of the Council, there were some bodies i.e. a registered charity where the member is a trustee or where the member is a director of a registered company, where the member acts not for the Council but for the company or charity. In such cases members needed to check with the company/charity that separate insurance / indemnity was in place.

Whilst the Advisory Group acknowledged that the majority of appointments to outside bodies would be covered by the Council's indemnity insurance, members asked that further specific advice be provided to all members drawing attention to the need to ascertain the legal status of the organisation that members are appointed to and what members need to find out should they be appointed as a trustee to a charity or as a director to a registered company. Members were informed that the Monitoring Officer would be attending a training course on outside bodies which might provide useful information.

The Advisory Group requested that a report be brought back to the next meeting on how this issue was being addressed.

**AGREED:**

**That a report be brought back to the next meeting providing further advice on the issue of indemnity cover for members serving on outside bodies.**

CAG/09/18 **Delegation - Children's Services**

The Advisory Group considered how the constitution should provide for the requirement in S.19(1) of the Children Act 2004 that the Council must designate one of their members as their 'Lead Member for Children's Services'.

A particular point had been raised as to whether responsibility for 14-19 commissioning could be delegated to the Portfolio holder for Culture and Skills, while the Portfolio holder for Children's Services retained ultimate accountability, and whether the constitution needed to reflect this. While this point could not yet be resolved as legal issues needed more detailed consideration, the Advisory Group considered that that the constitution should at least refer to the statutory duty under S.19, given that this is the only circumstance in which an elected councillor carries a statutory role.

**AGREED TO RECOMMEND:**

- 1. That the constitution be amended to confirm that the Leader is required to designate an Executive member as the Council's 'Lead Member for Children's Services' under section 19(1) of the Children Act 2004.**
- 2. That officers report to the next meeting on the issue of delegating responsibility for 14-19 commissioning.**

**CAG/09/19 Date of Next Meeting**

It was agreed members of the Group would be consulted on the date of the next meeting in due course.

(Note: The meeting commenced at 2.00 p.m. and concluded at 4.00 p.m.)