

CENTRAL BEDFORDSHIRE COUNCIL

At a meeting of the **CONSTITUTION ADVISORY GROUP** held at Room 14a, Priory House, Monks Walk, Shefford on Monday, 25 January 2010

PRESENT

Cllr S F Male (Chairman)

Cllrs Mrs C F Chapman MBE
D Jones

Cllrs M R Jones
D J Lawrence

Apologies for Absence: Cllr A Shadbolt

CAG/09/32 **Apologies For Absence**

Apologies for absence were received from Councillor Alan Shadbolt.

CAG/09/33 **Notes of Previous Meeting**

The notes of the last meeting held on 9 November 2009 were received.

It was noted that all the recommendations had been agreed by Council and the Constitution had been updated.

CAG/09/34 **Change of Procurement Thresholds**

The Advisory Group received and considered a report by the Director of Corporate Resources proposing changes to procurement thresholds which would reduce bureaucracy and speed up the procurement process whilst obtaining best value for money in the procurement ordering process. The report also set out new mandatory changes to European Thresholds for advertising contracts across the EU.

The Group noted that benchmarking had been carried out with other local authorities. The proposed changes were pragmatic in that they would reduce bureaucracy but would not lead to a loss of control.

In response to a question it was noted that there were provisions in place to ensure best value for money.

A discussion ensued on whether officers should be enabled to make use of better prices where they found them. It was noted that enabling this tended to lead to loss of efficiencies and that CBC corporate contracts or framework agreements should always be used where they existed.

AGREED:-

That the procurement thresholds and processes in the Code of Procurement Governance be amended as listed below, whilst steering officers into using both Central Bedfordshire Council's corporate contracts and framework agreements (contracts) set up by other councils and consortia. The process to be as follows:-

Step 1:

Always use Central Bedfordshire Council corporate contracts or Consortium framework agreements (as listed on the intranet) where they already exist. Where they do not, the following rules apply:

Step 2:

- **Up to £2,000: seek best value or two quotations**
- **£2001 to £20,000 – 3 written quotations demonstrating best value (based on price and quality)**
- **£20,000 to £59,999 – 3-5 written quotations by sealed bid**
- **£60,000 to EU threshold – invite 5 tenders, advertised and by sealed bid**
- **Above EU threshold (works £3,927,260, supplies and services £156,442) must be advertised in OJEU and 5 written tenders must be invited (mandatory new EU law).**

CAG/09/35 Members' Acceptable Use Policy (ICT)

The Advisory Group received and considered a report of the Assistant Director Legal and Democratic inviting Members to consider including the Members' Acceptable Use Policy (ICT) in the Constitution.

A discussion ensued as to whether it was most appropriate for this document to be included in the Constitution or whether it would be more likely to be read and referred to if maintained in some other location. Members considered that this document was for Members' guidance and would therefore be most appropriately kept in the Councillors' Guide, which was in effect a handbook for members of the Council. However, reference should be made to it in the relevant part of the Constitution.

AGREED:-

1. **to note the Executive's approval on 13 October 2009 of the new Members' Acceptable Use Policy (ICT);**
2. **that the Constitution should make reference to the new Members' Acceptable Use Policy (ICT) but the document should be maintained in the Councillors' Guide.**

AGREED TO RECOMMEND TO COUNCIL

That reference be made in the Protocol for Member/Officer Relations (Part F4 of the Constitution) to the Members' Acceptable Use Policy (ICT) stating that it is contained in the Councillors' Guide.

CAG/09/36

Delegated Authority for the Appointment of Assistant Directors

The Advisory Group considered a report of the Chief Executive proposing an amendment to the Constitution to allow for the Head of Paid Service (or delegated Director) to appoint Assistant Directors.

A discussion ensued regarding the position of statutory posts such as the S151 Officer, the Monitoring Officer and the Scrutiny Officer. It was noted that there was a legal requirement that an independent review take place before the postholders of the designated S151 Officer and the Monitoring Officer could be dismissed by the Council.

Members were reminded that appointments to any post at a lower tier than Assistant Director were statutorily required to be made by officers, not members of the Council.

Members were of the view that if the posts of S151 Officer and Monitoring Officer were at Assistant Director level or above, the appointments should be made by Members. All other Assistant Director appointments should be delegated to the Chief Executive.

A discussion took place on the review of the Senior Management Structure which was currently in progress.

Members noted that the proposals for the Senior Management Review, including moving to a four directorate model, had been subject of consideration by the Executive which had authorised the Chief Executive to implement the necessary arrangements, including a review of Assistant Director and Head of Service level posts. Following questions from Members, a copy of the relevant minute of the Executive was circulated at the meeting.

A view was expressed that there should be an opportunity for the emergent management structure to be subject to review at Member level to ensure it was fit for purpose.

Reference was also made to the fact that the outcome of the review would require amendments throughout the Constitution, including the structure diagram at part H2. It was noted however that the review was not yet sufficiently progressed to enable officers to advise the Advisory Group of the consequential amendments likely to be required to the Constitution. It would be necessary to report to Council at the appropriate time regarding the designation of statutory officers where these varied from the Council's current structure.

It was suggested that the management structure diagram included in the Constitution should be at a higher level and reflect the tier of officers to be appointed by Members.

AGREED TO RECOMMEND TO COUNCIL

that, subject to the endorsement of General Purposes Committee, sections E2 (8.1.1), F4 (5.1.4), H3 (3.2.1.3) and H4 of the Constitution be amended to facilitate officer appointments of posts at Assistant Director level across the organisation, but with the exception of the statutory posts of S151 Officer and Monitoring Officer.

CAG/09/37 Efficiencies - Executive Business

The Advisory Group considered a report of the Head of Democratic Services seeking comments on the suggestion that it no longer be a requirement to report minutes of the Audit Committee or Key Decisions taken by an individual Portfolio Holder, committee of the Executive or officer, to meetings of the Executive.

Members were advised that both the minutes of the Audit Committee and notices of delegated decisions were as a matter of course published on the Council's website.

It was noted that decisions taken under the emergency provisions would still be reported to the Executive.

AGREED TO RECOMMEND TO COUNCIL

that minutes of the Audit Committee and Key Decisions taken by an individual portfolio holder, committee of the Executive or officer would no longer be reported to meetings of the Executive and that part C4 paragraphs 10.1.8 and 10.1.11 of the Constitution be amended accordingly.

CAG/09/38 Leader's Delegations

The Advisory Group was advised of two additional delegations made by the Leader to the Director of Children, Families and Learning.

AGREED:-

to note two additional delegations to the Director of Children, Families and Learning as set out in the submitted report.

CAG/09/39 Petitions

The Advisory Group considered a report of the Head of Democratic Services on The Duty to Respond to Petitions – consultation on draft statutory guidance. Members were advised that this arose from the Local Democracy, Economic Development and Construction Act 2009. It was noted that changes were likely

to be required to the Council's Petitions Procedure when the final guidance was published.

The Advisory Group indicated that it did not wish at this stage to comment on the draft statutory guidance, but asked that if revised statutory guidance were issued by 1 April 2010 this be brought to its meeting on that date.

AGREED:-

1. **that no response be made in respect of the draft statutory guidance on the "Duty to Respond to Petitions";**
2. **that subject to the publication of the statutory guidance by the time of the next meeting of the Advisory Group on 1 April 2010, a further report be submitted to that meeting with regard to amendments required to the Council's petition scheme to ensure compliance with the statutory provisions.**

CAG/09/40 **Outside Bodies - Indemnity Cover**

The Advisory Group received and considered a report of the Assistant Director Legal and Democratic on the issue of indemnity cover for Members serving on outside bodies, and also on a draft policy regarding Member appointments to outside bodies.

Members noted the position regarding indemnity cover and that for the future all outside bodies requesting a Council representative as a member would as a matter of policy be asked to provide information on the level of indemnity cover provided.

A discussion ensued on the nature of the category "outside bodies". Comments were made about whether the list was correct. A suggestion was made that there were two kinds of organisation to consider for indemnity purposes. These were:-

- Bodies which were Council-initiated such as leisure centre joint consultative groups but which were not part of the Council's formal governance structure; and Council representatives on which therefore were not directly covered by the Council's indemnities;
- Bodies which were entirely external to the Council, such as Bedford and Milton Keynes Waterway Partnership Board.

AGREED:-

1. **that a separate category be established within the policy to recognise those bodies which, whilst not part of the Council's formal governance structure, are in effect informal Council-initiated consultative or liaison forums (eg leisure centre joint consultative groups) and do not fall within the strict definition of the category "outside bodies" set out in paragraph 1 of the policy;**

2. **that the list of outside bodies be reviewed to ensure that it is correct;**
3. **that outside bodies be required to provide all the necessary information before agreement is given to the appointment of a Council representative.**

CAG/09/41 **Corporate Parenting Panel - Terms of Reference**

The Advisory Group considered a report proposing amendments to the Terms of Reference of the Corporate Parenting Panel following consideration by the Corporate Parenting Panel itself relating to:

- The number of elected members on the Panel
- The number of Foster Carer representatives on the Panel
- voting arrangements
- officer support
- a minor adjustment to the scoping of the Panel to clarify outcomes.

The Director of Children, Families and Learning had subsequently advised that the proposed arrangements did not provide for the Foster Carer representatives to vote and had suggested that that voting was not necessarily needed at the Panel, and that consensus was key. The Advisory Group indicated however that it preferred to retain voting in order to have a procedure to use if conflict arose. The Corporate Parenting Panel would invariably take into account the advice of the Foster Carer representatives.

These terms of reference did not form part of the Constitution and the consequential amendments would need to be endorsed by the Executive.

AGREED

That the Executive be recommended to approve the revised terms of reference of the Corporate Parenting Panel as set out at Appendix B of the submitted report.

CAG/09/42 **Constitution: "Frequently Asked Questions"**

The Advisory Group received a draft document which had been requested at a previous meeting providing direction to members of the public, councillors and officers to key sections of the Council's constitution.

It was noted that the document, once placed on the Council's website, would include hyperlinks to click on which would take the reader straight to the relevant section of the Constitution.

AGREED

To welcome the proposed document and approve it for uploading onto the Council's website with hyperlinks to the relevant parts of the Constitution.

CAG/09/43 **Work Programme**

The Advisory Group received the latest details of its work programme.

It was noted that the Overview and Scrutiny Co-ordination Panel would meet on 3 February 2010 to consider proposals for a revised Overview and Scrutiny structure. If its proposals were to be submitted to Council in April, the Advisory Group would have the opportunity to consider them at its 1 April meeting. If the proposals were to be submitted to Council in February, an additional meeting of the Advisory Group would need to be held to consider them.

Members also noted that further discussion would be held with the appropriate portfolio holder and officers regarding public participation arrangements at Development Management Committee before bringing the matter back to the Advisory Group.

It was noted that consideration of the future of the Town Centre Management Committees had been deferred and would be brought back to the Advisory Group in due course.

AGREED

that the report be noted.

CAG/09/44 **Date of Next Meeting**

NOTED that the next meeting would be held on 1 April 2010.

(Note: The meeting commenced at 2.00 p.m. and concluded at 3.40 p.m.)

Chairman.....

Date.....