

# Creating Central Bedfordshire

## CONSTITUTION AND GOVERNANCE MEMBER WORKING GROUP

### Action Notes from Meeting 9, held on 14 January 2009

			Action		
			By	Date	
	Present:	Cllr D Jones (DJ) Cllr M Jones (MJ) Cllr D Lawrence (DL) Cllr S Male (SM)	Portfolio Holder  Lead Member		
		J Atkinson (JA1) J Adams (JA2)	Head of Legal Services – BCC Committee and Research Officer – MBDC		
		Edwina Grant (EG)	Director of Children, Families & Learning - CBC		
		K John (KJ)	Democratic Services Manager – MBDC		
		C Jones (CJ)	Human Resources Manager - MBDC		
		R Gregan (RG) C Heaphy (CH)	Head of Procurement - BCC Director of Corporate Resources - CBC		
		S Hobbs (SH) B Mew (BM2)	Committee Administrator - SBDC Interim Financial Services Manager - MBDC		
		R Mills (RM)	Scrutiny and Committees Manager – SBDC		
		B Morris (BM)	Director of Democratic and Legal Services – MBDC		
		N Murley (NM)	Head of Audit, Risk & Health & Safety - CBC		
		J Salisbury (JS)	Interim Chief Executive - CBC		
		Clear Lloyd-Jones (CLJ)	Rookpools		
<b>1.</b>	<b>Apologies for absence</b>				
1.1	Apologies were received from Councillor Shadbolt.				
<b>2.</b>	<b>Constitution Healthcheck</b>				
2.1	The working group received a presentation from Clear Lloyd-Jones.				
2.2	It was noted that the Local Democracy Bill was published in December 2008; royal assent was due in July 2009 and would be put in place during September 2009.				

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2.3	EG suggested that a few scenarios be acted out once the Constitution had been 'bedded down' with regard to democracy and involvement, including vulnerable groups.		
2.4	The working group agreed that the sections referring to Citizen's Rights (A1 No. 5 & A4) be expanded to include provisions from the Local Democracy Bill.	KJ	26/02/09
2.5	The working group agreed that the Bill would be an issue to be discussed by the new Constitution Advisory Group.	KJ	26/02/09
2.6	The Bill stated that a Statutory Officer for Scrutiny would have to be appointed and it was agreed that this function would be allocated to the Director of Business Transformation. It was agreed to include this in the Constitution under Section H1.	KJ	26/02/09
2.7	The working group agreed to expand A2 No. 2 with regard to where the Constitution is kept, where it can be found, how is it updated e.g. version control.	KJ	26/02/09
2.8	The working group agreed for KJ to amend the draft Constitution to make it more specific about deputations, appointing a spokesperson and talking at meetings.	KJ	26/02/09
2.9	The working group agreed that the Chairman of the Standards Committee would not be able to speak at full Council, that this would be limited to Members only. It was agreed to monitor the situation and if necessary the new Constitution Advisory Group could review this.	KJ	26/02/09
2.10	The working group agreed to amend B4 No. 12.5 'Supplementary question' to allow for a second supplementary question to be asked.	KJ	26/02/09
2.11	The working group discussed the option of fixing an end time for Council meetings. There was concern that items at the beginning of the agenda would be drawn out so that items at the end of the agenda would be voted through without discussion.	-	
2.12	CLJ advised the working group that the intentions under key decisions (C2) were not clear and she was happy to suggest some wording to KJ. The working group agreed.	KJ	26/02/09
2.13	The working group agreed to amend the wording under C4 No. 1.3 that the Leader would report upon any changes made to the appointments and delegations at the following Council meeting not just the annual meeting.	KJ	26/02/09
2.14	The working group agreed to include under C4 No. 10 'Business' the consideration of the Forward Plan, and the reporting back of key decision taken by an individual portfolio holder, committee of the executive or officer.	KJ	26/02/09

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2.15	The working group agreed that the wording regarding call-ins under C5, D2 and G12 be tidied up.	KJ	26/02/09
2.16	CLJ advised the working group that monthly scrutiny meetings could be onerous. KJ advised that these had been scheduled monthly as this was the same frequency as the Executive, but it was being suggested that if there were no call-ins every other Scrutiny meeting would be cancelled.	-	
2.17	The working group discussed the principle of minor, statutory and consequential amendments to the Constitution being required to be submitted to the Constitution Advisory Group and not being delegated to the Monitoring Officer as a matter of routine. Members confirmed that they wished to retain this provision and that the Constitution Advisory Group could be convened as and when necessary.	-	
2.18	The working group agreed that the mechanism for recording and reporting decisions taken under delegated powers should be determined by Officers.	KJ	26/02/09
	<b>AGREED-</b>  <b><i>That Officers make the above amendments to the draft Constitution and circulate them to the members of the working group.</i></b>	KJ	
<b>3.</b>	<b>Scheme of Delegation to Officers</b>		
3.1	The working group went through the Scheme of Delegation to Officers page by page noting the proposed amendments. The working group suggested further amendments. In particular the group discussed point 2.5.6 where it was proposed that limitations should apply in the case of the most contentious issues. The working group suggested a number of amendments to make clear that it would be the duty of an officer to consider very carefully whether to exercise any delegated powers where a matter is likely to be controversial or contentious.' KJ to finalise the wording and circulate to members of the working group.	KJ	26/02/09
3.2	The working group agreed that it should be made clear who the accountable Director was for any decision made.		
3.3	The working group agreed that supporting evidence should be included with the Memorandum 'Decisions Delegated to Directors'.	KJ	26/02/09
	<b>AGREED-</b>  <b>(1) <i>That the General Conditions and Limitations to the Scheme of Delegation be amended to provide that an officer:</i></b>		

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	<p>(a) <i>will have a duty to consider very carefully whether to exercise any delegated powers where a matter is likely to be controversial or contentious; and</i></p> <p>(b) <i>will be required to maintain close liaison with the relevant Portfolio Holder and local councillors on any issues which they consider may be sensitive or contentious.</i></p> <p>(2) <i>That Part 3 of the Scheme of Delegation be amended to make clear that, in all cases, the Chief Executive and Deputy Chief Executive are authorised to take decisions upon any matter delegated to a Director or Head of Service and that Directors are authorised to take decisions upon any matter delegated to a Head of Service within their Department.</i></p> <p>(3) <i>That the amendments to Part H3 (Scheme of Functions Delegated to Officers) now submitted, be approved and that these amendments be incorporated into a final draft to be submitted to the Shadow Council on 26 February 2009.</i></p> <p>(4) <i>That paragraph 8.1 of the Overview and Scrutiny Procedure Rules (part D2) which provides that an Overview and Scrutiny Committee may “require any member of the Executive, the Head of Paid Service and/or any senior officer to attend before it...” should be amended by the addition, after the words “senior officer” of the words “subject to the Director’s discretion”.</i></p>		
	The Chairman of the working group took agenda items 12, 6 and 7 as follows.		
<b>4.</b>	<b>Terms of Reference of the Audit Committee</b>		
4.1	The working group agreed to remove the word ‘civil’ from the Statement of Purpose set out in the agenda.	NM	26/02/09
4.2	The working group agreed to amend the words under Audit Activity (ii) to approve, amend and monitor the annual internal Audit Plan.	NM	26/02/09
4.3	The working group agreed to amend (xi) to commission work from both internal and external audit.	NM	26/02/09
4.4	The working group agreed not to amend (xiv) as set out in the agenda.	NM	26/02/09
4.5	The working group agreed not to amend (xix) as set out in the agenda.	-	

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4.6	<p>The working group agreed that E2 (page 6) 6.1 needed to include a statement about risk management.</p> <p><b>AGREED-</b></p> <p><b><i>To make the above amendments to the Terms of Reference of the Audit Committee.</i></b></p>	NM	26/02/09
<b>5.</b>	<b>Financial and Procurement Governance</b>		
	<u>Code of Financial Governance</u>		
5.1	<p>MJ circulated an email from CH regarding virement limits explaining the following:</p> <p>Up to £100,000                      Budget managers in consultation with Head of Finance</p> <p>£100,000 - £200,000              Directors in consultation with Director of Corporate Resources and Portfolio Holder</p> <p>Above £200,000                      Executive</p> <p>Between portfolios:</p> <p>Up to £200,000                      Directors in consultation with Director of Corporate Resources and Portfolio Holders</p> <p>Above £200,000                      Executive</p>		
5.2	The working group agreed that the cumulative (sum of individual virements) should be included within the Constitution, but would not be used between the second transitional period from April – June 2009.	-	
5.3	The working group agreed other minor amendments.		
	<b>Code of Procurement Governance</b>		
5.4	The working group requested that the term asset disposal in the introduction be expanded to include what is meant by asset disposal in context of Procurement Code.		
5.5	The working group agreed that any amendments to the Code would be considered by the Constitution Advisory Group and not the Audit Committee.		
	<b>Finance, Contracts and Legal Matters</b>		

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5.6	The working group agreed to remove the last sentence in brackets in 4.2 'Legal Proceedings'.		
	<p><b>AGREED-</b></p> <p><i>To approve the proposed Financial and Procurement Codes of Governance together with Part I1 (Finance, Contracts and Legal Matters) subject to amendments for inclusion in the Central Bedfordshire Constitution.</i></p>		
6.	<p><b>Indemnity for Members and Officers</b></p> <p><b>AGREED-</b></p> <p>(1) <i>To note the Scheme of Indemnity for Members and Officers of Central Bedfordshire Council.</i></p> <p>(2) <i>To agree the inclusion of the Scheme of Indemnity in the Ethical Handbook, to be recommended to the Shadow Council on 26 February 2009 for approval.</i></p>		
7.	<p><b>Notes of the Meeting held on 1 December 2008 and Matters Arising</b></p> <p><b>AGREED-</b></p> <p><i>To approve the notes of the meeting held on 1 December 2008 and note the matters arising.</i></p>		
8.	<p><b>Notes of the Meeting held on 10 December 2008 and Matters Arising</b></p> <p><b>AGREED-</b></p> <p><i>To approve the notes of the meeting held on 10 December 2008 and note the matters arising.</i></p>		
9.	<b>Joint Arrangements</b>		
9.1	The working group agreed to make no changes to the current arrangements for the Town Centre Management Committees until a review had been carried out.	RM	26/02/09
9.2	The working group agreed to write to Richard Ellis/Gary Alderton requesting that they carry out such a review.	KJ	26/02/09
	<b>AGREED-</b>		

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	<p>(1) <i>That the Director of Sustainable Communities/Director of Business Transformation be requested to conduct a review of the arrangements for market town management and town centre partnerships in Central Bedfordshire as a whole.</i></p> <p>(2) <i>That the informal partnership to be established to succeed the existing Bedfordshire Authorities Waste Partnership be not included in Part J2 of the Constitution but instead be added to the list of outside bodies to which the Council will appoint Councillors in 2009/10.</i></p>		
<b>10.</b>	<b>Joint Staff Panels</b>		
10.1	The working group was advised that the name of the Joint Staff Consultative Panel had been changed to Employee Partnership Committee and the Joint Consultative and Negotiating Panel for Primary and Secondary Education (JCNCPSE) would be a Committee and not a Panel.		
10.2	The JCNCPSE membership was being altered to 7 elected members and 7 employee representative, although this had to be agreed in consultation with the Trade Unions.		
10.3	The JCNCPSE needed to have a paragraph included that referred to the separate detailed terms of reference.		
	<b>AGREED-</b>		
	<p>(1) <i>That the terms of reference of the Employee Partnership Committee and Joint Consultative and Negotiating Committee for Primary and Secondary Education should be included in Part E2 of the Constitution.</i></p> <p>(2) <i>To approve the draft terms of reference, as set out in Appendix A, be approved subject to the amendments set out above.</i></p> <p>(3) <i>That the terms of reference of the General Purposes Committee be amended by:-</i></p> <p>(a) <i>the addition of the following new item:</i></p> <p style="padding-left: 40px;"><i>To consider any matter referred by the Employee Partnership Committee and Joint Consultative and Negotiating Committee for Primary and Secondary Education to the Committee.</i></p> <p>(b) <i>The amendment of existing items (i), (ii) and (iv) of the terms of reference to read as follows:-</i></p>		

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	<p>(i) <i>To make arrangements for the appointment of the Head of Paid Service, Directors and Heads of Service and the dismissal of the Head of Paid Service, via the Appointments Sub-Committee.</i></p> <p>(ii) <i>To determine strategic employee policies.</i></p> <p>(iv) <i>To determine the award of any discretionary payments to employees under the Local Government Pension Scheme or the Council's Severance Policy.</i></p>		
<b>11.</b>	<b>Confidential Reporting/Whistleblowing Code</b>		
11.1	The working group agreed that the concerns received etc could be also raised with the Deputy Monitoring Officer.	KJ	26/02/09
11.2	The working group expressed a view that the Officer giving evidence in criminal or disciplinary proceedings should have a chance to receive independent advice about the procedure.	KJ/ BM	26/02/09
	<p><b>AGREED-</b></p> <p><i>To approve, subject to amendments, the proposed Confidential Reporting Code for inclusion in the 'Ethical Handbook' for Central Bedfordshire Council.</i></p>		
<b>12.</b>	<b>Members' Guidance on Property Transactions and Commercial Property Management</b>		
12.1	The working group received the proposed guidance on Property Transactions and Commercial Property Management and raised certain queries thereon.	KJ	26/02/09
	<p><b>AGREED-</b></p> <p><i>To approve the proposed Guidance on Property Transactions and Commercial Property Management for inclusion in the 'Ethical Handbook' for Central Bedfordshire Council.</i></p>		

Note: The meeting commenced at 10.00 am and concluded at 16.15 pm.