

CENTRAL BEDFORDSHIRE COUNCIL

At a meeting of the **CONSTITUTION ADVISORY GROUP** held at Committee Room 15, Priory House, Monks Walk, Shefford on Monday 9 November 2009

PRESENT

Cllr Male (Chairman)

Cllrs Mrs C F Chapman MBE
D Jones
M Jones

Cllrs D Lawrence
A Shadbolt

Officers present: Mr Heaphy, Mrs Morris, Mr Bowmer, Mr Mills, Mr Eighteen

CAG/09/20 **Notes of Previous Meeting**

The Advisory Group considered the notes of the meeting held on 25 August 2009

AGREED:

That the notes of the meeting held on 25 August 2009 be confirmed as a correct record.

CAG/09/21 **Review of Capital Programme Processes**

The Advisory Group considered a report from the Director of Resources proposing a variation of the procedures relating to the Capital Programme. The Advisory Group noted that the report had arisen following a meeting between the Portfolio holders for Corporate Resources and for Culture and Skills, the Deputy Chief Executive/ Director of Children, Families and Learning and the Director of Corporate Resources to discuss problems that had arisen regarding the operation of the provisions within the Constitution relating to the Capital Programme.

Members were advised that since the establishment of the authority, a number of operational issues had emerged regarding the processes for incurring Capital Programme expenditure as set out in the Council's Constitution (primarily through the Code of Financial Governance) and the Capital Handbook. These included

- the nature of both the Constitution and Handbook processes which are more relevant for specific, higher-value, projects (rather than rolling programmes and low value schemes)

- the potentially restrictive nature of the Constitution re: approvals, variances, and virements;
- confusion and uncertainty regarding the application of processes to legacy authority schemes and the status of the CBC Capital Programme.

To address these issues Members were presented with suggested amendments to the Code of Financial Governance (Part I2 – Section 4.9) proposing the grouping of Capital Schemes into four main categories (Rolling Programmes, Major Capital Schemes over £500k whole life cost, Intermediate Capital Schemes between £60k - £500k whole life cost and Minor Capital Schemes under £59.999k whole life cost) together with a suggested approval process for each category and the level of project documentation to be produced through Outline and Detailed Business Case requirements. The current requirement in the Code of Financial Governance for Executive approval of a Project Initiation Document in all cases before a capital project could proceed would be removed.

These proposed amendments would impact upon other Constitution and Capital Handbook issues as follows:

- approval of new projects during the course of the year
- approval of variations in scheme costs
- virements

Members proposed lifting restrictions on capital programme variations and took the view that this action would obviate the need for virements.

It was noted that the new procedures would need to apply equally to capital projects that were wholly externally funded, where the Council was responsible for exercising proper governance arrangements.

Members also proposed amendments throughout the Code of Financial Governance to reflect that authority for approvals should be given by the relevant Portfolio Holder in consultation with the relevant Director rather than vice versa. In the interests of greater transparency, to allow call-in and to facilitate further Executive delegation, this should be adopted as a general principle in future, although it was not proposed at this stage to amend existing delegations to Directors elsewhere in the Constitution.

Members also noted that all references to the 'Assistant Director Audit, Risk and Health and Safety Management' would be amended to read 'Assistant Director Audit and Risk'.

AGREED TO RECOMMEND:

- 1. That Section 4.9 of the Code of Financial Governance (Part I2) be replaced by a new Section 4.9 as set out in Appendix A to these Notes.**
- 2. That in Part C2, paragraph 1.3.3, the words ‘project initiation document’ be replaced by ‘detailed business case’.**
- 3. That, as a general principle, future delegations requiring sanction by a Portfolio Holder should be phrased as being to the relevant Portfolio Holder in consultation with the relevant Director, rather than vice versa.**

CAG/09/22 Key Decisions/Delegations

The Advisory Group discussed the Definition of a Key Decision as set out in Part C2, paragraph 1 of the Constitution in the light of some uncertainty of interpretation as to the meaning of the financial threshold as between annual and whole life costs.

Members also sought to clarify uncertainty in relation to other delegated functions such as land acquisitions and disposals (Part H3, paragraph 4.6.71) and procurement (Part I3, paragraph 5.1) where a limit of £200,000 is set on Directors’ powers.

The Advisory Group discussed whether the criterion in Part C2, paragraph 1.1.2 relating to a decision having a significant effect on communities living or working in an area comprising one or more wards in the Council’s area should be amended. After discussion it was agreed that this could be revisited at a later date.

AGREED TO RECOMMEND:

- 1. That Paragraph 1.2 of Part C2 (Key Decisions and the Forward Plan) be amended to read:**

“For the purposes of 1.1.1 above, savings or expenditure are significant if they exceed £200,000 per annum (revenue) or £200,000 whole life cost (capital), or 10% of the budget for the cost centre concerned, whichever is the smaller.”

Arising from the above discussion and concerns expressed elsewhere about the need to reduce the extensive workload of the full Executive, the Group also considered the possible introduction of delegated arrangements to Portfolio Holders generally to authorise savings or expenditure (including procurement) between £200,001 and £500,000, which currently required approval by the full Executive. This would bring the delegation arrangements for revenue and capital into line with

the revised Capital Programme processes the Group was now recommending.

Members were aware that such a change would require a specific delegation by the Leader but would avoid the need for individual delegations to be made.

AGREED:

2. **That the Leader be requested to agree a general scheme of delegation to relevant Portfolio Holders, in consultation with the Portfolio Holder for Corporate Resources, the relevant Director and the Director of Corporate Resources, to authorise savings or expenditure between £200,001 and £500,000 inclusive (revenue per annum or capital whole life/total contract value), subject to compliance with Rule 19 of the Access to Information Procedure Rules, in order to assist in reducing the workload of the full Executive while avoiding the need to make individual delegations to the relevant Portfolio Holders.**
3. **That authority for approving savings or expenditure over £500,000 (revenue per annum or capital whole life/total contract value) continues to rest with the full Executive.**

AGREED TO RECOMMEND:

4. **That the thresholds in 1. and 2. above be applied to the Code of Procurement Governance (Part I3, paragraph 5.1) and Land Acquisitions and Disposals (Part H3 – paragraph 4.6.71).**

CAG/09/23 Fees and Charges

The Advisory Group discussed whether to include the individual fees and charges in the Fees and Charges Policy in the Budget and Policy Framework (Part B2, paragraph 1.1.3.2).

AGREED:

That no change be made to the current provision in Part B2.

CAG/09/24 Analysis of Executive Agendas

Arising from growing concerns among Executive Members about the number and length of items submitted to the full Executive, the Advisory Group considered a report from the Assistant Director Legal and Democratic reviewing the impact of constitutional requirements on

the volume of work presented to the Executive for decision and hence the efficiency of the decision-making process. The report analysed the reasons for submitting over 30 reports to the two most recent Executive meetings and the constitutional provisions behind them.

Whilst Members concluded that all items had rightly been submitted, they were mindful that the recommendations proposed in CAG/09/22 above would help in reducing the number of reports to be referred to the Executive. Members also discussed other initiatives aimed at reducing paperwork to be presented to the Executive including more concise, streamlined reports without unnecessary history included, making a copy of appendices available in the Members' Room rather than being included with the agenda papers and circulating website links to the papers electronically to all Executive Members. Members were reminded that Executive had recently introduced guidelines that the narrative section of its reports should not normally exceed two pages with supporting evidence and detail contained in appendices.

The Advisory Group felt it was appropriate for the new measures to be given time to bed in before assessing their impact on the Executive workload.

AGREED:

That a further review of Executive agendas be undertaken in six months.

CAG/09/25 Anti-Fraud and Corruption Strategy and Confidential Reporting ('Whistleblowing') Policy

The Advisory Group considered the Anti-Fraud and Corruption Strategy and Confidential Reporting ('Whistleblowing') Policy which had been approved by both the Audit and Standards Committees and referred to the Group for inclusion in the Constitution.

AGREED TO RECOMMEND:

- 1. That the Anti-Fraud and Corruption Strategy be included in the Constitution under Part I1 – Finance, Contracts and Legal Matters.**
- 2. That the Confidential Reporting ('Whistleblowing') Policy be included in the Ethical Framework appended to the Constitution.**

CAG/09/26 **Variation of Scheme of Delegation – Member Development**

The Advisory Group was advised of a new delegation and amendments to officer delegations at Part H3, paragraphs 4.6.60 and 4.6.61, which had been referred by the Member Development Champions Group and approved by the Leader in respect of Member development. Members noted the history of the Group, its role in acting as Champions for member development and its remit in working towards the standards required to achieve East of England Member Development Charter status.

The Advisory Group noted that in order to achieve flexibility and to streamline the decision making process, the necessary powers to take forward elected Member development initiatives had been given to the Assistant Director of Legal and Democratic Services who would act after consultation with the “Champions” and, where appropriate, seek the views of the political leadership and wider Council membership.

The Leader of the Council had authority under Paragraph 3 of the Executive Procedure Rules to delegate Executive functions or amend existing delegations. In compliance with the wishes of the Member Development Champions Group the Leader had therefore approved the variations to the Scheme of Delegation to Officers.

AGREED:

That the revisions to the Scheme of Delegation to Officers and of the consequent winding up of the Member Development Champions Group be noted.

CAG/09/27 **NHS Campus Closure Programme**

The Advisory Group was advised of the resolution of the Executive on 15 September 2009 to grant an additional delegation to the Portfolio Holder for Social Care and Health, in consultation with the Portfolio Holder for Corporate Resources and the Director of Social Care, Health and Housing and the Director of Corporate Resources, to approve individual projects using the NHS Campus Closure capital grant allocation to accommodate people with severe learning disabilities, subject to

- consideration of the detailed business case for each project, and
- compliance with Rule 19 of the Access to Information Procedure Rules (i.e. decisions by individual Executive Members) in respect of any key decision.

Members noted that the Leader was being asked to sign her approval to the delegation, which would then be reported to Council.

AGREED:

That the additional delegation be noted.

CAG/09/28 Licensing Committee – Premises Licences

The Advisory Group was advised of the resolution of the Licensing Committee on 14 October 2009 to delegate responsibility for all minor variations to premises licences and club premises certificates to the Director of Sustainable Communities. This proposal was in response to new regulations that came into force on 29 July 2009. In noting the delegation, the Advisory Group was anxious to ensure that Members were made aware of any minor variations to premises licences/certificates in their Ward.

AGREED:

- 1. That the additional delegation to the Director of Sustainable Communities be noted.**
- 2. That it be recommended to the Licensing Committee that minor variations to premises licences/certificates be notified to the appropriate Ward Member(s).**

CAG/09/29 Petitions

Subsequent to a request following the Executive Chairman's briefing on 3 November and given the short notice, the Advisory Group held only a preliminary discussion on possible alternatives to reporting petitions to full Executive meetings.

Members received a copy of the existing petitions procedure and were also reminded of arrangements recently put in place for petitions relating to Traffic Regulation Orders and other highways-related matters to continue to be submitted to the Executive for public receipt for onward referral to public meetings of the Portfolio Holder for Safer and Stronger Communities. It was suggested that the Executive's workload could be reduced if such petitions were in future referred direct to the public meetings of the Portfolio Holder.

AGREED:

- 1. That the item be considered in greater detail at the next meeting of the Group, with reference to practices in other local authorities.**
- 2. That in the meantime, all petitions received be referred direct to the body most appropriate to consider them and that the**

Assistant Director Legal and Democratic be given delegated authority to determine that body, subject to a Member who is presenting a petition having the right to require that petition is included on the agenda of a particular body.

CAG/09/30 Future Meetings

AGREED:

That the Advisory Group would meet bi-monthly and that officers would schedule meetings in the calendar to link suitably with meetings of the full Council.

CAG/09/31 Work Programme

The Advisory Group identified items in connection with the development of a work programme.

AGREED:

That the following items be included in a Work Programme for the Advisory Group:

- **Overview and Scrutiny arrangements, with particular emphasis on the role of the Overview and Scrutiny Co-ordination Panel and the absence in the constitution of a single overarching Overview and Scrutiny Committee;**
- **Public participation arrangements for elected Town/Parish Council representatives at Development Management Committee meetings;**
- **The future of Town Centre Management Committees, where the Executive was being recommended to refer any constitutional change to the Advisory Group;**
- **Review of Procurement Rules particularly in relation to low-end transaction limits.**

(Note: The meeting commenced at 2.00 p.m. and concluded at 3.50 p.m.)

12 CODE OF FINANCIAL GOVERNANCE

4.9 Capital Programme:

- 4.9.1 Investment in capital assets shapes future service delivery and creates future financial commitments. The Capital Programme is a three-year programme of estimated capital expenditure and associated funding. The Full Council will approve a Capital Programme each year, recognising that approving initial estimates is the first stage in the process of progressing a proposed scheme to implementation. Estimates produced at this stage will be liable to change.
- 4.9.2 The Executive will receive budgetary proposals for inclusion in the Council's Capital Programme and will submit a proposed programme to the Full Council for approval. The programme will include all capital schemes including those proposed to be financed from revenue resources or external funding sources.
- 4.9.3 Capital Schemes will be grouped into four main categories:
- Rolling Programmes;
 - Major Capital Schemes (over £500,000 Whole Life Cost);
 - Intermediate Capital Schemes (between £60,000 - £500,000 Whole Life Cost)
 - Minor Capital Schemes (under £59,999 Whole Life Cost);
- 4.9.4 Outline Business Case
All categories of capital projects will require an Outline Business Case in order to be considered for inclusion in the proposed Capital Programme. An Outline Business Case will normally have best estimates of capital and revenue costs, timescales, and deliverables. Outline Business Cases will be approved by the relevant Portfolio Holder in consultation with the relevant Director, the Portfolio Holder (Corporate Resources) and the Chief Finance Officer.
- 4.9.5 Detailed Business Case
A Detailed Business Case will have fully validated costs (including ongoing revenue costs), timescales, deliverables and where necessary an exit strategy. The process for approving capital schemes for subsequent implementation will be different according to their category and is explained in paragraphs 4.9.6 to 4.9.9 below.

4.9.6 Rolling Programmes

Rolling programmes in the Council's Capital Programme are largely concentrated on infrastructure and asset improvement and maintenance.

After a Rolling Programme has been approved by the Council for inclusion in the Capital Programme, a single Detailed Business Case will be produced for the whole programme before it proceeds.

The Detailed Business Case and release of capital expenditure will be approved by the relevant Portfolio Holder in consultation with the relevant Director, the Portfolio Holder (Corporate Resources) and the Chief Finance Officer.

4.9.7 Major Capital Schemes (over £500,000 Whole Life Cost)

After a Major Capital Scheme has been approved by the Council for inclusion in the Capital Programme, a Detailed Business Case will be produced for the scheme. Executive approval will be required for these schemes before proceeding to implementation.

For Major Capital Schemes, some further costs may need to be incurred to take a project up to Detailed Business Case stage. The relevant Portfolio Holder in consultation with the relevant Director can authorise expenditure up to a level of 5% of the total scheme cost at this stage to enable a Detailed Business Case to be produced. The revenue budget of the applicable directorate will meet these costs if ultimately the scheme does not proceed for any reason.

4.9.8 Intermediate Capital Schemes (between £60,000 and £500,000 Whole Life Cost)

After an Intermediate Capital Schemes in this range has been approved by the council for inclusion in the Capital Programme, a Detailed Business Case will be produced before it proceeds.

The Detailed Business Case and release of capital expenditure will be approved by the relevant Portfolio Holder in consultation with the relevant Director, the Portfolio Holder (Corporate Resources) and the Chief Finance Officer.

4.9.9 Minor Capital Schemes (under £59,999 Whole Life Cost)

A Detailed Business Case is not required for these schemes and Minor Capital Schemes in this range can proceed with the approval of the relevant Portfolio Holder in consultation with the relevant Director, the Portfolio Holder (Corporate Resources) and the Chief Finance Officer.

4.9.10 In year, the Executive may approve new Capital Schemes estimated to cost less than £500,000 (whole life cost) that have not previously been included in the Capital Programme, subject to the production of Outline and Detailed Business Cases as required by paragraphs 4.9.6 and 4.9.8 to 4.9.9. New Major Capital Schemes estimated to cost more than £500,000 (whole life cost) must be approved by Full Council.

4.9.11 Variations from the Detailed Business Case

Where there are variations in contract costs on existing schemes compared with the provision in the Detailed Business Case, additional costs will be approved in accordance with the following conditions:-

Existing Scheme Additional Costs	Approval Powers
Up to £25k or 10% (whichever is the greater)	Relevant Portfolio Holder and relevant Director
Up to £100k or between 10-25% (whichever is the greater)	Executive
Over £100k or over 25% of the original budget (whichever is the greater)	Council

Where additional costs are agreed, the relevant Portfolio Holder in consultation with the relevant Director will seek compensatory savings.

4.9.12 The Chief Finance Officer will report to the Executive on the monitoring of the approved Capital Programme, including: expenditure and income to date; projected expenditure and income; and approved variations.