



**MINUTES OF THE CONSTITUTION AND ETHICS COMMITTEE MEETING
HELD AT 6:00PM, ON
MONDAY, 12 OCTOBER 2020
VIA ZOOM**

Present: Councillors Seaton (Chair) Bashir (Vice-Chair), Allen, Murphy, Amjad Iqbal, Shaheed and Sandford

Officers in Attendance: Amy Brown, Deputy Monitoring Officer
Dan Kalley, Senior Democratic Services Officer
Fiona McMillan, Director of Law and Governance and Monitoring Officer
Paulina Ford, Senior Democratic Services Officer
Pippa Turvey, Democratic and Constitutional Services Manager
Rachel Edwards, Head of Constitutional Services

Also in Attendance:

1. APOLOGIES FOR ABSENCE

There were no apologies of absence received

2. DECLARATIONS OF INTEREST

There were none.

3. MINUTES OF THE MEETING HELD ON 30 SEPTEMBER 2019

The minutes of the meeting held on 30 September 2019 were agreed as a true and accurate record.

4. CHAIRING OF SCRUTINY COMMITTEES

The Constitution and Ethics Committee received a report in relation to the chairing of Scrutiny Committees.

The Senior Democratic Services Officer introduced the report and confirmed that guidance was sought from the Centre for Governance and Scrutiny in relation to best practice for chairing scrutiny committees. Following this the Centre for Governance and Scrutiny confirmed that each Chair of a scrutiny committee would adopt their own style and the best Chairs were those who were flexible in their approach and gauged the flow of each meeting. Members were informed that all Chairs were offered training by the Council before the start of each municipal year and that this was provided by the Democratic Services team. In addition the Centre for Governance and Scrutiny offered training however this came at a cost.

Councillor Sandford explained that the report was brought to Committee in light of some of previous meetings where a line of questioning was not permitted. In terms of

asking questions it had been advised that it was better to ask a series or line of questions in order to have more effective scrutiny. It was however important that the Chair exerted some control over the meeting in order to prevent members from taking over discussion on an item. Training for Chairs was important as having an effective Chair allowed for effective meetings.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- It was good practice to allow members to follow a line of questioning if it was important and this issue was to be disseminated to all Chairs of committees.

The Constitution and Ethics Committee considered and **RESOLVED** (unanimous) to:

1. Notes the contents of the report, and
2. That Chairing Skills training was mandatory for Scrutiny Committee Chairs.

ACTIONS:

1. The Chair to write to all Chairs to be informed of discussions on chairing a meeting taken by the Constitution and Ethics Committee.

5. MEMBERS GIFTS AND HOSPITALITY POLICY

The Constitution and Ethics Committee received a report in relation to the Members Gifts and Hospitality Policy.

The Deputy Monitoring Officer introduced the report which was to provide an opportunity for members to review the current policy and consider approval of proposed amendments. Some of the changes made were purely cosmetic in order to allow the document to flow easily. Substantive changes included:

- An introduction to Law and Governance section, which confirmed that although there was no obligation for members to register any gifts or hospitality, they were bound by the requirements of the Bribery Act and the Councils Code of Conduct. This in broad terms prevented gifts or hospitality as an inducement or reward when carrying out their duties.
- There were the inclusion of some general principles which were designed to assist members in determining whether their acceptance or not of gifts or hospitality were appropriate.
- There was now a consistent level of value when accepting gifts or hospitality which mirrored the recommendation from the Commission on Standards in Public Life. Gifts and Hospitality up to a value of £50 or a collective value of £100 in one year maybe be accepted provided they were consistent with the general principles.
- Members were informed that there were some additional sections covering wills, sponsorship and gifts to Chairs. This should be discussed with the Monitoring Officer to ensure good governance procedures were followed.
- There was now more information on how members could register gifts and hospitality and a reminder that this might involve members having to declare further interests.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- Internal Audit had looked at the area surrounding gifts and hospitality with a recommendation to review this. It was due to come to Committee in March, however this was postponed due to the Covid pandemic.
- It was agreed that the wording of Chairman or Chairwoman was to be altered to now read Chair.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to approve the proposed changes to the Members Gifts and Hospitality Policy subject to the amendment of references to 'Chairman/woman' to 'Chair'.

6. UPDATE AND REVIEW OF COUNCIL STANDING ORDERS

The Constitution and Ethics Committee received a report in relation to amendments to the Member Officer Protocol.

The Democratic and Constitutional Services Manager introduced the report which was to provide an opportunity for members to review current policies and consider approval of proposed amendments.

Members were informed that there were four areas being recommended for changing these were:

1. Changes to the approval of minutes. The change required members to notify the Democratic Services Team by midday of the day of the meeting at which the minutes were to be approved of any substantive omissions or alterations. This was to allow officers the opportunity to investigate any issues.
2. Changes to the deadlines for submitting motions to Full Council, it was agreed that this would be reviewed by the Committee. There were two options presented in the report, namely to keep the current timeframes or to shorten the deadlines by one day.
3. Proposed changes to the Chair's or Mayors casting vote, this was to provide clarity on equality of votes and for formal abstentions to not be included in when it came to votes being equal.
4. A change to the petition scheme adding a further reason for a petition not being accepted, this being a petition that related to a decision that had already been taken by the Council.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- It was debatable as to whether a section on the approval of minutes needed to be included in the standing orders. Members needed to ensure that they informed the Democratic Services Team if there were any challenges to the accuracy of the minutes.
- Including the wording around casting votes would help members understand how an abstention was an abstention to not vote on a recommendation. There was a perception from some Councillors that an abstention was in theory a 'no' vote.
- The proposed petition scheme change prevented people challenging a decision whereby it was still possible for a decision to be changed, especially in light of any public interest or expert advice that might be forthcoming.
- People understood what the purpose of a petition was and the proposed amendment prevented people from asking the Council to review decisions it had taken. The flexibility in the current scheme was good and enabled people to get involved in local democracy.

- The Monitoring Officer explained that the purpose behind the suggested change to the petition scheme was to prevent petitions on decisions where there was no chance of reversing the original decision.
- There was no obligation on the Council to take any action on the submission of a petition. There were very few examples of when a petition did not have any impact and therefore the suggested change prevented people from challenging a decision.
- On a vote the recommendation in terms of the petition scheme was defeated.
- The current deadline for submission of motions was causing some issues amongst some of the political groups. It was useful to be able to send draft motions to officers before the final deadline so that the wording and content could be checked, however it was queried as to the length of time that officers needed in order to do this. There would be more support amongst political groups to change the deadline to eight clear working days, down from nine and likewise the final deadline down from seven working days to six.
- Some members favoured giving officers as long as possible to help Councillors draft motions and ensure that what is being asked is something the Council has the ability to do.
- On a vote the majority of the Committee recommended changing the deadline for submission of motions.

The Constitution and Ethics Committee considered and **RESOLVED** that:

1. Standing Orders be amended as set out in paragraph 4.6 of the report, in relation to the approval of minutes. (unanimous)
2. Standing Orders be amended as set out in paragraph 4.12 of the report, in relation to equality of votes. (6 for, 1 against)
3. Standing Orders be amended as follows, in relation to the submission of motions to Full Council: (4 for, 3 against)
 - Draft Motions – 12 noon, 8 clear working days before the meeting.
 - Final Motions – 12 noon, 6 clear working days before the meeting.

7. AMENDMENT TO THE MEMBER OFFICER PROTOCOL

The Constitution and Ethics Committee received a report in relation to some updates to the Council Standing Orders.

The Monitoring Officer introduced the report which was to provide an opportunity for members to review the current policy and consider approval of proposed amendments. There were two amendments to the policy, firstly motions that were submitted to Full Council, members were expected to liaise with relevant service area officers to ensure the motion was in the most acceptable form before being submitted to Democratic Services.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- There were some concerns around this amendment. It was a good idea for members to talk through potential motions with officers, however making it a requirement was not a good idea as there were occasions whereby a motion might be critical of a service area. There were also occasions where a member might not wish to consult with officers and this should not prevent a member presenting a motion to Council.
- There were processes in place by which once a motion was submitted it was checked by the legal team and then sent to the relevant department.
- It would be beneficial to encourage members but not make it mandatory.

- The Monitoring Officer explained that the wording could be changed to encourage. Members were reminded that senior officers had tight deadlines to check motions and feedback any comments to ensure the motion was within the Council's remit.
- This was about encouraging members rather than trying to re-write the Council's protocols.

The Monitoring Officer explained that the second part of the changes were around the use of Council premises. Following a complaint the Monitoring Officer investigated the wording within the constitution, of which there were gaps and outdated wording. The Nolan principles outlined the use of resources and not using these for party political purposes. The Monitoring Officer confirmed that the words 'allowance and' from section 4.4f were to be removed. In addition if members wished to extract wording from a Council agenda they were able to as this was public information.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- It was important that the wording in the constitution was watertight and was clear. Section 14 of the Member Officer Protocol had direct reference to the Nolan principles around the use of Council resources, facilities or resources for party political purposes. All that was needed in the Member Officer Protocol was a statement around these principles, so that officers could interpret these if a complaint was made. The resolution tried to define every circumstance where something that the Council provided could be used for political purposes. However it was hoped that when the Monitoring Officer received a complaint they would investigate whether a substantial abuse of the rules had taken place for political advantage.
- There were concerns over the use of logo's for electronic media which might be referenced in political documentation when it ought not to be, or could be inferred that the Council supported certain policies.
- It might be seen as premature to agree to the recommendations at this current point. It raised a few problematic issues, for example IT systems that now had work, personal and Council email addresses on them and making sure that members used their personal or party email addresses for party political information and not the Council email address.
- Most Councillors were sensible and did not use the group rooms for party political purposes and the wording being suggested would be acceptable when some of the other issues had been resolved.
- The Monitoring Officer confirmed that these areas could be looked at further down the line at a later meeting. This was brought in front of Committee following a complaint.
- Members agreed that this could be reviewed when looking at the protocol in the future.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to agree to amend the Member Officer Protocol in the Council's Constitution to include a section on 'Motions Submitted to Full Council' as set out in the report, subject to the amendment of, "Members are expected to liaise with ..." to, "Members are encouraged to liaise with ...".

ACTION:

1. The issue around the use of Council resources to be reviewed the next time the Member Officer Protocol is brought to Committee.

8. REVIEW OF URGENT DECISIONS TAKEN

The Constitution and Ethics Committee received a report in relation to a review of urgent decisions taken.

The Monitoring Officer introduced the report and the report included a list of the reasons why certain decisions had used the urgency procedure.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- It was important that a future report looked at how the number of decisions made compared to other local authorities and how it compared to the number of urgent decisions the Council had taken in previous years.
- Some of the issues revolved around time management and there were decisions that were on occasions missed. The Council had used these procedures on some occasions when they did not need to.
- There were some decisions on the list that were Covid related and during the pandemic there were a number of decisions that needed to be taken urgently in order to help and protect the community.
- Members requested a further report around the circumstances of when a decision should follow the urgency procedures. It was felt that the threshold for a decision to use urgency should be high. A more robust set of criteria needed to be in place and an urgent decision should only ever be used in exceptional circumstances.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to:

1. Note, review and comment on the number of urgent decisions taken by Peterborough City Council; and
2. Bring a further report on the criteria for using urgency as outlined in the Executive Procedure rules to the next Committee meeting.

9. INDEPENDENT REMUNERATION PANEL

The Constitution and Ethics Committee received a report in relation to the Independent Remuneration Panel.

The Democratic and Constitutional Services Manager introduced the report and confirmed that the last review was held in 2016. It was now time during the next Municipal Year for the timeframe and parameters to be agreed. In addition the terms of reference for the panel had been updated. Members were also informed that the terms of reference for the Constitution and Ethics Committee had been updated allowing the committee to remove a member of the Independent Remuneration Panel if exceptional circumstances.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- That the wording be changed from “three members” to “at least three members”. This would allow the Independent Remuneration Panel to still meet if one panel were unable to attend.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to

1. Agree the proposed timetable for recruitment of an Independent Review Panel for next term
2. Agree the proposed changes to the Terms of Reference of the Independent Remuneration Panel, subject to the amendment of ,“The (IRP) shall be comprised of 3 members of the public,” to, “The (IRP) shall be comprise of at least 3 members of the public”; and
3. Agree the proposed changes to the Terms of Reference of the Constitution and Ethics Committee.

10. DISPENSATIONS ISSUES

The Director of Law and Governance and Monitoring Officer informed the Committee that two dispensations had been granted since the last meeting and these were detailed with the agenda.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to note the dispensations granted

11. UPDATE ON NATIONAL ISSUES (LGA MODEL CODE OF CONDUCT)

The Constitution and Ethics Committee received a report in relation to the Local Government Association (LGA) model code of conduct

The Director of Law and Governance and Monitoring Officer introduced the report and confirmed that the consultation on the model code of conduct, run by the LGA, had been circulated to all members in August. The consultation responses were hoped to be presented in the Autumn. It was proposed that the final model code of conduct would come back to committee to decide on whether to adopt the new code, take parts of it or not adopt any part of the code.

Members were informed that a letter had been circulated to all local authority Chief Executives in July from the Committee on Standards in Public Life asking if local authorities had adopted the Committee on Ethical Standards best practice report. The Monitoring Officer stated that a response was being drawn up in response to a follow up letter asking for details on whether the Council had adopted these practices.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- It was confirmed that the response to the letter on progress was around the best practice recommendations that came out of the Committee on Standards in Public Life and not on the model code of conduct. These recommendations were not enforceable, rather what was expected of authorities that demonstrated high levels of ethical standards.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to note the report.

12. CODE OF CONDUCT COMPLAINTS RECEIVED SINCE SEPTEMBER 2019

The Constitution and Ethics Committee received an update report on the code of conduct complaints received by the Monitoring Officer since the last meeting in July 2019.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to note the report on complaints received/being handled by the Monitoring Officer since the Committee's last meeting in September 2019.

13. WORK PROGRAMME, FUTURE DATES AND MEMBER ISSUES

The Constitution and Ethics Committee received a report in relation to the Committee's Work Programme for the Municipal Year 2019/20.

The Senior Democratic Services Officer confirmed the addition of two items to the work programme, firstly a further report on the wording in the constitution on use of urgency provisions and secondly to include the use of council resources in the Member Officer Protocol when this was next provided to Committee.

The Monitoring Officer commented that the next meeting was due to be held in November and the two substantive items were the model code of conduct from the LGA and an update on the Social Media Policy. It was suggested that as the model code of conduct was due to have a section on the use of social media it would be advisable to have the November meeting as a provisional meeting in case the code was published before then. However if this had not been received that the November meeting should be cancelled and the next meeting to take place in February by when it was hoped the model code would be produced. The Chair agreed that this was a sensible approach and that the November date was to be a provisional date, if there was no update then the meeting would be moved to the New Year.

There was a further item to be added to the agenda around the effectiveness of the Council's current code of conduct as there had been investigations that had lasted longer than a year.

The Chair confirmed that every meeting of the Constitution and Ethics Committee had an item on the agenda for the addition of items to the work programme. This was an opportunity for every member of the Committee to add an items they wished. In addition members of the Committee could request an item on the agenda if they informed Democratic Services.

The Constitution and Ethics Committee considered and **RESOLVED** (unanimous) to

1. note the Committee's work programme for the municipal year 2019/20, including the additional items raised by the Committee.

ACTIONS:

1. That the November meeting was provisional on the basis of the model code of conduct from the LGA becoming available, if not the next meeting to be held in the New Year when the code was hoped to be published.

Chairman