
CONSTITUTION SUB- COMMITTEE

MINUTES

Of a virtual/remote meeting held on Monday 7 March 2022 from 7pm to 7.35pm

Members of the Constitution Sub-Committee:

Councillors

Sarah Nelmes (Chair)
Stephen Cox
Alex Hayward
Chris Lloyd

Debbie Morris
Alison Scarth (for Cllr Giles-Medhurst)
Andrew Scarth
Martin Trevett

Officers:

James Baldwin, Solicitor to the Council
Derek Hatcher, Procurement Manager
Sarah Haythorpe, Principal Committee Manager
Lorna Attwood, Committee Manager

CSC09/21 APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors Matthew Bedford and Stephen Giles-Medhurst with Councillor Alison Scarth substituting for Cllr Stephen Giles Medhurst.

CSC10/21 MINUTES

The minutes of the Constitution sub-committee meeting held on 6 January 2022 were confirmed as a correct record and would be signed by the Chair.

CSC11/21 NOTICE OF OTHER BUSINESS

The Chair had ruled that item 7a on the agenda was of sufficient urgency to be taken at the meeting so that it could be reported to Policy and Resources Committee on 14 March and adopted in time for the new appointments to be made at Annual Council on 24 May.

CSC12/21 DECLARATIONS OF INTERESTS

None received.

CSC13/21 CONTRACT PROCEDURE RULES

The report presented to the sub-committee proposed amendments to the Council's Contract Procedure Rules.

The Procurement Manager advised that the rules for Watford and Three Rivers needed amendment due to Brexit as the UK had now left the European Union. The Three Rivers Contract Procedure Rules were last updated in 2013. There had since been some new legislation which also needed to be considered. A summary of the changes were:

- EU & Brexit – the terminology of the rules needed to be changed
- Shared rules in place – to now reflect each organisation and the rules would be specific to each organisation
- Amended framework agreements
- Contract procedures stated that an open route should always be used, this was too prescriptive. It should use the most appropriate route to get the best value for the Council.
- Enhanced social value using the environmental and sustainability options that the Council desires
- Use of the electronic portal
- Thresholds were proposed for amendment, there was a previous requirement to advertise everything over £5,000 up to £50,000. It was suggested to bring this in line with the Local Government Transparency Code 2015 which would mean up to £25,000 The Council would need to obtain three quotations and above £25,000 would require the tender to be advertised.

There were no changes proposed to the Scheme of Delegation.

A Member wanted to ask about joint projects. If a project was part Three Rivers and part a Parish Council was the Three Rivers contribution significant or would it be the total value of the project.

The Procurement Manager stated it would be the total value of the project.

A Member also wanted to ask about the use of words “where appropriate” and asked for examples.

The Procurement Manager advised that Officers needed to demonstrate that they had found best value for the Council.

A Member wanted to ask about the rationale for updating this and asked why there was a proposal to increase the thresholds from £5,000 to £10,000.

The Procurement Manager advised that £5,000 had been in place for a number of years. The matter of changing the threshold had been put to the Senior Leadership Team at Three Rivers and Watford, and it was felt that £10,000 was a more appropriate figure. Appendix 2 of the report showed that neighbouring authorities use similar thresholds.

The Member questioned that neighbouring authorities are not all the same size as Three Rivers.

The Procurement Manager advised that Appendix 2 showed details of the thresholds at a number of neighbouring authorities both large and small.

The Member asked how often should the rules be reviewed considering that the last review was 2013.

The Procurement Manager stated that the rules should be reviewed every 3 years.

On being put to the sub-committee the Chair declared it was agreed by general assent to recommend to approve version 10.1 of the Contract Procedure Rules with the Council Constitution being amended accordingly.

RECOMMEND:

To approve version 10.1 of the Contract Procedure Rules with the Council Constitution being amended accordingly.

CSC13/21 URGENT DECISIONS

Under Part 3, Section 8 of the Council Constitution the Chief Executive is able to take Urgent Action in consultation with Group Leaders or Deputy Group Leaders. The wording in the constitution is provided below:

To take such urgent action which is in the best interests of the Council where there is not time to convene the appropriate committee. Such action will be taken in consultation with the Group Leaders or Deputy Group Leaders.

The Monitoring Officer advised that urgent decisions had not been used exclusively during Covid, and there may be other occasions, for example related to court proceedings, when a decision could not go to a Committee due to the urgency of the decision required to be made.

The current basis was that it should be in consultation with the Group Leaders. Theoretically the Chief Executive was able to make those decisions because the requirement was only to consult, but in practise there needed to be agreement by the Group Leaders before the Chief Executive took the decision.

The Chair put forward a suggestion that moving forward any urgent decision continues to be made in consultation with the Group Leaders and whenever possible that there be unanimous agreement but if this agreement cannot be reached the decision would be based on proportionality.

A Member wanted clarification on that point and if it would be on a "nice to know" basis. If the Group Leaders didn't all agree it seemed it would not make any difference to the decision as the Administration would always have the final say due to having the most number of seats on the Council.

The Chair responded that proportionality would only be used if all the Group Leaders could not agree and if the decision had a very short deadline. It would be nice to always have a unanimous decision but if it was not possible we would need to apply proportionally based on the number of seats each Group holds on the Council.

Another Member was concerned that this has been raised due to a previous disagreement and was concerned their view may not be counted.

The sub-committee discussed what would happen if the Group were not unanimous in their decision that the action was urgent. It was hoped that everyone would be in agreement if the decision was so urgent that it could not

wait to go to a Committee meeting. The process had been agreed as to what counts as urgent.

A Member remained concerned that if the Leader of the majority group's vote was to eclipse the others then there was little point putting it to other groups as their option would not count in the end.

The Chair stated that this would at least give the chance for openness and discussion before any decision was made.

A Member was concerned that it was not always easy getting people together quickly. The Chair advised that any urgent decision required to be taken was usually done by email and needed to be actioned quickly by its very nature.

A Member suggested the idea of proportionality should only be used if there was not unanimous agreement. They believed there should be an element of democracy in the unlikely event there was not agreement.

The Monitoring Officer stated that the CEO feels there should be Member consultation in urgent decisions and it was not for Officers to make those decisions.

It was agreed by general assent that ultimately an urgent decision should be unanimous and if that was not possible it would be based on proportionality.

RECOMMEND:

That urgent decisions be taken where possible with unanimous Group Leader agreement, but if this could not be achieved, it would be based on proportionality.

CSC14/21 TO CONSIDER ADDING THE APPOINTMENT OF A VICE CHAIR FOR THE ENVIRONMENTAL FORUM AT THE ANNUAL COUNCIL MEETING IN MAY

The sub-committee considered adding the appointment of a Vice Chair of the Environmental Forum to the appointments made at Annual Council

On being put to the sub-committee this was declared CARRIED by the Chair having been agreed by general assent.

RECOMMEND:

That appointment of a Vice Chair of the Environmental Forum be made at the Annual Council meeting in May.

CHAIR