

Extract of the draft MINUTES of a meeting of the AUDIT AND GOVERNANCE COMMITTEE held in the Council Chamber, Council Offices, Coalville on WEDNESDAY, 21 JULY 2021

Present: Councillor S Gillard (Chairman)

Councillors N Smith, E G C Allman, C C Benfield, J Clarke, M D Hay, V Richichi and S Sheahan

In Attendance: Councillors

Officers: Mr A Barton, Mr D Bates, Miss K Hiller, Miss A Wright, Mrs L Marron, Miss E Warhurst and Mrs R Wallace.

External Audit:

At the commencement of the meeting, the Chairman advised that Councillor E Allman would be joining the meeting remotely as he was currently self-isolating. In accordance with the law, he was able to participate in the meeting but would not be permitted to vote.

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors R Morris and M Wyatt.

2. DECLARATION OF INTERESTS

No interests were declared.

10. ANNUAL REVIEW OF THE COUNCIL'S CONSTITUTION

The Legal Services Team Manager presented the report on proposed improvements to the Council's processes and suggested changes to the Constitution, which were due to be recommended to Full Council. It was noted that in carrying out the review, officers have been consulted on areas of the Constitution that need updating. It was noted that it also takes account of requests from members raised through working party discussions. The entire Constitution has been reviewed, including the articles, responsibility for functions, rules of procedure and codes and protocols, but in most cases only minor changes have been made for consistency reasons. The report before the Committee sets out the key changes that are being proposed.

A question was raised on the subject of Band B contracts and whether members would have access to the records of the Head of Service in relation to how contracts are awarded. The Monitoring Officer advised that the 'need to know' principle would apply. Therefore, if a member needed to know in order to effectively carry out their duty as a member of the council then they may make a request. Each request would be considered given the facts at the time. A question was asked about larger contracts and what advice could be given on the changes now that we are no longer under the rules of the EU. The Legal Services Team Manager reported that there were currently no major differences as the Law encompassed the EU rules. Whilst this may change in the future, as it currently stood, we are still in the same position, other than a few small practical changes.

A debate ensued on the merits of enabling questioning at Planning Committee. The term 'in exceptional circumstances' had been suggested to be included in the rules for speaking to allow points of clarification to be raised and responded to whilst limiting the potential for unnecessary cross-examination. Members considered that all facts should be on the table and that they be given the opportunity to seek clarification on any points

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ahead of making a decision. The Head of Planning agreed that this would be enabled, but the suggestion was intended to limit the extent at which lots of questions are being asked which did not seek to establish the facts of the application and were in fact a cross examination of the applicant. It was therefore intended that the Chairman, with the support and guidance of officers, would enable questions 'in exceptional circumstances' if it was felt the question was reasonable and would help members to reach a decision. This debate became lively when the issue of the call in process was being discussed. The report identified that certain planning functions were susceptible to call in because of the way in which they were presented in the Constitution but they should not legally be and, in practice, they would never be called in because the applications to which they relate would have long since been dealt with. This matter had been discussed at the Cross Party Planning Working Group and it was agreed that amendments to the Constitution on this point would be appropriate. The debate centred around the involvement of officers and the chairman in determining whether or not an application which had been called in found its way to Planning Committee. It was acknowledged that in every case where it had not proceeded to Committee, the decision and the reasons for how this decision was reached are sent to the ward member and subsequently published on the planning portal as part of the file notes for the application. One member made some disparaging comments about Planning Committee members and officers and these comments were supported in part by a fellow member and they were warned by the Monitoring Officer to be mindful about casting aspersions on the impartiality of officers; particularly with the references to coercion.

It was moved by Councillor V Richichi and seconded by Councillor J Clarke that the Constitution be amended to reflect that the decision on whether to allow a called-in planning application to be progressed to Committee should not be determined by officers in consultation with the Chairman, but by the ward member.

The Monitoring Officer urged caution with this motion given that planning matters must be determined by members of the Planning Committee and not all ward members are members of the Planning Committee. She did suggest that some work be undertaken outside the meeting to establish what other Authorities did in this regard and how, if at all, they involved ward members.

The Head of Planning also assured the Committee that the Chairman undertook to liaise with the ward member ahead of making the decision so the provision of ward member involvement was already in place.

The Committee was advised that discussions could be held by the Cross Party Working Group about the planning call in process as a whole, but the references in the report were because of an anomaly in the Constitution and had no bearing on the process itself and could be recommended to Council by the Committee tonight. It was further suggested that the Cross Party Working Group could work closely with Councillor Richichi to enable him to help shape the call-in protocol.

Some members, whilst not wholly sure of their views on the issue of ward member involvement, did wish for it to be pursued by way of a debate at Council. The Monitoring Officer advised that a vote could be taken on this motion against her advice and she would seek to establish the legal position ahead of the debate at Council. She offered a further suggestion of inviting the Committee to vote on the recommendations with the exception of the part, which referenced call-in so that this could be dealt with at a later date.

Following further discussion about the merits or otherwise of ward member involvement in the call-in process it was moved by Councillor V Richichi, seconded by Councillor J Clarke and subsequently

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RESOLVED:-

- (1) That the changes proposed by the Annual Review of the Constitution be supported;
- (2) That Council be recommended to
 - a. adopt the proposed amendments to the Constitution at its meeting on 7 September 2021
 - b. consider changes to the planning call in process with a view to including ward member involvement having had regard to legal advice.

The meeting commenced at 6.30pm and closed at 8.03pm