

# Council Issues

## 1. Amendments to the Constitution

### a) Part 26 - Appendix 3, List of Approved Bodies

Appendix 3 of part 26 of the Constitution is a list of Approved Bodies. Members appointed as County Council representatives may claim expenses for attending meetings.

The list of Approved Bodies is extensive and it is inevitable that the various organisations, over time, change their names or terms of reference. Some errors to be corrected and rationalisations to ease administration have also been identified.

### Recommendation

That the list of Approved Bodies in appendix 3 of part 26 of the Constitution be amended in the following ways:

- The AONB Suffolk Coast and Heath Advisory Committee and the Dedham Vale AONB and Stour Valley Joint Advisory Committee be shown in the list of Approved Bodies as:
  - a) 'AONB: Dedham Vale and Stour Valley Joint Advisory Committee' and
  - b) 'AONB: Suffolk Coast and Heaths Joint Advisory Committee'
- Currently the Clinical Commissioning Groups are identified in the list of Approved Bodies as:
  - a) 'Basildon and Brentwood Clinical Commissioning Group';
  - b) 'Castle Point and Rochford Clinical Commissioning Group';
  - c) 'Mid Essex Clinical Commissioning Group';
  - d) 'North Essex Clinical Commissioning Group' and
  - e) 'West Essex Clinical Commissioning Group'

It is proposed that they be re-listed as:

  - a) 'Clinical Commissioning Group: Basildon and Brentwood'
  - b) 'Clinical Commissioning Group: Castle Point and Rochford'
  - c) 'Clinical Commissioning Group: Mid Essex'
  - d) 'Clinical Commissioning Group: North Essex' and
  - e) 'Clinical Commissioning Group: West Essex'
- The listing that we have for the 'Princess Alexandra Hospital NHS Foundation Trust' is incorrect as the organisation is not a Foundation Trust. This entry to be amended to remove the word 'Foundation'.

- The ‘Southend Airport Consultative Committee’ has changed its name to the ‘London Southend Airport Consultative Committee’.
- ‘Chelmsford Youth Strategy Group’ has been erroneously listed in addition to the ‘Youth Strategy Group – Chelmsford’. The former is a duplication to be removed.
- ‘The Canewdon Charities’ still exist but Essex Council Council is not required to appoint a representative and has not done so. Consequently, its name to be removed from the list of Approved Bodies
- The following organisations no longer exist and their names to be removed from the list of Approved Bodies:
  - a) ‘The Basildon Bus Forum’
  - b) ‘The East of England LGA Employment and Skills Panel’
  - c) ‘The East of England Regional Transport Forum’ and
  - d) ‘The Essex Partnership Steering Group’

The numbering of the list of Approved Bodies as shown in Appendix 3 of part 26 of the Constitution to be amended to take account of these changes.

#### **b) Terms of Reference of the Audit, Governance and Standards Committee**

Paragraph 8.1.2 of the Constitution, Audit, Governance and Standards Committee (the terms of reference) at sub-paragraph 7 mentions ‘the Head of Internal Audit’. However, all local authorities are required by statutory guidance to identify a ‘Chief Audit Executive which is presently the Head of Assurance.

#### **Recommendation**

That references to the ‘Head of Internal Audit’ be replaced with ‘Chief Audit Executive’.

#### **c) Amendment to the Code of Conduct for Members**

On 19 September the Audit, Governance and Standards Committee deliberated upon the recent consultation of all members and a proposal to review the Code of Conduct for Members.

This would mean that members with an interest in an item would be permitted to be present in the room

- (a) if the Committee is following a process under which a member of the public might be permitted to address the committee; and
- (b) the member is present for the purposes of addressing the committee or answering questions asked by the Committee.

Members would not be permitted to be present during the debate or on any vote or decision on an item in which they have an interest which would otherwise require them to leave the room.

### **Recommendations**

That paragraphs 24.8.3 and 24.8.4 of the Constitution, Code of Conduct for Members be amended to read as follows and that current paragraph 24.8.4 becomes 24.8.5:

- '24.8.3            In addition you must withdraw from the room during the consideration of an item of business and must not participate in any debate or vote on that item of business if:
- (a) you have a **Disclosable Pecuniary Interest** in that business; or
  - (b) you have a **Code interest** which is one that a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 24.8.4            Paragraph 24.8.3 does not apply where:
- (a) A member has received a dispensation from the Monitoring Officer or the Audit, Governance and Standards Committee; or
  - (b) A meeting is operating to a procedure which would permit a member of the public to address the committee whether on the invitation of the Chairman or otherwise, but this exemption only applies for as long as the Member is either addressing the committee or answering questions asked by any member of the committee.'

#### **d) Change of definition of a key decision to exclude routine orders**

The Cabinet in February 2018 agreed that the procurement of gas and electricity services using a variable price system during which energy may be bought for a variable period of time. In order for this to work we have been advised that the Council needs to act quickly to take advantage of offers on the market. This means that orders over £2m may need to be placed at very short notice, based on professional advice.

At present, a decision to place an order over £2m would be:

- A key decision
- Required to be taken by a Cabinet Member
- Subject to call-in.

This may not be appropriate if the purchase is for routine goods and services within the scope of a contract awarded by the Council.

Following consultation with the members of the Constitutional Working Group and with their approval, it is proposed to amend the Constitution so that routine purchases for electricity or gas placed within the scope of a contract authorised by the Cabinet or a Cabinet Member are not a key decision.

The effect of this will be that such decisions can be taken by the Executive Director regardless of value and are not subject to call in.

It is also proposed that the Cabinet may apply this to other procurement activity if it is considered similar circumstances apply.

### **Recommendation**

To insert a new paragraph, 5.3.2(iv) of the Constitution (decisions which are not key decisions) as follows:

‘A decision to place an order for gas, electricity - or for such other goods and services as the Leader or the Cabinet may from time to time determine - under a contract where the scope of the Contract has been determined by the Cabinet or a Cabinet Member’