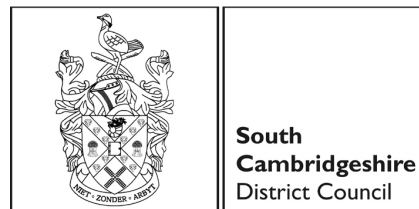


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7 December 2012

To: Chairman – Councillor Mick Martin
Vice-Chairman – Councillor Alison Elcox
Members of the Civic Affairs Committee – Councillors Simon Edwards,
Sebastian Kindersley, Douglas de Lacey, Janet Lockwood, Ray Manning,
Raymond Matthews, Tony Orgee, Jim Stewart, Edd Stonham, Robert Turner and
Bunty Waters

Quorum: 4

Dear Councillor

You are invited to attend the next meeting of **CIVIC AFFAIRS COMMITTEE**, which will be held in **MONKFIELD ROOM, FIRST FLOOR** at South Cambridgeshire Hall on **MONDAY, 17 DECEMBER 2012 at 5.00 p.m.**

Members are respectfully reminded that when substituting on committees, subcommittees, and outside or joint bodies, Democratic Services must be advised of the substitution *in advance of* the meeting. It is not possible to accept a substitute once the meeting has started. Council Standing Order 4.3 refers.

Yours faithfully
JEAN HUNTER
Chief Executive

The Council is committed to improving, for all members of the community, access to its agendas and minutes. We try to take all circumstances into account but, if you have any specific needs, please let us know, and we will do what we can to help you.

AGENDA		PAGES
1. Apologies		
2. Declarations of Interests		
3. Minutes of Previous Meeting		1 - 6
To agree the minutes of the meeting held on 24 September 2012.		
RECOMMENDATION TO COUNCIL		
4. Amendments to the Council's Constitution		7 - 34
INFORMATION ITEMS		
5. Discussion Paper: Setting up of Parish and Town Councils		35 - 52

6.	Training on Code of Conduct	53 - 54
7.	Update on Code of Conduct Complaints	55 - 56
8.	Register of Interests Update	57 - 60
9.	Letter from Brandon Lewis MP on Localism Act 2011 To note letter from Brandon Lewis MP, Under-Secretary of State for Local Government and Planning, in response to letter from the Chairman of Council expressing concerns with regard to the Localism Act 2011.	61 - 62
10.	Dates of Future Meetings Members are asked to bring their diaries.	

OUR VISION

South Cambridgeshire will continue to be the best place to live and work in the country. Our district will demonstrate impressive and sustainable economic growth. Our residents will have a superb quality of life in an exceptionally beautiful, rural and green environment. The Council will be recognised as consistently innovative and a high performer with a track record of delivering value for money by focussing on the priorities, needs and aspirations of our residents, parishes and businesses.

OUR VALUES

We will demonstrate our corporate values in all our actions. These are:

- Trust
- Mutual respect
- A commitment to improving services
- Customer service

Guidance Notes for Visitors to South Cambs Hall

While the District Council endeavours to ensure that visitors come to no harm when visiting South Cambridgeshire Hall, those visitors also have a responsibility to make sure that they do not risk their own or others' safety.

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- **Do not** use the lifts to exit the building. If you are unable to negotiate stairs by yourself, the emergency staircase landings are provided with fire refuge areas, which afford protection for a minimum of 1.5 hours. Press the alarm button and wait for assistance from the Council fire wardens or the fire brigade.
- **Do not** re-enter the building until the officer in charge or the fire brigade confirms that it is safe to do so.

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If someone feels unwell or needs first aid, please alert a member of staff.

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Recording of Business and Use of Mobile Phones

The Council is committed to openness and transparency. The Council and all its committees, sub-committees or any other sub-group of the Council or the Executive have the ability to formally suspend Standing Order 21.4 (prohibition of recording of business) upon request to enable the recording of business, including any audio / visual or photographic recording in any format.

Use of social media during meetings is permitted to bring Council issues to a wider audience. To minimise disturbance to others attending the meeting, all attendees and visitors are asked to make sure that their phones and other mobile devices are set on silent / vibrate mode during meetings.

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No member of the public shall be allowed to bring into or display at any Council meeting any banner, placard, poster or other similar item. The Chairman may require any such item to be removed.

Disturbance by Public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room. If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

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Since 1 July 2008, the Council has operated a Smoke Free Policy. Visitors are not allowed to smoke at any time within the Council offices, or in the car park or other grounds forming part of those offices.

Food and Drink

Vending machines and a water dispenser are available on the ground floor near the lifts at the front of the building. Visitors are not allowed to bring food or drink into the meeting room.

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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

Minutes of a meeting of the Civic Affairs Committee held on
Monday, 24 September 2012 at 10.30 a.m.

PRESENT:	Councillor Mick Martin – Chairman Councillor Alison Elcox – Vice-Chairman	
Councillors:	Simon Edwards Douglas de Lacey Raymond Matthews Jim Stewart Robert Turner Hazel Smith	Sebastian Kindersley Ray Manning Tony Orgee Edd Stonham Bunty Waters
Officers:	Patrick Adams Alex Colyer Fiona McMillan Virginia Lloyd	Senior Democratic Services Officer Executive Director, Corporate Services Legal & Democratic Services Manager and Monitoring Officer Lawyer
Advisors:	Kathleen English (Independent Person)	Eric Revell (Deputy Independent Person)

Apologies for absence were received from Councillor Janet Lockwood.

1. DECLARATIONS OF INTEREST

None.

2. UPDATE ON COMPLAINTS AND CONFIDENTIALITY REQUIREMENTS

The Monitoring Officer presented this item, which updated members on the complaints cases that had been dealt with under the transition arrangements set out in the Localism Act 2011 and complaints that had been made since 1 July 2012. The report also asked the Committee to set new procedures concerning the confidentiality requirements of the complaints process.

It was noted that details a confidential investigation had been made public in the media and the Committee agreed that all ongoing cases should be subject to a requirement of confidentiality by all participants in the complaints process until such time as the case is concluded. The Committee also agreed that where it had been concluded that the code had not been breached that the identity of the councillor should remain confidential unless that councillor wished to make the findings public.

It was understood that under the rules agreed by Council it was not within the Committee's remit to alter or reject the findings reached by the Monitoring Officer and the Independent Person alleged breaches of the Code of Conduct. The Committee's role was to receive reports for information only unless it was considered that a complaint should go to a hearing, when a Hearing Panel would be appointed. The Chairman stated that he would not permit the complainant or the subject member to address the Committee on the specific findings of an investigation, as it was not the Committee's role to re-open a concluded investigation.

It was noted that with regard to case 4934, volumes 2 and 3 had not be included in the

report. The Monitoring Officer assured the Committee that all the information relevant to the reporting of the case for the information of the Committee had been contained in the investigation report in the agenda. Appendices to an investigation report would not be reported back to the Committee unless a hearing panel was appointed and the panel wished to consider information contained in any appendices.

The Committee

NOTED

- A) The conclusions made with regard to the concluded cases 4929, 4934 and 35/36/38/39.
- B) The progress being made on other outstanding complaints.

The Committee

AGREED to

- A) Resolve that all ongoing cases be subject to a requirement of confidentiality by all participants in the process until such time as the case is concluded.
- B) Resolve that, where a conclusion has been reached that the code of conduct has not been breached, the identity of the councillor remains confidential, unless the councillor wishes otherwise.
- C) Resolve that where a conclusion has been reached that the code of conduct has been breached but that no hearing is necessary due to summary resolution that the investigation report will be published when the case is reported back to the committee.
- D) Resolve that where a conclusion has been reached that the code of conduct has been breached and that summary resolution is not appropriate/ possible that the investigation report will remain confidential until such time as the hearing into the complaint takes place, at which stage it will be published.

3. REVISED HEARING PROCEDURE

The Monitoring Officer presented this report, which recommended that the Committee adopt a new hearing procedure following the implementation of the requirements of the Localism Act 2011, including the outlining of a list of potential sanctions that could be applied and the appointment of a Hearings Sub-Committee and substitutes to hear complaints cases.

Sanctions available to the Committee

After a brief discussion on the merits of making minor amendments, the Committee agreed the wording of the sanctions as laid out in appendix 2 of the report, on the understanding that their effectiveness could be reviewed by the Committee at a later date.

Procedure for hearings

The Committee noted that there were some minor grammatical errors in the suggested procedure for hearings as laid out in appendix 1. The Committee resolved that delegated authority should be given to the Monitoring Officer to make the necessary minor corrections and then agree the procedure.

Appointment of Sub-Committee

The Leader of Council, Deputy Leader of Council, Chairman of Council and Major Opposition Group Leader resolved that they should not be considered for membership of the Sub-Committee at this time, which would appoint hearing panels from its membership.

The Committee

AGREED to

- A) Delegate authority to the Monitoring Officer to amend the Hearings Procedure, attached at appendix 1 of the agenda.
- B) Adopt the list of potential sanctions available to the Committee as part of the complaints procedure.
- C) Appoint Councillors Alison Elcox, Douglas de Lacey, Janet Lockwood, Mick Martin, Raymond Matthews, Jim Stewart, Edd Stonham, Robert Turner and Bunty Waters as members of a sub-committee from which three members would be asked to sit as a Hearings Panel on each occasion, with the rest of the Committee appointed as substitute members of the sub-committee.

4. GENERAL DISPENSATION REQUESTS

The Monitoring Officer presented this report, which invited the Committee to grant a "general dispensation" to all councillors under section 33 of the Localism Act 2011 in relation to matters where they had previously been given a general dispensation under the old Code of Conduct.

The Committee

RESOLVED

- A) To make a recommendation to Full Council that a decision to apply for and be granted a general dispensation is ratified by Full Council as an indication of the wishes of all members in order to satisfy the requirements of the Localism Act 2011 that each member should make an individual application in writing for a dispensation.
- B) To grant dispensations to all members of South Cambridgeshire District Council from the requirements of Section 31(4) of the Localism Act 2011 on the basis that without the dispensation the number of person prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business, such dispensation to take effect from 24th August 2012 for a period of four years. The dispensation to apply to the following decisions:
 - (i) Housing, where the Member is a tenant of the authority; provided that those functions do not relate particularly to that Member's tenancy or lease
 - (ii) Any allowance, payment, pension or indemnity given to Members
 - (iii) Setting Council Tax or a precept under the Local Government Finance Act 1992

5. CODE OF CONDUCT TRAINING FOR COUNCILLORS AND COMMITTEE MEMBERS

The Monitoring Officer presented this discussion paper, which invited the Committee to

consider options with regard to the training of District councillors, parish councillors and Committee members.

Concern was expressed with regard to the cost of an external trainer. The Monitoring Officer stated that she had already briefing sessions and issued guidance notes on the new Code of Conduct but there still appeared to be confusion with regard to some aspects of the new Code, such as the declaring of pecuniary interests, and it could be beneficial for members to hear guidance from an external source. Members of the Committee made the following suggestions:

- A Monitoring Officer from a neighbouring authority could facilitate training sessions in return for a reciprocal arrangement.
- An online course would be cost effective and could be ideal for those members unable to attend a training course.
- Combining training for parish councillors with the parish council forum was a sensible suggestion as it guaranteed attendance.

The Committee **AGREED**

- A)** To delegate the decision on organising external training for district councillors to the Monitoring Officer and Chairman of the Civic Affairs Committee.
- B)** Parish training should be carried out as suggested in the discussion paper; and
- C)** Training for hearings would be arranged as necessary if a hearing were arranged.

6. REGISTRATION OF INTERESTS UPDATE

The Monitoring Officer updated the Committee on progress made in implementing the provisions of the Localism Act 2011 in relation to registration of interests. It was noted that all 57 district councillors had now completed their registration of interests form.

Parish councils

Concerns were expressed regarding the imposition of this aspect of the Code on parish councillors. It was noted that a letter had been written to the Government stating that the requirement to publish all interests on a Council's website was discouraging parish councillors to stand and that there had been a number of resignations. It was further noted that the Council had a duty to inform parish councillors of the law and possible consequences of failing to comply with it.

In response the Monitoring Officer explained that Ordinance Survey references could be used instead of addresses to identify land owned. Only those who were likely to be subject to violence or intimidation could be given exemptions as a Sensitive Interest from the publication of their Register of Interests and a number of such requests had been received.

It was noted that a large amount of officer time had been spent advising parish councils on the code and there was still some confusion. It was further noted that dispensations could not be granted for filling out the Register of Interests form.

The Committee **NOTED** the report.

7. CORRESPONDENCE FROM TEVERSHAM PARISH COUNCIL

The Monitoring Officer brought the Committee's attention to a letter from Teversham Parish Council dated 10 September 2012, which expressed concern that there was "no provision for a Parish Council representative to consider any complaints about a Parish

Council.”

It was noted that under the new Code of Conduct parish councils would be expected to deal with their own complaints. It was further noted that 10 of the 13 Councillors on the Committee were also parish councillors and it was hoped that this fact would help allay the Parish Council’s concerns.

The Committee **NOTED** the letter from Teversham Parish Council and asked the Monitoring Officer to respond on behalf of the Committee.

8. RECORD OF DISPENSATIONS GRANTED BY THE MONITORING OFFICER

The Monitoring Officer introduced this item which detailed the two dispensation requests that she had granted under the new procedures. The Committee **NOTED** the report.

9. DATES OF FUTURE MEETINGS

The Committee arranged its next meeting for Monday 17 December at 5pm. Officers were instructed to arrange meetings for the next calendar year.

The Meeting ended at 12.30 p.m.

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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Civic Affairs Committee

17 December 2012

AUTHOR/S: Alex Colyer, Executive Director of Corporate Services

AMENDMENTS TO THE COUNCIL'S CONSTITUTION**Purpose**

1. To recommend that Council approves the amendments to the Constitution as outlined in this report.
2. This is not a key decision but changes to the Constitution must be approved by Council.

Recommendations

3. That Council be recommended to approve amendments to the Constitution, as set out in this report.

Reasons for Recommendations

4. This report suggests a number of amendments to the Council's Constitution as part of maintaining the document to reflect the introduction of new legislation, changes in legislation, the publication of new regulations or the availability of latest Government guidance, ensuring it is as up-to-date and fit for purpose as possible.

Background

5. The Constitution Review Working Party previously considered amendments to the Council's Constitution prior to the establishment of the Civic Affairs Committee earlier this year, which is now responsible for reviewing the Council's Constitution as follows: -

"To bring forward proposals which, in the opinion of the Chief Executive and Monitoring Officer, entail substantive changes to the Constitution, for consideration by the Council, excluding those matters which are specifically included within the remit of other bodies on the Council."

6. A number of suggested amendments to the Council's Constitution since the latest version was approved on 28 August 2012 are set out as part of this report as recommendations 1 to 11.

Considerations***The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012***

7. The Local Authorities (Executive Arrangements) Meetings and Access to Information (England) Regulations 2012 came into effect on 10 September 2012 and change the rules about how local authority executive decisions are taken, as well as public access to the decision-making processes. The main changes include: -

- the requirement for the Local Authority to publish a notice at least 28 clear days prior to its intention to make a key decision, superseding the requirement to produce a rolling four-month forward plan;
- the requirement for the Local Authority to publish a notice at least 28 clear days prior to its intention to hold all or part of an executive meeting in private session and a further notice at least five clear days ahead of the meeting, containing any adverse comments on the proposal to hold all or part of the meeting privately together with the executive's response to them;
- the requirement for the executive to make any material available regarding business relating to past decisions, upon request from a Member an overview and scrutiny committee. This excludes confidential or exempt information unless it relates to an action or decision that the member is scrutinising or to a review contained in the work programme of the committee;
- the requirement for the Local Authority to publish background papers on its website and make copies available for public inspection at the Council offices, upon request.

8. Proposed amendments to the Access to Information Procedure Rules section of the Council's Constitution, which incorporate these new requirements, are outlined at **Appendix A** to this report. **Appendix B** to the report shows the individual changes that have been made to the current Access to Information Procedure Rules.

Recommendation 1 – to adopt the revised Access to Information Procedure Rules attached to this report at Appendix A

Key Decisions

9. The Constitution sets out ten definitions of a key decision. Following the publication of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, a key decision is now defined as one which: -

- “1. is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
2. is likely to be significant in terms of its effect on communities living or working in an area of the District comprising two or more wards.”

Recommendation 2 – to amend the Constitution to reflect the new definitions of a key decision

Executive Meetings

10. Paragraph 1.2 of the Executive Procedure Rules currently states that the Executive, or Cabinet, will meet at least ten times per year at times to be agreed by the Leader. This does not coincide with the Council's calendar of meetings and the Leader has indicated that Cabinet does not need to meet ten times per year to conduct its business.

Recommendation 3 – to amend paragraph 1.2 of the Executive Procedure Rules to read “the Executive will meet at least six times per year at times to be agreed by the Leader”

11. In respect of meetings of individual Portfolio Holders, paragraph 3.1 of the Executive Procedure Rules states that “individual Portfolio Holders will normally hold meetings in accordance with schedules which co-ordinate with the work programme for that Portfolio”. This statement is potentially misleading as Portfolio Holders are not required to formally meet to discuss any decision that they are able to take under their delegated authority.

Recommendation 4 – to replace paragraph 3.1 of the Executive Procedure Rules to read “individual Portfolio Holders may take decisions outside of a formal meeting where expedient to do so. Formal meetings, when held, will be held in public in accordance with the provisions of procedure rules 1.3 and 1.6 above”

12. The Executive Procedure Rules still refer to prejudicial interests in some instances. Prejudicial interests are no longer used following the introduction of the Localism Act 2011 and new rules regarding the declaration of Members’ interests.

Recommendation 5 – to amend reference to prejudicial interests in the Executive Procedure Rules to read “disclosable pecuniary interests”

Risk Management Strategy

13. The Constitution currently provides for the Corporate Governance Committee to receive the Strategic Risk Register on a quarterly basis. The Corporate Governance Committee has recently agreed to monitor the Portfolio Holder’s review of the Strategic Risk Register as part of its annual review of the Risk Management Strategy. The Committee therefore considers that a quarterly review of the document is no longer necessary.

Recommendation 6 – to remove the following paragraph under the Responsibility for Council Functions on pages 41 and 42 of the Constitution in respect of the Corporate Governance Committee: -

“(ii) to receive quarterly, the strategic risk register, covering reports and other associated documents presented to the appropriate portfolio holder, together with the minutes of the portfolio holder meetings, to monitor that the strategic risk register has been properly considered by the portfolio holder”

Scrutiny and Overview Committee

14. The Chairman of the Scrutiny and Overview Committee has requested that the Committee be renamed as the “Overview and Scrutiny Committee”. This is in keeping with the majority of other local authorities in the county whose scrutiny bodies are known as Overview and Scrutiny Committees rather than Scrutiny and Overview Committees. This proposal will also be considered by the Scrutiny and Overview Committee when it meets in January 2013.

Recommendation 7 – to change the name of the Council’s Scrutiny and Overview Committee to “Overview and Scrutiny Committee”

15. There is currently no reference in the Council’s Constitution to the Councillor Call for Action. This process gives any Member the right to refer a ‘local government matter’ to the District Council’s Scrutiny and Overview Committee as well as to the County Council’s relevant Overview and Scrutiny Committee, whether they are a Member of the authority or not. In all instances, however, the intention is that Members will have tried all other means at their disposal to resolve an issue before instigating a Councillor Call for Action. It should be noted that this process is not an alternative

way to deal with normal ward matters, but is a means of last resort to be used when all other avenues have been exhausted. A suggested approach to dealing with Councillor Calls for Action is attached to this report at **Appendix C**.

16. This proposal will also be considered by the Scrutiny and Overview Committee when it meets in January 2013

Recommendation 8 – to include a process in the Scrutiny and Overview Committee Procedure Rules for dealing with a Councillor Call for Action as set out in Appendix C to the report

17. All local authorities are required to allocate one of their overview and scrutiny committees to act as a Crime and Disorder Committee for the purposes of Sections 19 and 20 of the Police and Justice Act 2006 in relation to crime and disorder matters. These requirements were enacted by the Crime and Disorder (Overview and Scrutiny) Regulations 2009.
18. Under the legislation the Committee can: -
- consider the decisions and actions undertaken by the responsible authorities involved in the Crime and Disorder Reduction Partnership (CDRP) and to make any recommendations and reports to the CDRP;
 - request information from the responsible authorities;
 - require attendance of officers or employees or responsible authorities to answer questions or to provide information;
 - receive Councillor Calls for Action in relation to crime and disorder and community safety issues in accordance with the Police and Justice Act 2006.
19. Crime and disorder matters are defined as: -
- a) anti-social behaviour or other behaviour adversely affecting the local environment; or
 - b) the misuse of drugs, alcohol and other substances which affect all or part of a Members' electoral ward or any person who lives or works in the electoral ward.
20. This proposal will also be considered by the Scrutiny and Overview Committee when it meets in January 2013.

Recommendation 9 – to allocate the Scrutiny and Overview Committee as the Council's Crime and Disorder Committee, amending the Constitution accordingly, and ensure that it meets in this capacity at least once a year

21. The Scrutiny and Overview Committee Procedure Rules refer to Task and Finish Panels and Task and Finish Groups, both meaning the same thing. It is suggested that the term "Task and Finish Group" is used throughout the Scrutiny and Overview Committee Procedure Rules, in order to avoid confusion.

Recommendation 10 – to use the term "Task and Finish Group" throughout the Constitution in place of "Task and Finish Panel", where appropriate

- Removal of a Member from a Council Committee or Sub-Committee, removal of a Member from Cabinet and removal of a Member as Leader of the Council***
22. Paragraph 2.2 under the Council's Standing Orders refers to the removal of a Member from a Council Committee or Sub-Committee. The Civic Affairs Committee at its meeting on 24 September 2012 agreed to introduce the following sanctions relating to this issue: -

- recommend to the Member's Group Leader (or in the case of un-grouped Members, recommend to Council or to Committees/Sub-Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- recommend to Council that the Member be replaced as Leader of the Council.

Recommendation 11 – to amend the title of paragraph 2.2 of the Council Procedure Rules to read “removal of a Member from a Council Committee or Sub-Committee, removal of a Member from Cabinet and removal of a Member as Leader of the Council” and replace the existing wording of the paragraph itself with the sanctions of the Civic Affairs Committee as set out above

New model constitution

23. The model constitution which was issued alongside the Local Government Act 2000 by the Government has never been revised and each local authority which adopted it has made its own revisions on an ad hoc basis since then. The Government are looking to the Association of Council Secretaries and Solicitors (ACSeS) to create a new model constitution which will incorporate legal and governance changes since its inception alongside examples of best practice. ACSeS has commissioned Dickinson Dees (Solicitors) to prepare a new model constitution for all English councils which would be hosted for all ACSeS members on a web-based platform. Work is now well advanced on this project with software designed to allow for the quick and easy production of a draft constitution from a bank of precedents, tailor-made for the differing models of council governance and incorporating the unique features of each council. It is hoped that the version for councils with executives will be ready to use in the New Year.

Options

- Recommendation 1
24. The proposed amendments to the Council's Access to Information Procedure Rules ensure that the authority is compliant with the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. No other options are therefore proposed.
- Recommendation 2
25. The proposed amendments in relation to key decisions reflect the guidance published following the introduction of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. No other options are therefore proposed.
- Recommendation 3
26. An option is not to make any changes to the number of meetings Cabinet is required to hold and retain this at ten meetings per year.
- Recommendation 4
27. An option is not to make any changes to paragraph 3.1 in the Executive Procedure Rules, retaining the existing wording. Portfolio Holders can make decisions outside of public meetings and the recommendation seeks to add clarity around this issue to avoid any potential for confusion.

Recommendation 5

28. The proposed amendment to the Executive Procedure Rules regarding reference to prejudicial interests follows the introduction of the Localism Act 2011. No other options are therefore proposed.

Recommendation 6

29. The Corporate Governance Committee has already agreed to monitor the Risk Register as part of its annual review of the Risk Management Strategy. An option is to request that the Corporate Governance Committee reconsiders its decision and continues to receive the Strategic Risk Register on a quarterly basis.

Recommendation 7

30. An option is to maintain the current name of the Scrutiny and Overview Committee. The Chairman of the Committee has requested a change in name so that South Cambridgeshire District Council's scrutiny function mirrors the majority of other local authorities in the country, however, this proposal will not be considered by the Scrutiny and Overview Committee itself until January 2013.

Recommendation 8

31. The Local Government and Public Involvement in Health Act 2007 provides Members with a right to submit a Councillor Call for Action. The process set out in Appendix C provides the Council with a basis for processing such submissions. No other options are therefore proposed, however, this proposal is scheduled to be considered by the Scrutiny and Overview Committee at its meeting in January 2013.

Recommendation 9

32. Local Authorities are required to allocate one of their overview and scrutiny committees to act as a Crime and Disorder Committee as part of the Police and Justice Act 2006, as amended by Section 126 of the Local Government and Public Involvement in Health Act 2007. The existing Scrutiny and Overview Committee could allocate a section of one of its meetings, or even hold an additional meeting, to meet in its capacity as the Council's Crime and Disorder Committee at least once a year, fulfilling the authority's statutory requirements in this respect.

33. An option is the establishment of another overview and scrutiny committee, whose sole remit will be to consider issues relating to crime and disorder matters. This will impact the political balance on the Council's committees as the introduction of a new committee will mean the allocation of additional seats to political groups, which will have to reflect the political makeup of the authority.

34. This proposal is scheduled to be considered by the Scrutiny and Overview Committee at its meeting in January 2013.

Recommendation 10

35. This recommendation seeks the consistent use of the term "Task and Finish Group" throughout the Constitution and deletion of any reference to the term "Task and Finish Panel". No other options are proposed.

Recommendation 11

36. The Civic Affairs Committee has already agreed to the sanctions referred to as part of this recommendation. No other options are therefore proposed.

Implications

37.	Financial	None.
	Legal	The majority of the amendments to the Constitution set out above are necessary following the introduction of new legislation, changes in legislation and the publication of new regulations to ensure the Constitution is up-to-date.
	Staffing	None specific.
	Risk Management	A number of the recommended amendments to the Constitution outlined in this report seek to ensure that the Constitution is up-to-date and fit for purpose. Recommendations 1, 2, 5, 8 and 9 address legislative requirements. The Local Authority could face legal challenge if the Constitution is not amended to address the issues highlighted in the respective sections of this report.
	Equality and Diversity	The Council's Equality Impact Assessment screening process was followed in relation to this report, further to which no concerns in relation to equality and diversity were identified.
	Equality Impact Assessment completed	No. This is primarily an administrative matter only.
	Climate Change	None specific.

Consultations

38. No consultation has been carried out at this stage. It is usual practice for the Civic Affairs Committee to consider changes to the Constitution and submit recommendations to Council, if necessary.

Consultation with Children and Young People

39. No consultation with children and young people has taken place on the content of this report.

Effect on Strategic Aims

40. The content of this report will have no effect on the delivery of the Council's strategic aims.

Conclusions / Summary

41. The Civic Affairs Committee is invited to consider the eleven recommendations set out in this report as a basis for submitting a recommendation to the Council on amendments to the Constitution.

Background Papers: the following background papers were used in the preparation of this report:

The Localism Act 2011
The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Contact Officer: Graham Aisthorpe-Watts – Democratic Services Team Leader
Telephone: (01954) 713030

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Access to Information Procedure Rules

1. Scope

These rules apply to all meetings of the Council, Scrutiny and Overview Committee, area and joint committees (if any), the Civic Affairs Committee, Portfolio Holder meetings and regulatory committees and public meetings of the Executive (together called meetings). It is a matter for advisory groups to determine to what extent the public should be excluded from group meetings. Whilst these Rules do not apply to advisory group meetings the Council will have regard to paragraphs 4 – 8 of these Rules and the general desirability of openness.

2. Additional Rights to Information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. Rights to Attend and Speak at Meetings

- Members of the public may attend all meetings subject only to exclusions set out in Rule 10 (Exclusion of Access by the Public to Meetings) or where an Advisory Group has determined that its meetings should not be open to the public.
- At the discretion of the Chairman of the Council, Cabinet or Scrutiny and Overview Committee, members of the public may ask questions at those meetings.
- At the discretion of the Chairman, members of the public may make a further statement at Scrutiny and Overview Committee meetings on matters relevant to that committee.
- Guidelines for members of the public wishing to speak at Scrutiny and Overview Committee are set out in Part 5 – Codes and Protocols; these guidelines may be changed at any time by the Scrutiny and Overview Committee.
- Members of the public shall be entitled to speak at meetings of the Planning Committee in accordance with a scheme agreed by the Council and reviewable by the committee as appropriate.

Subject to Rule 10 a UNISON representative, acting as such, may attend any meeting of the Executive or committee of the Executive. At the discretion of the Leader, or other person presiding at the meeting, he or she may speak at the meeting on any matter relevant to officers of the Council.

4. Notices of Meeting

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at all offices of the Council and on the Council's web site, www.scambs.gov.uk.

5. Access to Agenda and Reports Before the Meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on the Council's web site at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda.

6. Supply of Copies

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda;
- (c) any written record of executive decisions;
- (d) any background papers; and
- (e) if the proper officer thinks fit, copies of any other documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other costs.

7. Access to Minutes etc after the Meeting

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. Background Papers

8.1 List of background papers

The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his / her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report but do not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and, in respect of executive reports, the advice of a political advisor.

8.2 Public inspection of background papers

The Council will make available for public inspection for six years after the date of the meeting one copy of each of the documents on the list of background papers. One copy of each of the documents will be retained for this purpose and will also be available on the Council's website, www.scambs.gov.uk.

9. Summary of Public's Rights

These Access to Information Procedure Rules are the Council's written summary of the public's rights to attend meetings and to inspect and copy documents. They are available for public inspection, together with the whole Constitution, at South Cambridgeshire Hall, Cambourne Business Park, Cambourne, Cambridge, CB3 6EA and on the Council's website, www.scambs.gov.uk.

10. Exclusion of Access by the Public to Meetings

10.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order.

10.4 Meaning of exempt information

Exempt information means information falling within the following categories (subject to any relevant conditions):

	Category	Condition
1.	Information relating to any individual	
2.	Information which is likely to reveal the identity of an individual	
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information is not exempt information if it is required to be registered under: (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) the Friendly Societies Act 1992 (d) the Industrial and Provident Societies Acts 1965 to 1978 (e) the Building Societies Act 1986 (f) the Charities Act 1993
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6.	Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

8. (7A)	Information which is subject to any obligation of confidentiality.	Relates to meetings of Civic Affairs Committee / sub-committee convened to consider a matter referred under the provisions of paragraph 10 of the Schedule
9. (7B)	Information which relates in any way to matters concerning national security	Relates to meetings of Civic Affairs Committee / sub-committee convened to consider a matter referred under the provisions of paragraph 10 of the Schedule
10. (7C)	The deliberations of the Civic Affairs committee or a sub-committee of the Civic Affairs committee reaching any finding on a matter referred under the provisions of The Localism Act 2011 in relation to the Code of Conduct. .	

Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

Information which:

- (a) falls within any of categories 1 to 10 (7C) above; and
- (b) is not prevented from being exempt by virtue of the conditions attached to paragraph 3 or regulation 3 of the Town and Country Planning General Regulations 1992

is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. Exclusion of Access by the Public to Reports

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12. Application of Rules to the Executive

Rules 13 - 24 apply to the Executive and its committees. If the Executive or its committees meet to take a key decision then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) applies. A key decision is as defined in Article 13.03 of this Constitution.

13. Procedure Before Taking Key Decisions

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision shall not be taken unless:

- (a) a notice in connection with the matter in question has been published at least 28 clear days before the decision is to be taken, setting out: -
 - the matter in respect of which the decision is to be made;
 - where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
 - the date on which, or the period within which, the decision is to be made;

- a list of the documents submitted to the decision maker for consideration in relation to the matter, including details of where they are to be made available for public inspection;
- (b) where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (Notice of Meetings).

A forward plan will be prepared on a monthly basis by the Leader of the Council to cover a period of one month and will be used to give non-statutory advance notice of future decisions.

The forward plan will contain matters which the Leader of the Council has reason to believe will be subject of a key decision to be taken by the Executive, a committee of the Executive, individual members of the Executive, officers, area committees or under joint arrangements in the course of the discharge of an executive function 28 clear days following the publication of the plan. It will describe the same particulars as listed under (a) above.

Notices will not include any exempt or confidential information.

14. Private meetings of the Executive

If the Executive, a committee of the Executive, individual members of the Executive, officers, or area committees operating under joint arrangements in the course of the discharge of an executive function takes a decision to hold a meeting, or part of a meeting, during which the public are excluded subject to Rule 10 above (Exclusion of Access by the Public to Meetings) and/or Rule 11 (Exclusion of Access by the Public to Reports), public notice will be made at least 28 clear days before the date of the intention to hold a private meeting. This notice will include the reasons given for the likely public exclusion from all or part of the meeting.

A further notice will be published five clear days before the meeting, which will include details of any representations made to the decision-maker about reasons given for the likely public exclusion and the response of the decision-maker to such representations.

15. General Exception

If a matter which the Leader of the Council has reason to believe will be subject of a key decision at least 28 clear days before the date on which the decision is to be taken then, subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the proper officer has informed the Chairman of the Scrutiny and Overview Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (b) the proper officer has made copies of that notice available to the public at the offices of the Council and on the Council's website, www.southcambs.gov.uk; and
- (c) at least five clear days have elapsed since the proper officer complied with (a) and (b) above.

16. Special Urgency

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Scrutiny and Overview Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Scrutiny and

Overview Committee, or if he / she is unable to act, then the agreement of the Chairman of the Council, or in his / her absence the Vice-Chairman will suffice.

As soon as the decision-maker has obtained agreement, the proper officer will make a copy of a notice available to the public at the offices of the Council and on the Council's website, www.southcambbs.gov.uk, setting out the reasons why the decision is urgent and cannot be reasonably deferred.

17. Report to Council

17.1 When the Scrutiny and Overview Committee can require a report

If the Scrutiny and Overview Committee thinks that a decision has been taken which should have been treated as a key decision, in accordance with the definition of a key decision as set out in paragraph 13.03 of Article 3 in this Constitution, the Committee may require the Leader of the Council, or the executive decision-maker, to submit a report to the Council. The Scrutiny and Overview Committee may by resolution request such a report, but the proper officer will also require a report when so requested by the Chairman or five members of the Scrutiny and Overview Committee.

17.2 Executive's report to Council

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the resolution of the committee or request, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

17.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. Recording and Publication of Decisions

18.1 After any meeting of the Executive or any of its committees, whether held in public or private, the proper officer or, where no officer was present, the person presiding at the meeting, will produce a written record of every decision taken at that meeting as soon as practicable, which will include: -

- a) a record of the decision including the date it was made;
- b) a record of the reasons for the decision;
- c) details of any alternative options considered and rejected by the decision-maker at the meeting at which the decision was made;
- d) a record of any interest relating to the matter decided which is declared by any member of the decision-making body; and
- e) in respect of declarations of interest, a note of any dispensations granted.

18.2 When a decision is made by an individual member of the Executive or a key decision is made by an officer with delegated authority from the Executive, the proper officer will be instructed to produce a written statement of the decision as soon as practicable, which shall include: -

- a) a record of the decision including the date it was made;
- b) a record of the reasons for the decision;
- c) details of any alternative options considered and rejected by the decision-maker when making the decision;

- d) a record of any declarations of interest relating to the decision which have been made by any member of the Executive who is consulted by the decision-maker; and
- e) in respect of declarations of interest, a note of any dispensations granted.

18.3 The record in 18.1 and 18.2 will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless called in under Rule 7 of the Budget and Policy Framework Procedure Rules or Rule 12 of the Scrutiny and Overview Committee Procedure Rules.

19. Executive Meetings Relating to Matters which are Not Key Decisions

Meetings relating to matters which are not key decisions will be held in public unless the Executive determines otherwise.

20. Notice of Meeting of the Executive

Members of the Executive or its committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

21. Attendance at Meetings of the Executive

- (a) A councillor may attend and may speak at any meeting of the Executive or any committee or group of the Executive where a matter on the agenda for that meeting is stated to relate specifically to his or her ward.
- (b) Any other councillor may be invited by the Executive or any committee or group of the Executive to attend any meeting on any issue.

22. Decisions by Individual Members of the Executive

22.1 Decision-making

Decisions by individual members of the Executive shall be made in public, except where the provisions of Rule 10 (Exclusion of Access by the Public to Meetings) apply.

22.2 Reports intended to be taken into account

Where an individual member of the Executive receives a report which he / she intends to take into account in making any key decision, then he / she will not make the decision until at least five clear days after receipt of that report.

22.3 Provision of copies of reports to Scrutiny and Overview Committee

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of the Scrutiny and Overview Committee as soon as reasonably practicable, and make it publicly available at the same time.

22.4 Record of individual decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Executive or a key decision has been taken by an officer, he / she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information.

23. Scrutiny and Overview Committee Access to Documents**23.1 Rights to copies**

Subject to Rule 23.2 below, the Scrutiny and Overview Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to:

- (a) any business transacted at a public or private meeting of the Executive or its committees;
- (b) any decision taken by an individual member of the Executive; and
- (c) any decision made by an officer in accordance with executive arrangements.

23.2 The Executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the request has been received by the Executive.

23.3 Limit on rights

The Scrutiny and Overview Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; and
- (c) any document or part of a document containing the advice of a political adviser.

24. Additional Rights of Access for Members**24.1 Material relating to previous business**

All members are entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting unless it appears to the Monitoring Officer that it discloses exempt information:

- (a) as described in categories 1, 2, 4, 5 or 7 of Part 1 of Schedule 12A of the Act; or
- (b) relating to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
- (c) involving the disclosure of advice provided by a political advisor or assistant.

Exempt information as described in category 3 (except to the extent described in 24.1(b) above) or category 6 of Part 1 of Schedule 12A is open to inspection by members.

24.2 Material relating to key decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its committees which relates to any key decision unless paragraph (a) or (b) above applies.

24.3 Nature of rights

These rights of a member are additional to any other right he / she may have.

Access to Information Procedure Rules

1. Scope

These rules apply to all meetings of the Council, Scrutiny and Overview Committee, area and joint committees (if any), the Civic Affairs Committee, Portfolio Holder meetings and regulatory committees and public meetings of the Executive (together called meetings). It is a matter for advisory groups to determine to what extent the public should be excluded from group meetings. Whilst these Rules do not apply to advisory group meetings the Council will have regard to paragraphs 4 – 8 of these Rules and the general desirability of openness.

2. Additional Rights to Information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. Rights to Attend and Speak at Meetings

- Members of the public may attend all meetings subject only to exclusions set out in Rule 10 (~~confidential and exempt information~~Exclusion of Access by the Public to Meetings) or where an Advisory Group has determined that its meetings should not be open to the public.
- At the discretion of the Chairman of the Council, Cabinet or Scrutiny and Overview Committee, members of the public may ask questions at those meetings.
- At the discretion of the Chairman, members of the public may make a further statement at Scrutiny and Overview Committee meetings on matters relevant to that committee.
- Guidelines for members of the public wishing to speak at Scrutiny and Overview Committee are set out in Part 5 – Codes and Protocols; these guidelines may be changed at any time by the Scrutiny and Overview Committee.
- Members of the public shall be entitled to speak at meetings of the Planning Committee in accordance with a scheme agreed by the Council and reviewable by the committee as appropriate.

Subject to Rule 10, a UNISON representative, acting as such, may attend any meeting of the Executive or committee of the Executive; ~~a~~At the discretion of the Leader, or other person presiding at the meeting, he or she may speak at the meeting on any matter relevant to officers of the Council.

4. Notices of Meeting

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at all offices of the Council and on the Council's web site, www.scambs.gov.uk.

5. Access to Agenda and Reports Before the Meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on the Council's web site at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda.

6. Supply of Copies

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- ~~(b)~~ (b) any further statements or particulars necessary to indicate the nature of the items in the agenda;
- ~~(c)~~ (c) any written record of executive decisions;
- ~~(d)~~ (d) any background papers; -and-

- (e) ~~(e)~~ if the proper officer thinks fit, copies of any other documents supplied to councillors ~~in connection with an item to any person on payment of a charge for postage and any other costs.~~
~~to any person on payment of a charge for postage and any other costs.~~

7. Access to Minutes etc after the Meeting

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. Background Papers

8.1 List of background papers

The proper officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his / her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- ~~(b) which have been relied on to a material extent in preparing the report but do not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and, in respect of executive reports, the advice of a political advisor.~~
~~but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of a political advisor.~~

8.2 Public inspection of background papers

The Council will make available for public inspection for ~~six~~four years after the date of the meeting one copy of each of the documents on the list of background papers. One copy of each of the documents will be retained for this purpose and will also be available on the Council's website, www.scambs.gov.uk.

9. Summary of Public's Rights

~~These Access to Information Procedure Rules are the Council's~~A written summary of the public's rights to attend meetings and to inspect and copy documents. They are available for public inspection, together with the whole Constitution, at South Cambridgeshire Hall, Cambourne Business Park, Cambourne, Cambridge, CB3 6EA- and on the Council's website, www.scambs.gov.uk.~~must be kept at and available to the public at the Council's offices.~~

10. Exclusion of Access by the Public to Meetings

10.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure ~~or~~ information which cannot be publicly disclosed by any enactment or Court Order.

10.4 Meaning of exempt information

Exempt information means information falling within the following categories (subject to any relevant conditions):

	Category	Condition
1.	Information relating to any individual	
2.	Information which is likely to reveal the identity of an individual	
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information is not exempt information if it is required to be registered under: (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) the Friendly Societies Act 1992 (d) the Industrial and Provident Societies Acts 1965 to 1978 (e) the Building Societies Act 1986 (f) the Charities Act 1993
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6.	Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	
8. (7A)	Information which is subject to any obligation of confidentiality.	Relates to meetings of Civic Affairs Committee / sub-committee convened to consider a matter referred under the provisions of paragraph 10 of the Schedule
9. (7B)	Information which relates in any way to matters concerning national security	Relates to meetings of Civic Affairs Committee / sub-committee convened to consider a matter referred under the provisions of paragraph 10 of the Schedule
10. (7C)	The deliberations of the Civic Affairs committee or a sub-committee of the Civic Affairs committee reaching any finding on a matter referred under the provisions of The Localism Act 2011 in relation to the Code of Conduct. .	

Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

Information which:

- (a) falls within any of categories 1 to 10 (7C) above; and
- (b) is not prevented from being exempt by virtue of the conditions attached to paragraph 3 or regulation 3 of the Town and Country Planning General Regulations 1992

is exempt information if and so long ~~as~~ in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest ~~in~~ disclosing the information.

11. Exclusion of Access by the Public to Reports

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12. Application of Rules to the Executive

Rules 13 - 24 apply to the Executive and its committees. If the Executive or its committees meet to take a key decision then it must also comply with Rules 1 - 11 unless Rule 15 (general exception) or Rule 16 (special urgency) applies. A key decision is as defined in Article 13.03 of this Constitution.

13. Procedure Before Taking Key Decisions

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision ~~shall~~ may not be taken unless:

- (a) ~~a notice (called here a forward plan) has been published~~ in connection with the matter in question has been published at least 28 clear days before the decision is to be taken, setting out: -
 - the matter in respect of which the decision is to be made;
 - where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;
 - the date on which, or the period within which, the decision is to be made;
- ~~(a)~~ a list of the documents submitted to the decision maker for consideration in relation to the matter, including details of where they are to be made available for public inspection;
- ~~(b)~~ at least five clear days have elapsed since the publication of the forward plan; and
- ~~(c)~~ (b) where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (Nnotice of Mmeetings).

A forward plan will be prepared on a monthly basis by the Leader of the Council to cover a period of one month and will be used to give non-statutory advance notice of future decisions.

The forward plan will contain matters which the Leader of the Council has reason to believe will be subject of a key decision to be taken by the Executive, a committee of the Executive, individual members of the Executive, officers, area committees or under joint arrangements in the course of the discharge of an executive function 28 clear days following the publication of the plan. It will describe the same particulars as listed under (a) above.

Notices will not include any exempt or confidential information.

14. The Forward Plan Private meetings of the Executive

If the Executive, a committee of the Executive, individual members of the Executive, officers, or area committees operating under joint arrangements in the course of the discharge of an executive function takes a decision to hold a meeting, or part of a meeting, during which the public are excluded subject to Rule 10 above (Exclusion of Access by the Public to Meetings) and/or Rule 11 (Exclusion of Access by the Public to Reports), public notice will be made at least 28 clear days before the date of the intention to hold a private meeting. This notice will include the reasons given for the likely public exclusion from all or part of the meeting.

A further notice will be published five clear days before the meeting, which will include details of any representations made to the decision-maker about reasons given for the likely public exclusion and the response of the decision-maker to such representations.

14.1 Period of forward plan

~~Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.~~

14.2 Contents of forward plan

~~The forward plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Executive, a committee of the Executive, individual members of the Executive, officers, area committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:~~

- ~~(a) the matter in respect of which a decision is to be made;~~
- ~~(b) where the decision taker is an individual, his / her name and title, if any and where the decision taker is a body, its name and details of membership;~~
- ~~(c) the date on which, or the period within which, the decision is taken;~~
- ~~(d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;~~
- ~~(e) the means by which any such consultation is proposed to be undertaken;~~
- ~~(f) the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and~~
- ~~(g) a list of the documents submitted to the decision taker for consideration in relation to the matter.~~

~~14.3 The forward plan must be published at least fourteen days before the start of the period covered. The proper officer will publish once a year a notice in at least one newspaper circulating in the area, stating:~~

- ~~(a) that key decisions are to be taken on behalf of the Council;~~
- ~~(b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;~~
- ~~(c) that the plan will contain details of the key decisions to be made for the four month period following its publication;~~
- ~~(d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;~~
- ~~(e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;~~
- ~~(f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;~~
- ~~(g) that other documents may be submitted to decision takers;~~

- ~~(h) — the procedure for requesting details of documents (if any) as they become available; and~~
- ~~(i) — the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.~~

~~Exempt information need not be included in a forward plan and confidential information cannot be included.~~

15. General Exception

If a matter which ~~is the Leader of the Council has reason to believe will be subject of likely to be~~ a key decision ~~at least 28 clear days before the date on which the decision is to be taken then, has not been included in the forward plan, then~~ subject to Rule 16 (special urgency), the decision may still be taken if:

- ~~(a) — the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;~~
- ~~(b)(a)~~ the proper officer has informed the Chairman of the Scrutiny and Overview Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- ~~(c)(b)~~ the proper officer has made copies of that notice available to the public at the offices of the Council and on the Council's website, www.southcambs.gov.uk; and
- ~~(d)(c)~~ at least five clear days have elapsed since the proper officer complied with (a) and (b) above.

~~Where such a decision is taken collectively, it must be taken in public.~~

16. Special Urgency

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Scrutiny and Overview Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Scrutiny and Overview eCommittee, or if ~~the Chairman he / she of the Scrutiny and Overview Committee~~ is unable to act, then the agreement of the Chairman of the Council, or in his / her absence the Vice-Chairman will suffice.

As soon as the decision-maker has obtained agreement, the proper officer will make a copy of a notice available to the public at the offices of the Council and on the Council's website, www.southcambs.gov.uk, setting out the reasons why the decision is urgent and cannot be reasonably deferred.

17. Report to Council

17.1 When the Scrutiny and Overview Committee can require a report

If the Scrutiny and Overview Committee thinks that a ~~key~~ decision has been taken which should have been treated as a key decision, in accordance with the definition of a key decision as set out in paragraph 13.03 of Article 3 in this Constitution, was not:

included in the forward plan; the Committee may require the Leader of the Council, or the executive decision-maker, to submit a report to the Council. The Scrutiny and Overview Committee may by resolution request such a report, but the proper officer will also require a report when so requested by the Chairman or five members of the Scrutiny and Overview Committee.

- ~~(a) or~~
- ~~(b) — the subject of the general exception procedure; or~~
- ~~(c) — the subject of an agreement with the Scrutiny and Overview Committee Chairman, or the Chairman / Vice-Chairman of the Council under Rule 16;~~

~~the committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the proper officer, who shall require such a report on behalf of the committee when so requested by the Chairman or any five members. Alternatively the requirement may be raised by resolution passed at a meeting of the Scrutiny and Overview Committee.~~

17.2 Executive's report to Council

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of ~~the written notice, or~~ the resolution of the committee or request, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

17.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. Recording and Publication of Decisions

18.1

After any meeting of the Executive or any of its committees, whether held in public or private, the proper officer or, where no officer was present, the person presiding at the meeting, will produce a written record of every decision taken at that meeting as soon as practicable, which will include: ~~The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.~~

- a) a record of the decision including the date it was made;
- b) a record of the reasons for the decision;
- c) details of any alternative options considered and rejected by the decision-maker at the meeting at which the decision was made;
- d) a record of any interest relating to the matter decided which is declared by any member of the decision-making body; and
- e) in respect of declarations of interest, a note of any dispensations granted.

18.2

When a decision is made by ~~the Executive, an individual member of the Executive or a committee of the Executive, or a~~ key decision is made by an officer with delegated authority from the Executive, ~~or an area committee or under joint arrangements,~~ the proper officer will be instructed to produce a written statement of the decision as soon as practicable, which shall include: -

- a) a record of the decision including the date it was made;
- b) a record of the reasons for the decision;
- c) details of any alternative options considered and rejected by the decision-maker when making the decision;
- d) a record of any declarations of interest relating to the decision which have been made by any member of the Executive who is consulted by the decision-maker; and
- e) in respect of declarations of interest, a note of any dispensations granted.

~~the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within five days of being made. The Chairman of the Scrutiny and Overview Committee will be sent copies of the records of all such decisions within the same timescale by the person responsible for publishing the decision.~~

18.3

~~The~~ record in 18.1 and 18.2 will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five

working days after the publication of the decision, unless called in under Rule 7 of the Budget and Policy Framework Procedure Rules or Rule 12 of the Scrutiny and Overview Committee Procedure Rules.

19. Executive Meetings Relating to Matters which are Not Key Decisions

Meetings relating to matters which are not key decisions will be held in public unless the Executive determines otherwise.

20. Notice of Meeting of the Executive

Members of the Executive or its committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

21. Attendance at Meetings of the Executive

- (a) A councillor may attend and may speak at any meeting of the Executive or any committee or group of the Executive where a matter on the agenda for that meeting is stated to relate specifically to his or her ward.
- (b) Any other councillor may be invited by the Executive or any committee or group of the Executive to attend any meeting on any issue.

22. Decisions by Individual Members of the Executive

22.1 Decision-making

Decisions by individual members of the Executive shall be made in public, except where the provisions of Rule 10 (Exclusion of ~~A~~access by the ~~P~~public to ~~the m~~Meetings) apply.

22.2 Reports intended to be taken into account

Where an individual member of the Executive receives a report which he / she intends to take into account in making any key decision, then he / she will not make the decision until at least five clear days after receipt of that report.

22.3 Provision of copies of reports to Scrutiny and Overview Committee

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of the Scrutiny and Overview Committee as soon as reasonably practicable, and make it publicly available at the same time.

22.4 Record of individual decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Executive or a key decision has been taken by an officer, he / she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information.

23. Scrutiny and Overview Committee Access to Documents

23.1 Rights to copies

Subject to Rule 23.2 below, the Scrutiny and Overview Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to:

- (a) any business transacted at a public or private meeting of the Executive or its committees; ~~or~~
- (b) any decision taken by an individual member of the Executive; and
- (c) any decision made by an officer in accordance with executive arrangements.-

23.2 The Executive must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the request has been received by the Executive.

23.32 Limit on rights

The Scrutiny and Overview Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; and
- ~~(b)~~ (c) any document or part of a document containing the advice of a political adviser.

24. Additional Rights of Access for Members

24.1 Material relating to previous business

All members are entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting unless it appears to the Monitoring Officer that it discloses exempt information:

- (a) as described in categories 1, 2, 4, 5 or 7 of Part 1 of Schedule 12A of the Act; or
- (b) relating to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
- (c) involving the disclosure of advice provided by a political advisor or assistant.

Exempt information as described in category 3 (except to the extent described in 24.1(b) above) or category 6 of Part 1 of Schedule 12A is open to inspection by members.

24.2 Material relating to key decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its committees which relates to any key decision unless paragraph (a) or (b) above applies.

24.3 Nature of rights

These rights of a member are additional to any other right he / she may have.

Suggested process to be followed for dealing with a Councillor Call for Action

Any Member may submit a request for a Councillor Call for Action in accordance with the provisions set out in these paragraphs. A Councillor Call for Action may be included on the agenda of the Scrutiny and Overview Committee if all of the following conditions are met: -

- a) the Councillor Call for Action must relate to a local government matter, which is defined as a function for which the District Council is responsible.
- b) the Councillor Call for Action cannot relate to an excluded matter, such as anything specified in an order by the Secretary of State;
- c) the Councillor Call for Action must relate to an issue of neighbourhood concern and be limited to all or part of the electoral ward which the Councillor submitting the request represents;
- d) the Councillor Call for Action request cannot relate to a matter which could be subject to the District Council's complaints process;
- e) the Councillor Call for Action request cannot relate to a licensing or planning appeal, where alternative means of resolution are available;
- f) the Councillor submitting the Councillor Call for Action must submit evidence that all other means of resolving the matter have been explored;
- g) the Councillor Call for Action should not have been considered under the Councillor Call for Action procedure in the previous six months prior to the date of submission of the Councillor Call for Action request.

Taking into account the provisions in paragraphs (1) – (5) above, the Proper Officer, in liaison with the Chairman of the Scrutiny and Overview Committee, will determine whether the Councillor Call for Action is to be included on the agenda of the next available meeting of the Scrutiny Overview Committee. If the Councillor Call for Action request is rejected, this will be reported to the next meeting of the Scrutiny and Overview Committee.

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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Civic Affairs Committee

17 December 2012

AUTHOR/S: Alex Colyer, Executive Director of Corporate Services

DISCUSSION PAPER 'MAKING IT EASIER TO SET UP NEW TOWN AND PARISH COUNCILS'**Purpose**

1. To discuss a consultation paper by the Department for Communities and Local Government entitled 'making it easier to set up new Town and Parish Councils' and consider any response the Civic Affairs Committee may wish to submit.
2. This is not a key decision because it is a discussion paper and provides the Civic Affairs Committee with an opportunity to submit a response to a consultation by the Department for Communities and Local Government.

Recommendations

3. That consideration be given to any response the Civic Affairs Committee may wish to submit to the Department for Communities and Local Government as part of its consultation entitled 'making it easier to set up new Town and Parish Councils'.

Reasons for Recommendations

4. To enable the Civic Affairs Committee to formally respond to the Department's consultation paper, should it be minded to do so.

Background

5. The government intends to make it easier to set up new Town and Parish Councils and has published a consultation paper setting out three options that could help to achieve this. The consultation paper is attached to this report at **Appendix A**.

Considerations

6. The consultation is available for viewing online using the following link and sets out three options for consideration: -
<http://www.communities.gov.uk/publications/localgovernment/parishdiscussionpaper>
7. The Civic Affairs Committee is invited to discuss to contents of the consultation paper and agree, if necessary, any comments to submit to the Department for Communities and Local Government.

Options

8. To note the consultation document and agree not to submit any comments as part of the Department for Communities and Local Government's consultation process.

Implications

9. There are no implications that need to be considered as part of this report. This is a discussion item that may result in a response being submitted to a consultation by the Department for Communities and Local Government.

Consultations

10. No wider consultation is necessary as this report facilitates a discussion item on a consultation document issued by the government.

Consultation with Children and Young People

11. No consultation has been carried out with children and young people on this issue.

Effect on Strategic Aims

12. The Council's Strategic Aims will not be affected as a result of the Civic Affairs Committee discussing or submitting comments to the Department's consultation paper.

Conclusions / Summary

13. The Civic Affairs Committee is asked to discuss the content of the Department for Communities and Local Government's consultation paper entitled 'making it easier to set up new Town and Parish Councils' and to submit any comments if necessary.

Background Papers: the following background papers were used in the preparation of this report:

Consultation paper by the Department for Communities and Local Government entitled 'making it easier to set up new Town and Parish Councils'.

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Department for
Communities and
Local Government

Making it easier to set up new town and parish councils

Discussion paper

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October 2012

ISBN: 978-1-4098-3611-7

Introduction

The Government wants to make it easier to set up new town and parish councils. This discussion paper presents a range of proposals that would help achieve this. We would like your views on these, as well as any other comments or ideas. Details of how to contribute are at the end of this document.

1. The neighbourhoods we live in are often the places where we are most ready to get involved. The government wants to make it as easy as possible for people to play an active part in society and improve their neighbourhoods. There are a number of new ways people can do this which have been created by the Localism Act 2011. Many of these do not require formal governance structures.
2. Sometimes, neighbourhood level local governance can make it easier to take action. In many areas, there are town and parish councils, the most local level of government. These councils provide formal democratic representation for the neighbourhood and have the ability to deliver services to the community, as well as being able to influence other decision making bodies. There are around nine and a half thousand such councils in England, but they tend not to exist in more urban areas, and so sixty-three per cent of the population is not covered by one.
3. There is a mechanism by which local authorities (district, borough or unitary councils) can decide to create new parish councils (which can then resolve to be called town, neighbourhood, village or community councils). This is called a 'community governance review'. However, a number of partners - individuals, members of town and parish councils and organisations which represent and support them have argued that this process has a number of problems.
4. We want to make it easier and simpler for people to set up town and parish councils where they do not exist. We want to tilt the balance in favour of community groups, where there is the demonstrable support of a majority of local people. Where local people express popular support for the creation of a town or parish council, the local authority should work with the community to achieve that.
5. This paper therefore sets out three options to make the process for creating a new parish council simpler and better.

Problems with the current process for setting up a new parish council

6. The current process for setting up a new parish council is set out in the Local Government and Public Involvement in Health Act 2007 and in DCLG's 'Guidance on Community Governance Reviews, published in 2010. (This is available at www.communities.gov.uk/publications/localgovernment/guidancecommunitygovernance2010.) A description of how the process works is set out at Annex A at the end of this paper.
7. The current process presents a number of problems for those wanting a new parish council to be set up.
 - It's **demanding** for campaigners. They must obtain the support of ten per cent of the electorate (or a greater proportion in smaller areas) to trigger a community governance review. A good working understanding of the local authority's procedures may be required.
 - The process **doesn't allow designated neighbourhood forums** for neighbourhood planning a distinct role in the process of creating a new parish council. They have to trigger a review in the same way as any other group.
 - Community governance reviews have **too wide a scope**. They can cover the whole of the local authority area; consider a wide range of issues and consult a wide range of people.
 - It **takes a long time**. There is no time limit for a local authority to set the terms of reference for a community governance review; once it has done so, it can take up to a year to carry the review out.
 - There is **no right of appeal**. The 2007 legislation removed the requirement for the consent of the Secretary of State for the creation of the new town or parish councils. The Government believes that these should remain local decisions. Some campaigners have argued that a right of appeal would allow a community a redress if they felt that a local authority had been unfair in a decision not to create a new parish council.
8. Any changes to the process for creating a new parish council should strike the right balance between making it simpler to set a new council up and ensuring that any new parish council has the support of local people. If, for example, the support of only a very few people was required to trigger or even to decide the process in favour of creating a new parish council, it might be created even when the majority of people were not in favour of its creation. That would make it redundant and potentially even an unwanted burden on the local community.

Is this an accurate summary of the challenges within the current process for setting up a new parish council?

Options for making it easier to set up new parish councils

9. As set out in paragraph four above, the Government believes that where local people express support for the creation of a town or parish council, the local authority should work with the community to achieve that. The following pages set out a range of options in support of that position, making it easier to set up new town and parish councils.
10. For simplicity, a number of changes have been grouped together into three options. Elements of the various options are interchangeable and they are not in opposition to each other. For example, one approach might be to make some changes to statutory guidance (using elements of option one) and then to make some changes to the law using a Legislative Reform Order (using elements of options two and three.) The approach taken need not be exclusively and entirely to follow a single option.

Option one - amending existing guidance

11. This option proposes a number of changes to the existing system be made through the statutory guidance issued by the Secretary of State. Local authorities must have regard to this guidance in carrying out governance reviews.

Timescales

12. Although the maximum timescale for community governance reviews, twelve months, is established in the Local Government and Public Involvement in Health Act 2007, guidance could strongly encourage authorities to complete the process in less time. As the process must involve consultation, a review period of six months could be a reasonable period for the entire review. Guidance could also suggest that the terms of reference for a review should be set promptly, for example within three months. Currently there is no limit on this.

Scope

13. The current process requires that the local authority have regard to the need to secure that community governance within the area under review is effective and convenient. The amended guidance could make it clear that the right weight should be given to what is effective and convenient for the local community, separately from for the local authority itself. For example, a local authority may regard it as more convenient to have a single method of engaging communities across the local authority area. That may at present be a reason not to create a new town or parish council. That does not necessarily mean, though, that a new parish council would not be effective or convenient from the point of view of the community in a particular area. (While there is no definitive interpretation of 'effective and convenient', with the words carrying their ordinary meaning, the current guidance explains effectiveness and convenience in terms of the proposed parish council being viable in terms of providing at least some services and easy to reach and accessible to local people.)
14. Guidance could be changed to make governance reviews clearer about what considerations they take into account. It would still be open to a local authority to carry out a governance review covering a wider area than the neighbourhood area for which a parish council is proposed by campaigners. In such cases, though, the review should set out how the authority intends to take into account and balance the views of consultees in different areas.
15. The guidance could be clear that a review can recommend different governance arrangements for different parts of the local authority area. The Government believes that different approaches in different parts of a local authority area are healthy and that diversity should be encouraged. This would reflect the rich tapestry that currently exists in many places.

Internal review of decision

16. While the government believes that the decision to create a new parish council should remain a local one rather than be subject to a right of appeal, guidance could propose that as a matter of good practice, the local authority could carry out a review of a decision not to create a town or parish council if campaigners want one. Local

authorities will often have review mechanisms already. It should be made clear to campaigners what route they have within the local authority for review of a decision they are not happy with. The review could be carried out on the application of a specified number of local people - perhaps on payment of a fee, to discourage vexatious applications having little merit. We are interested to hear from local authorities about how this issue can best be addressed.

Election timetables

17. The community governance review process could be made to work better by positioning it relative to electoral cycles to avoid long delays between the start of a campaign and the first elections. The opportunity to present a petition could be linked to each electoral cycle. Working back from the date of an election, the local authority could set out a timetable for the various parts of the process which would need to be met in order to come to a final decision on a petition in time to fit with a forthcoming election. This would identify when a petition to create a new council could most conveniently be considered.

Implementation

18. Implementation of this option would involve amending existing statutory guidance. Local authorities would, as now, be obliged to have regard to this guidance. These changes to the statutory guidance would require a new burdens assessment to be carried out.

Advantages and disadvantages

19. The advantage of this approach are that the changes made by guidance are able to address many of the difficulties with the process outlined in paragraph seven.
20. The disadvantage of this approach is that it cannot address those features of the existing process set out in the primary legislation and so, for example, keeps the current number of signatures required for a valid petition.

Option two - changing the law (including doing so after amending guidance)

21. This option proposes:

- changing the threshold for a petition for a community governance review;
- limiting the scope for the local authority's consideration of the issues in a community governance review; and
- shortening the timetable for the community governance review, and linking the timetable to the electoral cycle more clearly

Petition threshold

22. The number of signatures a petition needs in order to trigger a community governance review could be halved, as follows: For electorates of below 500, 25 per cent; 125 signatures for electorates between 500 and 2,500; and 5 per cent for electorates above 2,500.

23. The aim in setting these limits is to ensure that the process is accessible to campaigners, enabling genuine campaigns with popular support to lead to a community governance review which will then take into account broader community views. Balance also needs to be had to ensure that the threshold is not lowered so far that reviews could be triggered without real support.

Scope of review

24. Under this option, authorities would still be able to carry out a governance review covering a wider area than that originally covered by the petition, but reviews would need to consider each proposed parish council area separately, as each neighbourhood has distinct needs and features. It would not be open to an authority to use the desirability of a different governance arrangement in one area as a reason to reject a proposal for a parish council in another.

25. The review would operate from the presumption that a parish council would be effective and convenient, unless consultees presented evidence to the contrary, as there is no shortage of evidence to show that town and parish councils can be so. Those living in the area to be served by the proposed council should be the ones to decide about the effectiveness and convenience of the new parish council.

Timescale

26. This option would reduce the maximum time period for community governance reviews to six months. This allows for the consultation required in the process. Similarly, the legislation could be amended to set a maximum time period for setting terms of reference once a valid petition had been received - for example, three months. Alternatively, a single limit of nine or twelve months for the whole process, from receipt of petition (rather than from agreement of terms of reference) may be a simpler, more realistic option.

Links to electoral timetables

27. As with the proposal on electoral timetable under option one, the opportunity to present a petition for the creation of a parish council can be linked to each cycle of the electoral timetable. A change to the legislation could require local authorities to publish timescales linked to the electoral cycle, within which petitions should be ideally submitted, so that if the local authority decides in favour, the establishment of the council itself is not delayed by a long wait for the next election. This would not prevent out of cycle petitions from being submitted, but would enable local authorities and campaigners to prepare their resources at a sensible time.

Implementation

28. Implementation of this option would involve using a Legislative Reform Order to amend primary legislation. It could be done following changes to the statutory guidance. It would make changes to petition arrangements, require authorities to adopt different timescales for governance reviews and make changes to the scope of those reviews, all of which is set out in existing legislation. It would place an obligation on authorities to publish schedules within which they will consider petitions for new parish councils. These changes to the process would require a new burdens assessment to be carried out.

Advantages and disadvantages

29. The advantages of the proposals described in this option are that they would address a wide range of the problems with the current process, including lowering the thresholds for a valid petition, whilst still requiring a petition to establish an initial degree of community support. It addresses an issue of engagement at the initial petition stage whilst maintaining the safeguards contained within the carrying out of the community governance reviews in taking into account the views of the broader community.
30. The disadvantage of this option is that lowering the threshold for a petition triggering a community governance review runs the risk that petitions which do not have sufficient community backing will be considered, potentially wasting resources or leading to the creation of a council which is not wanted by the local community. This risk is a concern and therefore views as to the scale of that risk, and the potential value or not of a lowering of the threshold, would be welcomed.

Option three - making it easier for neighbourhood forums to start the process for creating a new parish council

31. This option proposes that a neighbourhood forum could submit an application to trigger a community governance review, rather than having to submit a petition with the required number of signatures. For areas without a designated neighbourhood forum the existing process of a petition would remain.
32. The neighbourhood planning powers in the Localism Act allow town and parish councils to develop neighbourhood plans for their local areas, which, when accepted by the local authority and agreed by the local population in a referendum, become part of the planning framework. In areas where there is not a town or parish council, neighbourhood planning can be carried out by anyone who wants to set up or join a group which is designated as a 'neighbourhood forum' by the local authority. The minimum requirements are that neighbourhood forums must be open to those living and working in the neighbourhood area, have the purpose of promoting or improving the well-being of the area, have a written constitution and have at least 21 members.
33. There are a number of reasons why a neighbourhood forum should be involved in the process of creating a new parish council. Firstly, a designated neighbourhood forum has an open membership of people with a genuine interest in the local community and a focus on improving local well-being. Secondly, the neighbourhood planning process should generate community interest and engagement in the idea of shaping and improving the neighbourhood. That may mean that it can also be a good starting point for considering the creation of a town or parish council. Thirdly, when that forum has had a neighbourhood plan agreed at a referendum, it has shown that it has community support in developing proposals for the future of the neighbourhood. It may therefore be appropriate to allow it to start the process of creating a parish council more easily than the current petition process allows.

How would it work?

34. This option would remove the requirement for a designated neighbourhood forum which has had a neighbourhood plan passed at referendum to submit a petition if it wanted to trigger a community governance review. Instead, it would just submit an application to the local authority in the manner currently prescribed for a petition - setting out the area to be covered by the new parish council. This would trigger a community governance review in the same way as a valid petition.
35. The proposal would need to go through all the subsequent steps of a community governance review by the local authority, including consultation, so the whole community would still have a voice in the process. The local authority would, as now, examine and decide on the proposal in the community governance review.
36. Members of a neighbourhood forum would not have an automatic right to sit on the new parish council if it were to be created. They would need to stand for election just as other candidates would. However, should the local authority decide to create a

parish council, the forum members could play a role in any 'shadow council' set up in advance of the first elections to the new parish council.

Using guidance

37. Guidance could be used to support forums which have not yet got to the referendum stage but have already identified a local desire to seek the creation of a new parish council. The guidance could suggest that where a neighbourhood forum wanted to develop the proposal for a parish council before its neighbourhood plan had been approved by a referendum, it could approach the local authority to raise the issue. The local authority and the forum could work together to set out a proposal to the community. The neighbourhood planning process will include a range of opportunities to engage with the local community. The concept of a new parish council could be explored with the local community alongside discussions on neighbourhood planning. This would build on the community interest generated through neighbourhood planning to gather evidence on the appetite for a new parish council, to inform any future community governance review.

Implementation

38. Implementation of the right to submit an application for creation of a council rather than prepare a petition would require amending primary legislation with a Legislative Reform Order, as it would change the process set out in the existing primary legislation. These changes would require a new burdens assessment to be carried out.

Advantages and disadvantages

39. The advantages of this option are that a neighbourhood forum would be able to build on the interest in neighbourhood issues which may be built up through the neighbourhood planning process much more easily than at present; and where a neighbourhood forum initiates the process, the neighbourhood area is already defined (rather than requiring a separate process to agree what constitutes the neighbourhood to be covered by the proposed parish council).
40. The disadvantage of this option is that in removing the requirement for a petition showing strong community backing, a campaign may be developed without sufficient popular support, as for option two.

Have we identified appropriate solutions, taking into account the balance between making it easier to set up new councils and the risks of making the process too easy? What other solutions are there?

Which is/are the best approach/approaches to making it easier to set up new town and parish councils?

Making the change - a call for evidence

41. Our starting point is that the decision to create a new parish council should remain with the local authority as the existing legislation requires. And, as set out above, the Government is also clear that where local people express popular support for the creation of a parish council, the local authority should work with the community to achieve that.
42. This discussion paper is intended to collect evidence about the costs and benefits of town and parish councils as well as responses to the proposals outlined above. The information collected will be used to inform how proposals are implemented, and inform any new burdens assessment required to accompany the changes.
43. We are particularly interested to hear from recently formed town and parish councils and individuals and groups considering campaigning for the creation of town or parish councils, and from the local authorities in those areas.
44. We are keen to improve our evidence base on the process of forming new town or parish councils, in particular relating to the period since 2008 during which the Secretary of State has not had a role in the process. We want to learn from available good practice about how the process can work best.
45. We also want to hear practical suggestions from those engaged in the process as to how else it might be improved.
46. Decisions on what options to pursue in improving the current process will be based on the evidence and views gathered in the consultation. In particular, options to amend the existing primary legislation through a Legislative Reform Order require clear evidence of the need for and costs and benefits of this change that would justify such an approach (showing that the benefits outweighed the costs) before being taken forward.

Assessing the impacts

47. In general, our policy intention for any changes to the primary legislation through a Legislative Reform Order - placing requirements on local authorities when considering campaigns for the creation of new town and parish councils - would be that those processes be no more expensive than the current system. Activity such as carrying out a governance review, as set out under the current system as well as following any changes, carries a cost. The intention in our proposals is to simplify and speed up the process. But any changes to the existing process (for example, changes to the timescale) will require a new burdens assessment.
48. One benefit of a town or parish council will be greater local engagement in service design and delivery - that a community is getting services which fit more closely with what it wants and needs. There are many examples, for instance in the 2010 National Association of Local Councils (NALC) report 'Localism in Practice'.
49. However, quantifying precisely the potential financial benefits to be gained from a town or parish council is difficult, because of the wide range of activities they

undertake - many of them discretionary and not having easily available comparators
- and because not all the benefits can be monetised.

50. We therefore want to hear evidence on the costs and benefits of new town and parish councils as part of the consultation process.

This paper was published on 31 October 2012. **We welcome your views by 9 January 2013.**

We welcome comments from anyone with an interest in this subject. In particular, we are interested to hear from those involved in campaigns to create new town and parish councils, existing town and parish councils and Associations of Local Councils, national organisations supporting town and parish councils, local authorities and national organisations supporting them.

Please send your views to:

Making it easier to set up new town and parish councils
Big Society and Community Rights Division
Department for Communities and Local Government
5/B5
Eland House
Bressenden Place
London SW1E 5DU

Or by email to:

decentralisation@communities.gsi.gov.uk

Annex A: The current process for setting up a new parish council

The process begins either with the local authority choosing to carry out a review, or with a local community which wants a new parish council petitioning the local authority to create a new parish council. As well as setting out that it proposes the creation of a new parish council it must propose the boundaries for the new parish. If the local authority receives a valid petition with sufficient signatures, it must carry out a community governance review. The number of signatures required is:

- 50 per cent of the electors for neighbourhood areas with fewer than 500 electors;
- 250 electors for areas with between 500 and 2,500 electors; or
- 10 per cent of the electors for areas with over 2,500 electors.

Having set the terms of reference for the review, the council must carry it out within 12 months.

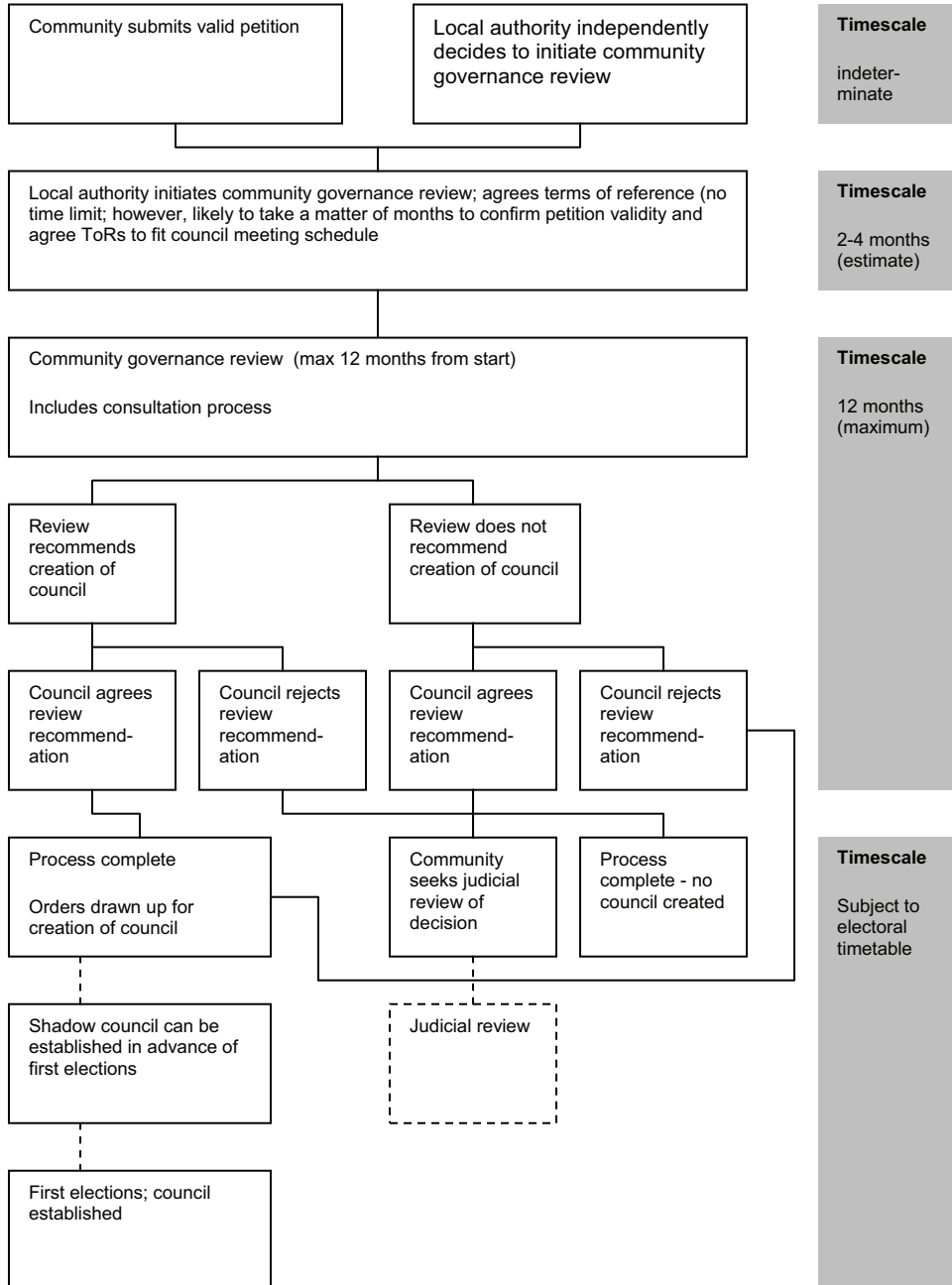
The local authority can decide what geographical area the review will cover. It might, for example, choose to take the opportunity receiving a petition offers to carry out a single, efficient review addressing governance arrangements for the whole local authority area. Or it might review the arrangements in the area that has petitioned.

As part of the community governance review, the local authority will consult the local community about the creation of the proposed parish council.

If at the conclusion of a community governance review the local authority decides to create a new parish council, this is done with a reorganisation order. However, the new parish council will not be formally constituted until elections for councillors are held. This can be at the same time as the next local authority elections, or (if that would mean a long delay) the local authority can choose to hold earlier elections for the parish, before it falls into line with the normal electoral cycle for the local authority area at the next local authority elections.

In the period after the decision to create a new parish council but before the first elections to it, the local authority may set up a 'shadow council' for the parish. This is a body created to assist with the transition to the full council. It can develop standing orders for the council and make early plans. It is only there as a caretaker and the decisions it makes are not binding on the new parish council when it is elected.

The current process for setting up a new parish council



Annex B: Parish councils - Key facts

- There are around nine and a half thousand town and parish councils in England
- Town and parish councils cover approximately ninety per cent of the area of England, but only approximately thirty-seven per cent of the population.
- They are mostly found in shire areas (in rural locations and market town) and less in urban areas. (For example, there is currently only one parish council in Birmingham; and one has been agreed within London, though it has not yet come into existence.)¹
- Where a town or parish council does not exist one can be created if the local authority decides to do so through a 'community governance review', started by a petition of local people.
- Town and parish councils are formally elected by local people and therefore have a democratic mandate when negotiating with and influencing other decision making bodies.
- The range of services provided by parish councils varies widely, but typically includes leisure facilities, cultural activities and community grants. They can take on some local services from the local authority, by agreement with it; or deliver them as a contractor (for example following exercise of the Community Right to Challenge in the Localism Act 2011).
- In future, in areas charging Community Infrastructure Levy, local planning authorities will be required to pass a proportion of Community Infrastructure Levy money raised from development in the area directly to town and parish councils where the development is situated. They will be able to spend the funds on the infrastructure that they want or on the ongoing costs of providing infrastructure. (In areas without a local council the local planning authority will retain the funds and will engage with their communities in determining how to spend the receipts).

¹ ONS boundary data, May 2010

Code of Conduct Training for councillors - Update 17th December 2012

Part of the remit of the Civic Affairs Committee is to provide assistance to district and parish councillors by ensuring that all councillors have access to training in all aspects of the member Code of Conduct, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the Code.

The district council and most parish councils have adopted new codes of conduct along with new procedures for administering a complaints system. Guidance has already been issued via briefing notes, newsletters, briefing sessions and individual advice via email. Given the potential for criminal sanctions if a councillor fails to declare a disclosable pecuniary interest in the correct way it is considered that training is necessary in order to avoid complaints and to save the time and resources that need to be committed to investigations and hearings.

There are three areas of training in the Committee's remit:

- 1) District Council Member Training
- 2) Parish Councillor training
- 3) Standards Committee Member Training

Training for District Councillors

At the last meeting members considered whether an external trainer should be used to provide code of conduct training for district councillors. A quote has now been obtained from Peter Keith-Lucas at Bevan Brittan solicitors, probably the foremost trainer in this area. Mr Keith-Lucas provided code of conduct training at SCDC in 2007 for all members which was well received at the time. He has quoted £2,500 plus VAT for a training session. Members had previously expressed concern at the cost of an external trainer and both Huntingdonshire District Council and now Braintree District Council have expressed an interest in sharing the costs of an external trainer. If the cost was split three ways there would be a cost of £830 & VAT to SCDC. The Committee is asked to consider if it wishes to proceed with this training on this basis.

Training for Parish Councillors

The Monitoring Officer has been working with colleagues from across the council as part of an Action Learning Set from the Leadership Development Programme on "Working with parish councils". This cross-departmental group is looking at how we currently communicate with parish councils and identify where there is scope for improvement. This includes the current provision of training/parish forum events and what the level of interest is in various topics, as well as what the best timings for maximum attendance levels by parishes would be. A consultation session is to be held in January with a group of parish clerks and parish councillors when their views will be sought. Responses received will inform how a large scale parish training event (possibly annual) will be organised, which will cover areas such as parish planning powers and the planning process alongside code of conduct training.

Training for Civic Affairs Committee on hearings

The Committee decided at its last meeting that training would be held prior to any hearing that was necessary.

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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Civic Affairs Committee

17th December 2012

AUTHOR/S: Monitoring Officer

UPDATE ON CODE OF CONDUCT COMPLAINTS**Purpose**

1. To update members on complaints cases regarding alleged breach of the code of conduct.

2. **RECOMMENDATIONS:**

That the Civic Affairs Committee **note** the progress of outstanding complaints.

3. **Complaint cases outstanding at 7th December 2012**

- (a) **CORCOM 221**

This complaint was made by a member of public (a former parish councillor) about a district councillor. The complainant alleges a number of breaches of the code of conduct. The Monitoring Officer and Independent Person are awaiting further information from the complainant in response to a rebuttal by the councillor before being able to proceed.

- (b) **CORCOM 45 & 46**

This complaint was made by two members of the public about a district councillor/parish councillor regarding the councillor's participation in meetings at both parish and district level, related to their planning application. The complainant alleges a number of breaches of the code of conduct. Correspondence has taken place via the Monitoring Officer between the complainants and the councillor concerned to try to establish a clear picture of what has occurred. The ability to consider both sides of a complaint is a feature of new complaints system which will hopefully arrive at a more rounded view of events before a decision is taken about how to proceed but can take some time to progress. Final assessment on whether an investigation is necessary will be made very shortly by the Monitoring Officer and Independent Person.

- (c) **CORCOM 194**

This complaint was made by was made by a member of the public about two district councillors on the council's planning committee in relation to the 4th July 2012 planning committee meeting. The complainant alleges a number of breaches of the code of conduct. The complaint has been assessed by the

Monitoring Officer and Independent Person and the parties will be notified of the outcome shortly.

4. New complaints since September 2012

A large number of complaints (more than 150) have been received by the Monitoring Officer in relation to a forthcoming controversial Council decision and the conduct of two members involved in that process. These are currently being processed by the Council and the Monitoring Officer is awaiting a further decision from the majority of the complainants about how they wish their complaints to be handled.

BACKGROUND PAPERS: Localism Act 2011
SCDC Code of Conduct Complaints procedures

Contact Officer: Fiona McMillan
Monitoring Officer
Telephone: (01954) 713027

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Civic Affairs Committee

17 December 2012

AUTHOR/S: Monitoring Officer

REGISTRATION OF INTERESTS UPDATE**Purpose**

1. To update the Civic Affairs Committee on progress in the implementation of the provisions of the Localism Act 2011 in relation to registration of interests.

Background

2. The Localism Act 2011 requires all councillors to complete a register of interests and these registers must be published on the council's website. If a parish council has a website the register must also be published on that website, as well as the district council's website.
3. As reported at the last meeting all district councillors have completed their registers of interests and these have been published on the council's website.
4. Written advice was given to parish councillors via their clerks about how to complete the form on 13th July, 20th July and 26th July 2012. Two letters have also been sent to clerks asking for the forms to be completed and returned.

Update

5. There are 825 parish councillors within South Cambridgeshire and to date 622 forms have been returned to the Monitoring Officer, with 203 still outstanding. Queries on the forms are still being followed up and incomplete or ambiguous forms returned to the councillor with requests to complete and return.
6. A table of parish councils with number of forms returned is attached as an Appendix to this report.
7. The table is marked in red showing those parish councils who have not yet returned any forms. These are Elsworth, Fulbourn, Harlton, Meldreth, Orwell, Stow-cum-Quy, Little Wilbraham and Wimpole. A third letter will now be sent directly to the Chairman of those parish councils asking them to ensure the registers are completed and returned as soon as possible.
8. It is understood that at least one of these parish councils are objecting in principle to completing the forms and having them published on the internet and were awaiting the response from the Government about whether the legislation was likely to be reviewed.
9. Other parish councils have only returned a small proportion of their forms and these parishes will also be written to again.

Contact Officer: Fiona McMillan – Monitoring Officer
Telephone: (01954) 713027

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Parish	No of Members	Forms received @ 13 Sept 12	Forms received @ 5 Dec 12
Great Abington	7	6	6
Little Abington	7	1	1
Arrington	7	0	4
Babraham	5	5	5
Balsham	9	9	7
Bar Hill	13	0	12
Barrington	9	9	9
Barton	9	8	9
Bassingbourn	15	1	11
Bourn	9	6	8
Caldecote	9	8	9
Cambourne	13	0	11
Carlton	7	6	7
Castle Camps	9	7	7
Caxton	7	7	7
Great & Little Chishill	7	6	6
Comberton	13	11	11
Coton	9	8	9
Cottenham	15	8	10
Croxton	5	3	3
Croydon	7	0	6
Dry Drayton	7	4	6
Duxford	11	10	11
Elsworth	9	0	0
Eltisley	7	6	6
Great & Little Eversde	10	10	10
Fen Ditton	9	9	9
Fen Drayton	9	0	6
Fowlmere	9	4	8
Foxton	9	9	9

(1)

(2)

(1)

(2)

(1)

Parish	No of Members	Forms received @ 13 Sept 12	Forms received @ 5 Dec 12
Fulbourn	15	0	0
Gamlingay	15	0	13
Girton	15	13	13
Little Gransden	5	5	5
Grantchester	9	0	8
Graveley	5	0	2
Hardwick	9	9	9
Harlton	5	0	0
Harston	11	2	2
Haslingfield	11	1	6
Hatley	5	0	5
Hauxton	7	2	3
Heydon	5	5	5
Hildersham	5	5	5
Hinxton	7	7	7
Histon & Impington	19	16	16
Horningsea	7	0	5
Horseheath	7	4	5
Ickleton	9	0	6
Kingston	5	0	5
Landbeach	9	6	7
Linton	15	14	15
Litlington	9	0	9
Longstanton	11	8	9
Longstowe	5	0	1
Madingley	5	0	5
Melbourn	15	8	12
Meldreth	9	0	0
Milton	15	13	14
Guilden Morden	9	8	8

(2)

(1)

(1)

Parish	No of Members	Forms received @ 13 Sept 12	Forms received @ 5 Dec 12
Steeple Morden	9	1	8
Newton	5	4	4
Oakington & Westwic	9	6	9
Orchard Park	9	2	4
Orwell	9	0	0
Over	11	10	11
Pampisford	7	7	7
Papworth Everard	13	0	11
Rampton	7	6	6
Sawston	19	15	15
Great Shelford	15	10	13
Little Shelford	9	8	9
Shepreth	7	1	6
Shudy Camps	5	5	5
Stapleford	9	0	7
Stow-cum-Quy	7	0	0
Swavesey	11	11	11
Teversham	11	6	11
Thriplow	9	5	6
Toft	7	6	7
Waterbeach	15	1	1
West Wickham	7	0	7
West Wrating	7	0	2
Weston Colville	7	7	7
Whaddon	7	4	6
Whittlesford	11	8	9
Great Wilbraham	7	5	5
Little Wilbraham	7	0	0
Willingham	15	8	12
Wimpole	5	0	0
Total	825	423	622
% returned		51%	75%

(1)

(2)

(1)

(2)

(3)

*Numbers in brackets denote known vacancies

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Text of letter sent by e-mail 4 December 2012 from Communities and Local Government

Councillor Tony Orgee
Chairman
South Cambridgeshire District Council
South Cambridgeshire Hall
Cambourne Business Park
Cambourne
Cambridge
CB23 6EA

LOCALISM ACT 2011: NEW STANDARDS REGIME

Thank you for your letter of 18 September expressing concerns about the new standards arrangements for local government which came into force on 1 July. I am sorry for the delay in replying.

Before responding on the specific issues you raise, let me first set out some context for the new arrangements and associated requirements. Following pledges made in the Coalition Agreement, extensive debate in Parliament and Royal Assent to the Localism Act, the Government has abolished the previous centralist Standard Boards regime. Under this system it was too easy to put forward ill-founded and malicious complaints about councillors. This undermined people's faith in local democracy and put them off standing for public office.

Parish councillors were often involved in such complaints, sometimes made by fellow councillors, sapping morale and undermining the good reputation of local government. The old regime was also a financial burden for councils where the costs of dealing with unnecessary and frivolous complaints weighed heavily on resources.

The Government's approach is more localist, giving councils wide freedoms to decide their own arrangements for promoting high standards of conduct for all their members, including informing a councillor at the outset of the nature of a complaint if they wish.

It is important that there are checks against the rare cases of genuine corruption in local government. The new rules, originating in the Local Government Act 1972 and Local Government and Housing Act 1989, involve local authority members registering their pecuniary interests in a publicly available register, and disclosing their interests and withdrawing from meetings in certain circumstances. Such rules, in one form or other, have existed for decades. Failure to comply with those rules was in certain circumstances a criminal offence, as is knowingly providing false or misleading information or deliberately withholding information in certain circumstances about a disclosable pecuniary interest under the new rules.

Text of letter sent by e-mail 4 December 2012 from Communities and Local Government

The Government has published regulations defining what constitutes a disclosable pecuniary interest for entry on the council's/authority's register. Councillors are required to enter such interests on a register and to disclose them at a meeting, and the effect of having such an interest is that they cannot participate in discussion or voting on an item of council business related to it. "Other interests" are any personal interests of councillors that are not disclosable pecuniary interests. A council may, if they wish, require members in their code of conduct to register and disclose other interests that they consider may improperly influence their members' decisions.

I am sorry to hear that some parish councillors have felt it necessary to resign over the requirement to publish the registers of interests online. There are some 70,000 parish councillors in England, and we consider it unlikely that the registers of interests for parish councillors in one council area would be relevant to people from outside that area.

The Government has no current plans to review the requirements/new rules, but is committed to carrying out a review three to five years after implementation.

As a whole, the requirements for the registration and disclosure of disclosable pecuniary interests are meant to improve the transparency of local government and to offer protection to councillors from malicious complaints. By being open and transparent in declaring these interests, the regime will police itself and prevent impropriety happening in the first place.

Brandon Lewis MP