

## **COUNCIL MEETING – 14<sup>TH</sup> DECEMBER 2017**

### **Extract from the Minutes of the Constitution Committee meeting on 30<sup>th</sup> November 2017**

#### **14 REVIEW OF THE CONSTITUTION**

The Committee considered two reports recommending the approval and adoption of a revised constitution for Cheshire East Council.

The Council had undertaken a comprehensive review of the current constitution to ensure that it complied with all relevant statutory requirements, and had considered how its current processes and procedures should be altered to improve organisational efficiency and achieve good governance. The review had been guided by the seven key principles approved by the Committee at its meeting on 4<sup>th</sup> August 2017.

The Council had commissioned Bevan Brittan Solicitors to carry out a desktop review of the constitution and to assist in the drafting of a new constitution.

Details of the review and the way in which it had been conducted, including the extensive member consultation and engagement that had taken place, were set out in the report.

The report appended four documents:

Appendix A – A composite Explanatory Note of substantive issues which had been considered by the Constitution Sub-Committee, together with the Sub-Committee's recommendation against each issue, which were reflected in the draft constitution.

Appendix B – The draft Constitution

Appendix C – Those documents which formed part of the current constitution, but which the Constitution Sub-Committee had recommended should no longer be in the constitution, together with a summary front-sheet setting out information on the "ownership" of each document.

Appendix D – A document on arrangements for dealing with standards complaints against members which, whilst not part of the current constitution or part of the proposed new draft Constitution, was required by law and would be referenced and hyperlinked from the revised Member Code of Conduct.

On consideration of the table of financial limits set out in Appendix B, the officers advised that a number of the references would need to be corrected.

The Committee also considered a number of matters which if agreed would require the inclusion of additional documents in the constitution or amendments to it as follows:

Appendix E – The Overview and Scrutiny Procedure Rules. These had been the subject of discussion at the relevant working group but had been excluded from the papers presented to the Constitution Sub-Committee on 17 November 2017.

A colour-coded chart mapping out decision-making responsibilities. This would be completed on final approval of the revised constitution and incorporated into the document.

A hyperlink to guidance on the use of the Officer Decision Record (ODR) process. This would be completed in the final drafting of the document.

Certain issues relating to the current draft provisions relating to the Staffing Committee terms of reference, the Investigation and Disciplinary Committee and the Employee Procedure Rules. These issues were not contained in the Explanatory Note of substantive issues when considered by the Constitution Sub-Committee and were not included in the Explanatory Note before the Committee (Appendix A). The Committee considered a separate explanatory note on these issues which included a response from Bevan Brittan and a recommended position in each case. It was suggested in particular that the composition of the Staffing Appeals Sub-Committee should be changed from 3/5 members to 3 members, and that the terms of reference of the Investigation and Disciplinary Committee should be amended to provide that the procedure for filtering out and dealing with allegations which were clearly unfounded, trivial or could best be dealt with under some other procedure be delegated to the Monitoring Officer in consultation with the Chairman of the Investigation and Disciplinary Committee and the Chairman of the Staffing Committee. The Committee agreed with both proposed amendments.

[Note: the following Committee resolutions take into account those amendments agreed following Members' Speaking.]

## **RESOLVED**

That subject to the resolutions below, Council be recommended to adopt the revised constitution of Cheshire East Council, as appended to the report at Appendix B, with an operative date of 1<sup>st</sup> January 2018:

1. the Overview and Scrutiny Committee Procedures as set out in Appendix E be approved for inclusion in the revised Constitution subject to the correction of any formatting and cross-referencing issues;
2. the provision within the draft constitution relating to attendance by members at the meeting of a body of which they are not appointed members be amended to make it clear that members can attend any meeting during the consideration of Part 1 business;

3. the Local Ward Member Protocol be amended to include a hyperlink to the definition of the term 'exempt information';
4. the provision relating to a one month Forward Plan be amended to provide that the Forward Plan shall cover a *minimum* period of one month (which would allow items to be included over a longer period);
5. the insertion into the Employment Rules of a section relating to the executive objection process for the appointment and dismissal of those chief officers and deputy chief officers not covered by paragraphs 4 and 5 be approved (page 252 of Appendix B);
6. the financial limits relating to virements (both revenue and capital) be clarified and the Acting Director of Legal Services in consultation with the Section 151 Officer be authorised to make any necessary amendments;
7. with regard to variations in capital programme scheme provision, consideration be given at a future date to the introduction of percentages alongside cash sums.
8. the reference, within the Planning and Development Control terms of reference, to the Portfolio Holders responsible for Development Control and the Local Development Framework being members of the Strategic Planning Board be deleted (Appendix B page 43 para 20);
9. the reference to approval routes within Section E of the Finance Procedure Rules be suitably clarified (Appendix B page 213 paras 20-22), which shall be delegated to the Acting Director of Legal Services;
10. paragraph 53 of the terms of reference of the Investigation and Disciplinary Committee be amended to provide that the procedure for filtering out and dealing with allegations which are clearly unfounded, trivial or can best be dealt with under some other procedure be delegated to the Monitoring Officer in consultation with the Chairman of the Investigation and Disciplinary Committee and the Chairman of the Staffing Committee;
11. paragraph 49 of the terms of reference of the Staffing Committee be amended to provide that a Staffing Appeals Sub-Committee of 3 members be established on an ad hoc basis;
12. all references to Cabinet Portfolios be brought up to date;
13. the commitment to provide further supporting information with regard to the colour-coded chart mapping out decision-making responsibilities and the provision of a hyperlink to guidance on the use of the Officer Decision Record (ODR) process be noted and endorsed; and

14. the arrangements for dealing with standards complaints against members (Appendix D) be referenced and hyperlinked from the revised Member Code of Conduct.

**Note: with regard to resolution 6 above, the appendix to this minute extract sets out an amended (clarified) table of approval limits for virements. The original table is included for comparison. Council is asked to approve the table as amended.**