

CHESHIRE EAST COUNCIL

Governance and Constitution Committee

Date of Meeting: 21 January 2010
Report of: Democratic Services Manager
Subject/Title: Council Procedure Rules – Definition of “Clear Working Days”

1.0 Report Summary

1.1 Following recent debate at Council, this report confirms the legal definition of Clear Working Days for the purpose of use, as appropriate, in conjunction with timescales and deadlines in the Constitution.

2.0 Recommendations

2.1 Governance and Constitution Committee is invited to

- (1) reaffirm the advice given by the Monitoring Officer to Members following the meeting of Council held on 17th December 2009, that a clear working day is defined as a complete period of 24 hours (excluding weekends and Bank Holidays), beginning and ending at midnight on the day in question; and
- (2) request the Monitoring Officer to use his delegated powers to reaffirm this position in the Constitution accordingly.

3.0 Reasons for Recommendations

3.1 To inform Members of the deadline for the submission of questions and motions from Councillors under the Council Procedure Rules.

4.0 Wards Affected

4.1 None

5.0 Local Ward Members

5.1 All

6.0 Policy Implications

6.1 Changes to the Constitution govern the way in which Council business is conducted. In this case, the proposal aligns with legal precedent and

there is therefore no change of policy. Instead, the existing position is being affirmed.

7.0 Financial Implications

- 7.1 None

8.0 Legal Implications

- 8.1 The definition of a clear working day was formed in the ruling in R v Hereford Justices 1820 approved in R v Swansea City Council ex parte Elitestone Limited 1993.

9.0 Risk Management

- 9.1 Explanation of the definition of a clear working day will result in the right of Councillors under the Constitution being be safeguarded.

10.0 Background

- 10.1 At the December meeting of Council, following a request from a Member, the Mayor stated that every member would receive a written explanation of the phrase "clear working days". An email repeating previous practice was subsequently circulated to all members. This explained the position as follows.
- 10.2 Council Procedure Rule 11 requires members to give three clear working notice in writing to the Monitoring Officer of questions for Council. This requires three complete periods of 24 hours (excluding weekends and Bank Holidays) to have elapsed excluding the day the notice is received and the day on which the meeting is held. This follows the ruling in R v Hereford Justices 1820 approved in R v Swansea City Council ex parte Elitestone Limited 1993.
- 10.3 For a meeting of the Council held on a Thursday in a week in which no Bank Holidays fall, notice must be received before midnight on the preceding Sunday. Emails sent after this time would not be accepted. In all cases it is of course helpful for the officers who brief the member concerned to receive as much notice as reasonably possible, since they often have to carry out research from a number of sources and this has to be fitted into the normal working schedule. Members' continuing help in this regard is appreciated.
- 10.4 This ruling is helpful in stating the position in respect of Questions at Council, but also assists in respect of other deadlines in the Constitution eg the requirement to submit Notices of Motion 7 clear working days before the meeting in question.

11.0 Access to Information

There are no background papers relating to this report.

Name: Brian Reed
Designation: Democratic Services Manager
Tel No: 01270 686670
Email: brian.reed@cheshireeast.gov.uk

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