

Constitution Committee

Agenda

Date: Thursday, 30th September, 2010
Time: 2.00 pm
Venue: Committee Suite 1,2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

The agenda is divided into two parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the meeting. Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide three clear working days' notice, in writing, in order for an informed answer to be given.

4. **Minutes of Previous meeting** (Pages 1 - 4)

To approve the minutes of the meeting held on 12th July 2010.

Contact: Paul Mountford, Democratic Services
Tel: 01270 686472
E-Mail: paul.mountford@cheshireeast.gov.uk

5. **Outside Organisations** (Pages 5 - 10)

To consider the recommendations of the Outside Organisations Sub-Committee at its meeting on 13th September 2010.

6. **The Planning Protocol** (Pages 11 - 30)

To review proposed amendments to the Planning Protocol adopted by the Council on 24th February 2009 and make recommendations to Council.

7. **Review of the Constitution** (Pages 31 - 34)

To consider proposed changes to the Council and Committee Procedures as part of the review of the Council's Constitution.

8. **New Executive Arrangements** (Pages 35 - 42)

To consider proposals to consult on two options for future executive arrangements for Cheshire East Council.

9. **Recommendations of the Civic Sub-Committee** (Pages 43 - 80)

To consider the recommendations of the Civic Sub-Committee to the Constitution Committee in relation to the following:

- Honorary Aldermen and Freemen
- Freedom of the Borough – 1st Battalion, Mercian Regiment (Cheshire)
- Flag Flying Policy

(There are no Part 2 items)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Monday, 12th July, 2010 in the East Committee Room - Municipal
Buildings, Earle Street, Crewe, CW1 2BJ

PRESENT

Councillor J P Findlow (Chairman)
Councillor D Brickhill (Vice-Chairman)

Councillors D Cannon, R Cartlidge, A Moran, R Parker and P Whiteley

10 APOLOGIES FOR ABSENCE

Apologies for absence, due to Council Business, were received from Councillors C Beard, D Topping and R West; apologies for absence were received from Councillors M Asquith and S Jones.

11 DECLARATIONS OF INTEREST

No interests were declared.

12 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public wishing to speak or ask a question.

13 MINUTES OF PREVIOUS MEETING**RESOLVED**

That the minutes of the meeting of the Governance and Constitution Committee held on 24 June 2010 be approved as a correct record.

14 WILMSLOW COMMUNITY GOVERNANCE REVIEW - PARISH AND WARDING ARRANGEMENTS

The Committee met to consider the recommendations of the Wilmslow Community Governance Review Sub Committee with a view to making recommendations to Council on the number of Councillors to serve on each of the new Parish Councils, and the ward names, boundaries and number of Councillors for each ward in the Wilmslow Parish.

Detailed background information was provided to the Committee in the form of the reports considered by the Wilmslow Community Governance Review Sub Committee at its meetings on 24 June and 5 July 2010; the minutes of the latter meeting contained the detailed recommendations of the Sub Committee to this Committee and these also had been previously circulated.

Members were informed that, as part of its considerations, the Sub Committee had included comparator information on the size of Parish Councils in order to assist in determining the appropriate number of Parish Councillors for each of the three Parishes, and options for the warding of the proposed Wilmslow Parish.

The comparator information listed a number of comparable towns and Parishes throughout Cheshire East and gave electorate totals, electorate ratio per Councillor and number of wards in respect of each. Two options for the warding of Wilmslow were considered; Option 1 was based on the five traditional wards of the former Macclesfield Borough Council and, using a ratio of approximately 1,250 electors to one Councillor, the number of Councillors for each ward had been determined.

It was noted that the warding arrangements had been complicated by the fact that there was an ongoing Boundary Review with the final recommendations of the Boundary Commission due to be announced the following day (13th July 2010). An electoral changes Order would then need to be laid in draft in both Houses of Parliament but the timescales for the laying of the order were not yet clear.

It was reported that if the Boundary Commission proposals for Wilmslow were implemented, as anticipated, adjustments would need to be made to the proposed wards and these adjustments formed the basis of Option 2 recommended by the Sub Committee. In essence, the number of wards in the Wilmslow Parish would be reduced from five to four, as the ward boundaries would no longer be coterminous with polling district boundaries within that Parish. Given the uncertainty posed by the current Boundary Review, and the need to comply with the Governance Review timetable, it was necessary for the Sub-Committee to put forward two alternative sets of proposals with regard to the warding of Wilmslow.

In considering both the numbers of Councillors and the warding arrangements the Sub Committee had had regard to the need to achieve electoral equality as far as possible whilst also ensuring that the size of each Parish Council reflected the particular needs and circumstances of the Parish. The Sub-Committee had reviewed its previous recommendation, which had been endorsed by the Constitution Committee, that for the Parish of Handforth, the election of Parish Councillors should be from the area of the Parish as a whole. It was proposed as an alternative that Handforth be divided into three wards as it was felt that the four existing polling districts lent themselves to such an arrangement, which also reflected the geographical features of the Parish.

Members were advised that if, following the announcement of the Boundary Commission's final recommendations, it became necessary to make further minor adjustments to electorate figures, polling district boundaries or proposed ward boundaries, it would be appropriate for the Officers to be authorised to agree these in consultation with the Chairman

of the Sub-Committee and the Leader of the Council so as to avoid any undue delay with the Governance Review timetable.

With reference to the Governance Review timetable the Committee was advised that the next stage of the Governance Review process would be a further public consultation period, running between 11 August and 1 September 2010. In response to concern at this timing it was explained that the total review needed to be completed within 12 months of the receipt of the initial petition. It was agreed, however, that the timing of this consultation period would be further investigated to see if there was any scope for adjusting it to be outside the summer holiday period.

A discussion ensued on the official name to be applied to any new wards arising from the Boundary Review and it was noted that this was a matter that could be explored further as part of the formal consultation process.

RESOLVED

That the Constitution Committee recommends to Council that

- (1) having regard to comparator information for Parish Councils in Cheshire East, and having regard to electoral equality, the number of Councillors to serve on each of the new Parish Councils should be as follows:
 - a. Handforth: 7 Councillors
 - b. Styal: 5 Councillors
 - c. Wilmslow: 15 Councillors
- (2) dependent upon the outcome of the Boundary Review, and bearing in mind the need to achieve overall electoral equality (i.e. the number of electors per Councillor) as far as possible:
 - a. if no changes are made to the current Cheshire East Council Ward boundaries, five wards should be created for the Wilmslow Parish and named as follows:
 - i. Morley (comprising 3 Councillors: polling districts 8FH1, 8FJ1, 8FG1);
 - ii. Lacey Green (comprising 2 Councillors: polling district 8EK1);
 - iii. Dean Row (comprising 4 Councillors: polling districts 8EA1, 8EB1, 8EC1, 8ED1, 8EE1);
 - iv. Hough (comprising 3 Councillors: polling districts 8FC1, 8FD1, 8FE1, 8FF1); and
 - v. Fulshaw (comprising 3 Councillors: polling districts 8FA1, 8FB1)
 - b. if the anticipated final recommendations of the Boundary Committee in respect of Cheshire East Council boundaries are

implemented, four wards should be created for the Wilmslow Parish and named as follows, to provide coterminous boundaries for electoral purposes:

- i. Wilmslow West (comprising 5 Councillors: polling districts 8FH1, 8FJ1, 8FG1, 8FC1, 8FA1(part), 8FB1(part), 8FD1(part);
- ii. Lacey Green (comprising 2 Councillors: polling districts 8EK1, 8EA1(part), 8FD1(part);
- iii. Dean Row (comprising 4 Councillors: polling districts 8EA1(part), 8EB1, 8EC1, 8ED1, 8EE1); and
- iv. Hough (comprising 4 Councillors: polling districts 8FD1(part), 8FA1(part), 8FB1(part), 8FE1, 8FF1)

(3) three wards should be created for the Handforth Parish and named as follows:

- i. Handforth West (comprising 3 Councillors: polling districts 8EG1, 8EJ1)
- ii. Handforth East (comprising 2 Councillors: polling district 8EH1); and
- iii. Handforth South (comprising 2 Councillors: polling district 8EF1)

and accordingly, the previous recommendation by the Sub-Committee and the Constitution Committee in relation to this matter should be disregarded; and

(4) subject to consultation initially with the Chairman of the Wilmslow Community Governance Review Sub-Committee, the Borough Solicitor be authorised, in consultation with the Leader of the Council, to make any amendments required to electorate figures, polling district boundaries, or the proposed Wilmslow Parish ward boundaries, should this be required as a result of the final outcome of the Boundary review.

The meeting commenced at 4.00 pm and concluded at 4.40 pm

Councillor J P Findlow (Chairman)

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 30th September 2010
Report of: Democratic Services Manager
Subject/Title: Outside Organisations

1.0 Report Summary

- 1.1 This report sets out the recommendations of the Outside Organisations Sub-Committee which held its first meeting on 13 September 2010.

2.0 Recommendations

- 2.1 The Constitution Committee is asked to resolve that
- (1) the following Councillors be appointed to the casual vacancies indicated:
 - (a) Eaton Hall Sand Quarry Liaison Group, Congleton: Councillor A Knowles
 - (b) King's School, Macclesfield: Councillor H Gaddum
 - (c) Wilmslow Trust: Councillor D Stockton
 - (d) Amos Johnson Fund: Councillor G Barton
 - (2) Linden Bank Community Liaison Group be added to the Category 2 list of outside organisations, and Councillor Barry Moran be appointed as the Council's representative;
 - (3) Maw Green Landfill Site Community Liaison Meeting be added to the list of Category 2 organisations, and Councillors J Hammond and C G Thorley be appointed as the representatives, subject to the establishment of the legal implications of representation;
 - (4) no change be made in the representation on Cheshire Landfill Tax Advisory Panel (ie Councillor D Brickhill to remain as the representative);
 - (5) the Association for Public Service Excellence (APSE) be added to the list of Category 2 organisations, and Councillor J P Findlow be appointed as the Council's representative; and
 - (6) Cabinet be asked to agree to the re-designation of the Standing Advisory Council for Religious Education (SACRE) as a Category 2 organisation.

3.0 Reasons for Recommendations

- 3.1 The appointments are in accordance with the approved protocol for dealing with casual vacancies.
- 3.2 It is important for the Council to participate as a partner in the network of outside organisations within Cheshire East, and more widely if appropriate.

4.0 Wards Affected

Not appropriate.

5.0 Local Ward Members

Not appropriate.

6.0 Policy Implications

None identified

7.0 Financial Implications

None identified

8.0 Legal Implications

Whilst membership of outside bodies carries with it the potential for personal liability for elected Members undertaking such roles as ancillary to their status as a Councillor, particularly in respect of trusteeships, Cheshire East Borough Council has already resolved to put in place for elected Members the maximum indemnity which is allowed by law.

9.0 Risk Management

No risks identified.

10.0 Background and Options

- 10.1 At its meeting held on 24 June 2010, the Constitution Committee appointed an Outside Organisations Sub-Committee of six Members, in accordance with the rules of political proportionality (4:1:1) comprising the following membership –

Councillors D Brickhill, R Cartlidge, J P Findlow, S Jones, P Whiteley and J Wray.

10.2 The Sub-Committee, which replaces the former Task Group (Outside Organisations), has been appointed on the following basis:

- (a) to serve for the remainder of the Municipal Year;
- (b) to meet on an *ad hoc* basis;
- (c) to oversee appointments to Category 2 outside organisations in general, and to address any issues which emerge in respect of those appointments;
- (d) to continue with the review started by the former Task Group in respect of establishing the effectiveness and appropriateness of representation; and
- (e) to report back to the Constitution Committee as and when it considers appropriate within the Municipal Year.

10.3 The Sub-Committee held its first meeting on 13 September 2010. Councillor Shirley Jones was elected Chairman to serve for the remainder of the Municipal Year. This report sets out the Sub-Committee's recommendations.

10.4 Members considered a number of matters dealt with by the former Task Group; made recommendations in respect of casual vacancies; considered new requests by outside organisations for representation; received an update on the appointments process and agreed a work programme for the remainder of the Municipal Year.

10.5 The following casual vacancies were considered. Each vacancy is a Conservative place and, in accordance with the Protocol for Dealing with Casual Vacancies (adopted by the former Governance and Constitution Committee in March 2009), the Conservative Group has made the nominations -

- (a) Eaton Hall Sand Quarry Liaison Group, Congleton
(Councillor A Knowles)

This vacancy has been caused by the recent death of Councillor Gilliland.

- (b) King's School, Macclesfield (Councillor H Gaddum)

This vacancy has been caused by the recent death of Councillor Gilliland.

- (c) Wilmslow Trust (Councillor D Stockton)

Councillor Menlove resigned from this outside organisation following his appointment to the Cabinet.

- (d) Amos Johnson Fund (Councillor G Barton)

Councillor Menlove resigned from this outside organisation following his appointment to the Cabinet.

10.6 Linden Bank Community Liaison Group

The Assistant Chief Executive for Cheshire Probation has written to Cheshire East Council's Chief Executive to request the appointment of Councillor Barry Moran to the Linden Bank Bail Hostel. The request also included a suggestion that Peter Hartwell, Head of Safer and Stronger Communities, be appointed as an Officer representative.

Linden Bank is a bail hostel based in Sandbach which has recently been the focus of local interest. Community engagement is a key priority for the Probation Service and the Service is keen to establish strong links with the local community and interested parties to address any issues or concerns about Linden Bank.

The Linden Bank Community Liaison Group serves an essential function for the exchange of information and hearing and addressing concerns. The Group has been in existence for some time but has become moribund. The Probation Service wishes to re-activate the Group and considers that the addition of an elected Member and a senior Council Officer will be of benefit not only to the Group but also to the local community.

The Sub-Committee recommends the inclusion of the Group on the list of Category 2 organisations and the appointment of Councillor Barry Moran as the Council's representative.

10.7 Maw Green Landfill Site Community Liaison Meeting

Waste Recycling Group has made contact with Councillors Brickhill, Hammond and Walker, as the Doddington Ward Councillors, inviting them to join this Community Liaison Group which has been set up as part of a planning obligation for the continuation of operations at Maw Green landfill site.

The invitation was issued to the three Councillors on 23 August 2010 and it has not yet been possible to establish the legal implications of the Council being represented on the Group. Waste Recycling Group has been asked for a copy of its Terms of Reference/Constitution to enable the legal implications to be identified.

The Outside Organisations Sub-Committee agreed that, subject to the outcome of enquiries and the identification of any legal implications, the organisation be added to the list of Category 2 organisations with two Members only being appointed to represent the Council. Councillor J Hammond is willing to accept the invitation from Waste Recycling

Group. The Sub-Committee agreed that it would be appropriate for the second representative to be a local Ward Member.

The Sub-Committee recommends that the Maw Green Landfill Site Community Liaison Meeting be added to the list of Category 2 organisations, with Councillors Hammond and Thorley being appointed as the Council's representatives.

10.8 Cheshire Landfill Tax Advisory Panel

It had been understood that Councillor Brickhill had resigned from the Cheshire Landfill Tax Advisory Panel, and the nomination of Councillor S Wilkinson, as his replacement, had subsequently been received in Democratic Services. At the Sub-Committee meeting, Councillor Brickhill confirmed that whilst he had resigned his place on a number of outside organisations, he had not resigned from this Advisory Panel.

Councillor Brickhill stated that since his appointment to the Advisory Panel in March 2009, he had not been contacted by the organisation.

The Sub-Committee agreed to recommend that no changes in representation be made at this time, but that further enquiries of the organisation be undertaken to establish its current activities and if it still held meetings.

10.9 Association for Public Service Excellence (APSE)

The Association for Public Service Excellence (APSE) is a not-for-profit local government body working with over 300 councils throughout the UK. Promoting excellence in public services, APSE is the foremost specialist in local authority front-line services, hosting a network for front-line service providers in areas such as waste and refuse collection, parks and environmental services, leisure, school meals, cleaning, housing and building maintenance.

Cheshire East Council pays an annual affiliation fee of £3,500 to the national organisation, a subscription fee of £250 to the Northern Region, and a sum of £7,880 to APSE Performance Networks which is the largest voluntary local government benchmarking service in the UK. Performance Networks is used by over 200 local authorities from across the UK. With participation growing across all services, it is the largest voluntary performance measurement service for local government providing benchmarking across 14 front-line services.

In view of the Council's annual financial contribution, it is important that the Council is represented.

The Sub-Committee agreed to recommend that APSE be added to the list of Category 2 organisations and that Councillor J P Findlow be appointed as the Council's representative.

10.10 Standing Advisory Council for Religious Education (SACRE)

Councillor Margaret Martin (Labour Group) was appointed to the Standing Advisory Council for Religious Education (SACRE) on 3 March 2009. Councillor Martin has now resigned from SACRE and the Labour Group is unable to nominate another representative from within its Group.

During its discussion of this vacancy, the Sub-Committee was of the view that it was not appropriate for SACRE to be designated as a Category 1 organisation (top-level strategic organisations at national, regional and local level) and agreed to recommend its re-designation as a Category 2 organisation.

The appointment to the casual vacancy would form part of a two-stage process –

- (i) Cabinet will need to consider whether or not SACRE should be re-designated as a Category 2 organisation. In the event of it agreeing, the appointment to the casual vacancy would be referred back to the Constitution Committee.
- (ii) If Cabinet decides to retain SACRE as a Category 1 organisation, it will be for Cabinet to make the appointment.

At present, only one nomination has been received, namely Councillor E Howell (Liberal Democrat Group).

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer.

For further information:

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CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 30th September 2010
Report of: Monitoring Officer and Head of Planning and Policy
Subject/Title: The Planning Protocol

1.0 Report Summary

- 1.1 This report presents, as an Appendix, proposed amendments to the Planning Protocol adopted by the Council on 24th February 2009. The Constitution Committee is asked to review the proposed amendments and, if content to do so, recommend them to Council.

2.0 Recommendations

- 2.1 That, subject to any comments by the Standards Committee, Council be recommended to approve the proposed amendments to the Planning Protocol as set out in the Appendix for incorporation into the Constitution.

3.0 Reasons for Recommendations

- 3.1 Since the adoption of the original version of the Planning Protocol by the Council, updated versions of guidance for Planning Councillors have been published. In addition, the Planning Protocol has been reviewed by the Chairmen and Vice-Chairmen of the Strategic Planning Board and Planning Committees, in conjunction with Officers.

4.0 Wards Affected

- 4.1 All wards would be affected by the proposed change.

5.0 Local Ward Members

- 5.1 All local ward members would be affected by the proposed change.

6.0 Policy Implications

- 6.1 There are no direct policy implications arising from the proposals contained in this report.

7.0 Financial Implications

- 7.1 None can be identified.

8.0 Legal Implications (authorised by the Borough Solicitor)

- 8.1 There is a risk of legal challenge to the decisions made by the Strategic Planning Board and Planning Committee's if robust and consistent procedures are not in place in line with current national guidance.
- 8.2 There is also a greater risk of a Local Government Ombudsman complaint being upheld if the Authority does not provide clear, consistent and up to date advice to Councillors on carrying out their duties and responsibilities when determining Planning Applications and considering planning matters.

9.0 Risk Management

- 9.1 The Planning Protocol, in order to operate effectively, needs to be reviewed and updated regularly, and those amendments reported to the members of the relevant Committees so that members involved in the planning process are fully aware of the contents and their responsibilities.
- 9.2 If the reviews and updates do not take place, and members are not made aware of them, a number of risks can be identified:
- Generally, a lack of up to date advice aimed at ensuring the integrity of the planning system for those Councillors involved as Members of the Board or Committees and for those involved as Local Ward Members
 - Personal and prejudicial interests and fettering of discretion not being identified and declared at the required times and the appropriate actions carried out as a result
 - lack of, or inconsistent, up to date advice concerning how Councillors respond to requests for any meetings with developers, applicants, neighbours, Parish/Town Councils
 - lack of, or inconsistent, advice regarding lobbying of and by Councillors and how to react to this
 - lack of clarity and inconsistent procedures applied throughout Cheshire East with regard to decision making at Board/Committee meetings
 - Complaints to the Local Government Ombudsman being upheld over conduct and matters that occur at Board/Committee meetings and during the conduct of planning applications.
- 9.3 The updated protocol provides updated guidance and requirements on these points.

10.0 Background and Options

- 10.1 A Planning Protocol was adopted as part of the Constitution by the Council in February 2009. This was expected to be reviewed by Officers and Members in light of any new Guidance that had been published. Changes were also expected to arise as a consequence of the operation of the Planning Protocol following the early work of the Strategic Planning Board and Planning Committees.
- 10.2 In August 2009 a meeting between the Chairmen and Vice-Chairmen of the Strategic Planning Board and Planning Committees and relevant Planning Officers took place to review a number of issues arising out of the first three months of the operation of the Development Management Service for Cheshire East. This included the operation of the Planning Protocol.
- 10.3 At that meeting it was noted that an updated version of the Local Government Association guidance document, "Probity in Planning", had been published. Whilst not necessitating whole scale changes to the Planning Protocol, some further clarification could be incorporated within the Planning Protocol for Cheshire East. Additionally, there were a number of amendments/clarifications that Officers had identified for the Planning Protocol through the operation of such for the initial months of Cheshire East.
- 10.4 An amended Planning Protocol has now been produced and is attached as an Appendix to this report. The changes made have been tracked through the document to make them easy to locate and identify.
- 10.5 The amended Planning Protocol was considered by the Strategic Planning Board at its meeting on 25th September 2010. The Board resolved that the amended Planning Protocol be commended to the Constitution Committee for inclusion in the Constitution subject to minor amendments to paragraph 8.4 and 4.5, and to any views that are expressed by the Standards Committee. The amendments recommended by the Strategic Planning Board have been incorporated into the document at the Appendix to this report and are identified in blue typeface.
- 10.6 The Standards Committee will be considering the amended Planning Protocol at its meeting on 27th September 2010, and any further amendments proposed will be reported to this Committee at the meeting.
- 10.7 Aside from the Strategic Planning Board amendments, the main changes are to sections 4, Fettering Discretion in the Planning Process and 7, Contact with Applicants, Developers and Objectors, with other changes picking up basic typographical errors or making minor amendments and clarifications to existing wordings.
- 10.8 The changes to section 4 are an attempt to clarify the position of Members in avoiding fettering of discretion and when a Member has fettered their discretion. This is a result of updated guidance in the Probity in Planning document and as a result of specific issues that have arisen for Cheshire East.

Members may be aware that the Coalition Government has indicated that it may look at the issue of pre-determination/fettering of discretion, and guidance may therefore change again in the future. For the time being, however, the Protocol should be changed to reflect the present position.

- 10.9 The newly-added section 4.5 reminds Members that they can refer members of the public to other Councillors within the same Ward, particularly if they are not on the Strategic Planning Board or the same Committee. Even if they are, it may be that Members determine that one of the ward members should be the voice of the Local Community and effectively fetter their discretion, but that this would leave the other Member/s free to take part in the decision-making process at the relevant Committee.
- 10.10 Section 4.7 is additional guidance as to what a member who has fettered their discretion (pre-determined the item) should then do at the meeting, again following the updated Probity in Planning document and experiences of the three Committees. Clarification is provided that a pre-determining Member should not simply push their chair back from the Committee table; they should as a minimum move to the public gallery to be clear that they are no longer part of the decision-making body. Should the Member wish to speak under the Public Speaking Protocol, they should do so from the public gallery, and return there after speaking until the item has been concluded, when they can rejoin the Committee. However, Members should be alive to circumstances where they should do more to distance themselves from the decision-making (eg by leaving the room at an appropriate point).
- 10.11 The addition to Section 7 regarding Pre-Application Discussions is provided as high level general advice as it is understood that the Development Management Officers are to provide a further, more detailed guidance document akin to that already produced on Site Visits and Call-in of applications. Again, this follows additional guidance produced in the Probity in Planning document and the updated Positive Engagement – a Guide for Planning Councillors (updated version) which is produced by a number of bodies including the Planning Advisory Service, Local Government Association, Planning Officers Society, Association of Council Solicitors and Secretaries and the Standards Board for England. The Government is committed to more pre-application discussion with developers as part of the Development Management process and as a result there is a need to provide advice to Members on their role in the process.
- 10.12 The Vice-Chairman of the Constitution Committee has submitted a separate request that the Committee review the Planning Protocol at this meeting.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer.

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Designation: Solicitor

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PLANNING PROTOCOL OF CONDUCT IN RELATION TO THE DETERMINATION OF PLANNING MATTERS

This Planning Protocol of Conduct for the determination of planning matters ('the Planning Protocol') substantially follows the Model members Planning Code of Good Practice, produced by the Association of Council Solicitors and Secretaries following consultation with the Audit Commission, the Local Government Ombudsman and the Standards Board for England.

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A number of other national guidance documents have also provided a reference for the content of this Planning Protocol, including, but not exclusively,

- the Local Government Association Probity in Planning guidance note,
- the Standards Board For England Model Code of Conduct guidance for members,
- the Planning Advisory Service and Improvement and Development Agency Area Based Decision Making for Development Control – a review,
- the updated version of Positive Engagement, a guide for Planning Councillors which is a jointly produced document from Communities and Local Government, Planning Advisory Service, Local Government Association, the Planning Officers Society, the Association of Council Secretaries and Solicitors and the Standards Board for England.

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The aim of the Planning Protocol is to give advice aimed at ensuring the preservation of the integrity of the planning system as open and fair to all parties. It is intended that the Planning Protocol will continue to engender public confidence in the planning system within Cheshire East, whilst avoiding procedural rules which are so rigid and overbearing that observance of them would become an end in itself at the expense of the consideration of the merits of an application.

1 INTRODUCTION

- 1.1 **The aim of this Planning Protocol** is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well-founded in any way.
- 1.2 **The key purpose of Planning** is to manage development in the public interest.
- 1.3 **Your role as a Member of the Planning Authority** is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 1.4 **When the Planning Protocol applies:** this Planning Protocol applies at all times when Councillors are involved in the planning process. (This includes, where applicable, when part of decision-making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings.) It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.
- 1.5 **If you have any doubts about the application of this Planning Protocol to your own circumstances you should seek advice early, from the Monitoring Officer, and preferably well before any meeting takes place.**

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- 1.6 In this Planning Protocol "Planning Meeting" covers all meetings of the Strategic Planning Board and the Planning Committees.

2 RELATIONSHIP TO THE MEMBERS' CODE OF CONDUCT

- 2.1 Do apply the rules in the Members' Code of Conduct first, which must always be complied with throughout the decision making process.
- 2.2 Do then apply the rules of this Planning Protocol, which seeks to explain and supplement the Members' Code of Conduct for the purposes of planning control. If you do not abide by this Planning Protocol you may put :-
- the Council at risk of proceedings on the legality or maladministration of the related decision; and
 - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Standards Committee.

3 DEVELOPMENT PROPOSALS AND INTERESTS UNDER THE MEMBERS' CODE

- 3.1 Do disclose the existence and nature of any interest, including any perceived interest, at any relevant meeting, including informal meetings or discussions with officers and other Councillors. **This is your responsibility.** Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. **The requirements for you to declare any interest apply whenever you are in attendance at a meeting, regardless of whether you are a member of the Committee or not.**

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- 3.2 Do then act accordingly. **Where your interest is personal and prejudicial:-**

- **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority. You must withdraw from the meeting room when the matter is **announced unless you are exercising your public speaking rights.** Please see paragraph 11 for your right to attend and make representations **under the Public Speaking Protocol.**
- **Don't** try to represent local, Ward or Area views, get another Member to do so instead.
- **Don't** get involved in the processing of the application.
- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a personal

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and prejudicial interest in a proposal, using your position to discuss that proposal with Officers or Councillors when other members of the public would not have the same opportunity to do so.

- Do be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal and prejudicial interest to an appropriate officer, in person or in writing, the Code places greater limitations on you than would apply to a normal member of the public.

3.3 Do notify the Monitoring Officer and Head of Planning and Policy in writing of your own application, or if you are employed as an agent and note that:-

- notification to the Monitoring Officer and the Head of Planning and Policy should be made no later than submission of the application;
- the proposal will always be reported to the planning meeting and not dealt with by Officers under the scheme of delegation; and
- it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at the planning meeting (*where appropriate*) to avoid public criticism
- you do have a right to make written representations to officers about the proposal and may address the planning meeting pursuant to the Public Speaking Protocol subject to certain additional restrictions (see paragraph 11 below for more detailed advice on this point).

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4 FETTERING DISCRETION (PREDETERMINATION) IN THE PLANNING PROCESS

Given the requirement that Councillors of the planning meetings should exercise an independent mind and decide proposals in accordance with the relevant planning considerations, Councillors must not favour any person, company, group or locality or commit themselves to a particular point of view on a planning application prior to its full consideration at the Council's planning meetings.

4.1 Don't fetter your discretion and therefore your ability to participate in planning decision-making at this Council by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.

4.2 Fettering your discretion in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

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4.3 Do be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of dual membership, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

4.4 Do remember that you are, of course, free to listen to a point of view about a planning proposal, give procedural advice and agree to forward any comments, but should then refer the person to the appropriate planning officer.

4.5 Do remember that where other ward Councillors are available and where they do not sit as a member of the same planning meeting, they will not be subject to the same restrictions regarding fettering of discretion and are therefore a valid alternative contact for members of the public or lobby groups.

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4.6 Do not use any political group meetings prior to the planning meeting to determine how you or other Councillors should vote. There is no objection to a political group having a predisposition, short of predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available but you should not make up your mind until you have read the planning officer's report and update and heard any further representations and the debate at the planning meeting.

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4.7 Don't speak and vote on a proposal where you have fettered your discretion. You are not legally obliged to withdraw from the room but in most circumstances doing so will counter any potential suggestion that you influenced the remaining members by your continued presence. If in any doubt you should seek advice from the Monitoring Officer. If you do not withdraw, as a minimum you must withdraw to the public area of the meeting room for the whole of the consideration of the matter, whether or not you are also exercising your right to speak.

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4.8 Do explain that you do not intend to speak and vote as a member of the planning meeting because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.

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4.9 Do take the opportunity to exercise separate speaking rights where you have represented your views or those of local electors and fettered your discretion, but do not have a personal and prejudicial interest. Where you do :

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- advise the democratic services officer or Chairman that you wish to speak in this capacity before commencement of the item;

- remove yourself from the member seating area to the public gallery for the duration of that item and do consider whether you need to leave the room; and

- ensure that your actions are recorded.

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5 MEMBERSHIP OF PARISH COUNCILS AND OUTSIDE BODIES

5.1 Do be aware that, whilst the Members' Code of Conduct provides for a presumption that you may regard yourself as not having a personal interest in matters which relate to the organisations mentioned below and if you do not intend to speak on the matter at the planning meeting, you must exercise your discretion in deciding whether or not to participate in each case and where:

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- you have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of :
 - (a) another local or public authority of which you are a member; or
 - (b) a body to which you have been appointed or nominated by the Council as its representative; or
 - (c) you are a trustee or company director of the body submitting the proposal and were appointed by the Council

— you should always disclose a prejudicial as well as personal interest and withdraw.

Where you do intend to speak on a matter at the planning meeting, or are unsure if you wish to do so, it is advisable to declare that interest at the start of the meeting, although you are not legally obliged to.

5.2 Do consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example), provided:

- the proposal does not substantially affect the well-being or financial standing of the consultee body;
- you make it clear to the consultee body that:
 - (a) your views are expressed on the limited information before you only;
 - (b) you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Planning meetings and you hear all of the relevant information; and
 - (c) you will not in any way commit yourself as to how you or others may vote when the proposal comes before the planning meeting; and

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- you disclose the personal interest regarding your membership or role when the planning meeting comes to consider the proposal.

6 CABINET MEMBERS

There is no Constitutional or legal reason why a Cabinet member should not also be a member of the planning meeting and take part in the decision-making processes which are not part of the executive function.

6.1 Be aware that you should not speak or vote as a member of any planning meeting on any matter which you have discussed at Cabinet unless you have demonstrated there and can do so at the relevant planning meeting that you have not predetermined the application.

6.2 Do not take part as a member of any planning meeting on a matter in which you may have been seen as advocating a proposal as a Cabinet Member.

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6.3 Do take the opportunity to exercise separate speaking rights under the Public Speaking Protocol where you have fettered your discretion, but do not have a personal and prejudicial interest. Where you do :

- advise the democratic services officer or Chairman that you wish to speak in this capacity before commencement of the item;
- remove yourself from the member seating area to the public gallery for the duration of that item and consider leaving the room after you have spoken; and
- ensure that your actions are recorded

7 CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS

7.1 Do refer those who approach you for planning, procedural or technical advice to officers.

7.2 Don't agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it and particularly between the submission of an application and the planning meeting where it is to be determined. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Head of Planning and Policy organise it. The officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action and that views expressed are provisional, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Planning meetings.

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7.3 Do otherwise:

- follow the rules on lobbying;
- consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- report to the Head of Planning and Policy any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.
- ask relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other Councillors might vote.

7.4 In addition in respect of presentations by applicants/developers:

- 7.5 Don't attend a planning presentation unless an officer is present and/or it has been organised by officers.
- 7.6 Do ask relevant questions for the purposes of clarifying your understanding of the proposals.
- 7.7 Do remember that a presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Planning meeting of the planning authority.
- 7.8 Do be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Councillors might vote.

PRE APPLICATION DISCUSSIONS

It is recognised that pre-application discussions can be of great benefit to the planning process, however, this may create some risks for Councillors and for the integrity of the decision making process and therefore they should only take place within clear parameters and governance arrangements and always with officers present and a written record of the discussions made and kept.

- 7.9 Do ensure that if you are involved by an officer in pre-application discussions that it is made clear that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional, as by their very nature not all relevant information will be available and no formal consultation with interested parties will have taken place.
- 7.10 Do not seek to give advice in pre-application discussions upon policies within the Development Plan and other material considerations that may be relevant to a particular proposal or be drawn into negotiations. Ask officers to deal with any

of these points to ensure a consistent and co-ordinated approach from the Council.

7.11 Do respect a request for confidentiality where there is a legitimate reason justifying non-disclosure. Seek advice from the officers present if you are unsure.

7.12 Do seek to provide information on matters of fact, local knowledge and geography rather than the merits of any proposed application.

7.13 Don't use your position to improperly influence decisions in pre-application meetings.

7.14 Do ask for an officer briefing on the content of pre-application meetings if you are uncomfortable about attending those meetings yourself.

8 LOBBYING OF COUNCILLORS

8.1 Do explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the planning meetings decision-making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.

8.2 Do remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

8.3 Don't accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register the gift or hospitality where its value is over £25.

8.4 Do copy or pass on any lobbying correspondence you receive to the Head of Planning and Policy at the earliest opportunity or declare the receipt of lobbying information at the planning meeting.

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8.5 Do promptly refer to the Head of Planning and Policy any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.

8.6 Do inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.

8.7 Do note that, unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this Planning Protocol through:

- listening or receiving viewpoints from residents or other interested parties;

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- making comments to residents, interested parties, other Councillors or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

9 LOBBYING BY COUNCILLORS

- 9.1 **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a personal and prejudicial interest and have to withdraw.
- 9.2 **Do** register your membership of any lobby group.
- 9.3 **Do** declare the existence and nature of your interest in any lobby group at Planning meeting meetings so that members of the public are informed about interests that may relate to your decisions. Often this will be a personal interest and you can continue to participate but note that it can sometimes be a prejudicial interest or lead to allegations of bias or predetermination and in those circumstances you must withdraw from the meeting.
- 9.4 **Do** not take part in any matter which relates directly to the lobby group of which you are a member rather than to the views it holds. If the Planning meeting is discussing a planning application submitted by the group you should consider that you have a prejudicial interest and should act accordingly.
- 9.5 **Do** weigh up the following factors where your lobby group has expressed a public view on a matter and consider whether a reasonable member of the public, knowing the relevant facts, would think that you appear biased. The factors are:
- the nature of the matter to be discussed
 - the nature of your involvement with the lobby group
 - the publicly expressed views of the lobby group
 - what you have said or done in relation to the particular issue
- 9.6 **Do not** become a member of an organisation whose primary purpose is to promote or oppose specific planning proposals or those within a limited geographical area, as you may be perceived as having fettered your discretion.
- 9.7 **Do** remember that if the local branch of a general interest group has been vociferous or active on a particular issue or you are closely associated with the management or decision making process of that organisation such as its

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Chairperson or a member of the planning meeting, it will become increasingly difficult to demonstrate your ability to judge the matter with an open mind and you may appear biased and therefore you should consider whether it is appropriate for you to take part in the decision making process.

- 9.8 **Do not** publicly support a particular outcome on a proposal within your Ward or actively campaign for it if you wish to take part in the decision making process. It would be very difficult for you to demonstrate that you had the necessary degree of impartiality to properly weigh the arguments presented and the decision would be open to challenge. Again it is a question of maintaining the fine balance between a predisposition where your mind is not totally made up and a predetermination. This would, however, not prevent you from expressing the views of your constituents provided you are capable of determining the Application in accordance with the law.
- 9.9 **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the planning meeting that you have reserved judgement and the independence to make up your own mind on each separate proposal.
- 9.10 **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken. It is difficult to define "excessively" but you need to consider whether a member of the public, knowing the facts, would think that, through your representations, the lobbied member was no longer able to take a view on the matter in the public interest but had predetermined it.
- 9.11 **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Councillors should vote on a planning issue.

10 SITE INSPECTIONS

Site Inspections can play a legitimate part in the decision making exercise but must be limited to inspections by viewing and as a fact finding exercise. They are not to be used to determine a proposal prior to the meeting of the Planning meetings. It should be noted that this Section applies to Councillors requests for a Site Inspection and that the Head of Planning and Policy may arrange Site Visits Inspections without prior discussion where, in his professional opinion, there is a real benefit from viewing the site.

It is important to ensure that Councillors taking planning decisions are in possession of all the facts, including matters that may have been pointed out or come to light during a site visit. Attendance of Councillors will not only demonstrate that Councillors are fully informed but will also ensure that high quality consistent and sound decisions are made, and that the risks of legal challenge are minimised. The expectation is that all Planning meeting Members will attend all formal site inspections and a record of attendance will be maintained and monitored.

The Council has a separate protocol that deals with Site Inspections in more detail, the advice contained within this planning protocol is general advice which is developed further by the Site Inspection Protocol.

- 10.1 **Do** try to attend site inspections organised by the Council where possible.
- 10.2 **Don't** request a site inspection unless you feel it is strictly necessary because:
- particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed; or
 - details of the proposed development cannot be ascertained from plans and any supporting information to Councillors satisfaction at the planning meeting; or
 - where design considerations are of the highest importance particularly in relation to the surrounding locality.
- 10.3 **Do** ensure that any information that you gained from the site inspection is reported back to the Planning meetings, so that all Councillors have the same information.
- 10.4 **Do** ensure that you treat the site inspection only as an opportunity to seek information and to observe the site.
- 10.5 **Do** ask the officers at the site inspection questions or seek clarification from them on matters which are relevant to the site inspection.
- 10.6 **Do** be prepared to listen to and ask questions of fact from the Applicant or other parties but do not be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind. The decision can only be made at the Planning meeting and you should make this clear to any applicant or other party and suggest that they make written representations or use of the Public Speaking arrangements and direct them to, or inform, the officer present.
- 10.7 **Don't** express opinions or views to anyone, and remember that your conduct on a site inspection may inadvertently suggest that you have already formed a view.
- 10.8 **Don't** enter a site, which is subject to a proposal other than as part of an official site inspection, even in response to an invitation, as this may give the impression of bias unless:
- you feel it is essential for you to visit the site other than through attending the official site inspection;

- you have first spoken to the Head of Planning and Policy about your intention to do so and why (which will be recorded on the file) and
- you can ensure you will comply with these good practice rules on site inspections.

11 PUBLIC SPEAKING AT MEETINGS

The Council has a separate protocol that deals with [the procedure for](#) Public Speaking at meetings in more detail, the advice contained within this planning protocol is general advice which is developed further by the Public Speaking Protocol.

- 11.1 **Don't** allow members of the public to communicate with you during the planning meeting proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- 11.2 **Do** ensure that you comply with the Council's Protocol for Public Speaking at Planning Meetings.
- 11.3 All Councillors are entitled to speak at a planning meeting in accordance with the Public Speaking Protocol either as an individual, representative or ward member. However, where you might be regarded as having a personal and prejudicial interest in the application then you may attend and speak in accordance with the protocol but only for the purpose of making representations, answering questions or giving evidence relating to the matter in the same manner as would apply to a normal member of the public. Immediately after doing so you must leave the meeting room whilst the meeting considers the proposal even though members of the public may remain. [Planning Councillors who have pre-determined a matter may also exercise public speaking rights and should consider withdrawing from the meeting room having spoken on a matter to counter any potential suggestion that you influenced the remaining members by your continued presence.](#)

12 OFFICERS

Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate whilst officers are responsible to the Council as a whole. Their relationship is based upon mutual trust and understanding and this must never be abused or compromised. Instructions to officers can only be given through a decision of the Council, the Cabinet, Board or Committee or under delegated powers and not by individual Councillors acting outside those powers.

- 12.1 **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Head of Planning and Policy, which may be incorporated into any committee report.)
- 12.2 **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with the Head of Planning and Policy or those officers who are authorised by the Head of Planning and Policy to deal with the proposal at a Member level.

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- 12.3 Do recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the planning meeting or its Councillors
- 12.4 Do be aware of the Member/Officer Relations Protocol.

13 DECISION MAKING

The Strategic Planning Board has adopted a separate protocol that deals with the Call in of planning applications in more detail, the advice contained within this planning protocol is general advice which is developed further by the Call In Procedure.

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- 13.1 Do ensure that, if you request a proposal to go before the planning meeting rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the planning meeting. Take care that the wording of your planning reasons do not suggest that you have already formed a view on the application, if you have not done so, and have therefore fettered your discretion. Seek advice on this from officers if necessary.

- 13.2 Do come to meetings with an open mind and demonstrate that you are open-minded.

- 13.3 Do comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

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- 13.4 Do come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse the application.

- 13.5 Don't vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire item, including the officers' introduction to the matter.

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- 13.6 Do have recorded the reasons for the planning meeting's decision to grant, refuse or defer any proposal.

- 13.7 Do delegate to the Head of Planning and Policy the drafting of conditions that the Planning meeting may wish to add or amend when considering an application, ensuring that an explanation of why the change or addition is required is given to the planning meeting.

- 13.8 Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly

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identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

- 13.9 Do, where necessary, consider the drafting of conditions for sensitive applications that the planning meeting wish to approve against Officer recommendation at the next meeting of the planning meeting to allow Officers to formulate appropriate conditions and provide the planning meeting with any relevant further new information.

13.10 Do, where necessary, consider deferring the consideration of an application to another meeting if there is a very strong objection from officers on the validity of reasons, to allow the proposed reasons to be tested and discussed further.

13.11 Do comply with the Protocols adopted by the Strategic Planning Board.

14 TRAINING

- 14.1 Don't participate in decision-making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- 14.2 Do endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

15 INVOLVEMENT IN SECTION 106 AGREEMENTS

The guidance in respect of planning obligations is similar to that of planning conditions in that they must be relevant to planning and directly related to the proposed development if they are to be taken into account in making a decision on a planning application. Local Planning Authorities should not grant planning permission for unacceptable development because of unrelated benefits offered by the applicant and should not be unduly influenced by any benefits offered.

- 15.1 Do remember that requirements to be included within Section 106 Agreements should be considered and discussed at pre-application stage. The Officers will provide advice on general requirements, but if you are aware of any additional potential requirements please refer these to the Head of Planning and Policy as soon as you become aware of them.
- 15.2 Do remember that the purpose of Section 106 Agreements is to help make acceptable, development which would otherwise be unacceptable in planning terms, by prescribing the nature of the development, or compensating for loss or damage created by the development, or to mitigate a developments impact. They must therefore be relevant to planning and relate fairly and reasonably to the development.

- 15.3 Do include the content of Section 106 Agreements in the debate that takes place at planning meetings, whether you are a member of the planning meeting or a visiting Member who wishes to speak on the application.
- 15.4 Don't hold formal or informal meetings with Applicants, Developers and Objectors over the contents of potential Section 106 agreements. If you feel that a meeting would be useful to clarify the issues, you should ask the Head of Planning and Policy to arrange such a meeting. In this way the relevant Officers can be at the meeting, and those present can be made aware that the discussions will not bind the authority, and that the meeting can be properly recorded on the application file and the record of the meeting disclosed when the application is considered.
- 15.5 Do remember that it is imperative that a Ward Councillor's role continues after the completion of the Section 106 Agreement, by assisting Officers in ensuring that Section 106 Agreements are complied with. This includes noting when development is being undertaken and assisting Officers in ensuring triggers within Section 106 Agreements are complied with. Ward Councillors should contact Officers for any information on completed Section 106 Agreements.

16 MONITORING AND REVIEW

- 16.1 The Head of Planning and Policy will report annually to the Standards Committee regarding whether the arrangements set out in this Planning Protocol have been complied with and will include any proposals for amendment in the light of any issues that have arisen during the year.
- 16.2 In particular, the Head of Planning and Policy shall monitor the following:-
- (a) the number of complaints made about breaches of the Planning Protocol and the outcome of those complaints;
 - (b) the number of appeals upheld;
 - (c) any external inspection reports in respect of relevant issues;
 - (d) the level of awareness of the Planning Protocol among Councillors and Officers; and
 - (e) the number of Ombudsman reports finding maladministration by Councillors in the conduct of planning issues.

17 BREACHES OF THE PLANNING PROTOCOL

Maintaining high ethical standards enhances the general reputation of the Council, its Councillors and its officers. Open and transparent decision making enhances local democracy and should lead to better informed citizens. This Planning Protocol, along with Cheshire East's Members Code of Conduct are intended to promote these standards.

- 17.1 Do be aware of your responsibilities under this Code and the Members Code of Conduct.
- 17.2 Do report any apparent breaches of either the Code of Conduct or the Planning Protocol to the Monitoring Officer.

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- 17.3 Do seek advice if you are in doubt.
- 17.4 Failure to comply with the Members Code of Conduct may lead to a complaint to the Standards Committee who can, in certain circumstances disqualify a Councillor. Failure to comply with this Planning Protocol may lead to a finding of Maladministration by the Ombudsman or could lead to a decision being challenged in the courts.
- 17.5 Allegations on any breach of this Planning Protocol by Members may be referred to the Monitoring Officer for referral to the Standards Committee, the relevant Leader and/or Chief Whip of the political group.

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 30th September 2010
Report of: Democratic Services Manager
Subject/Title: Review of the Constitution

1.0 Report Summary

- 1.1 To recommend proposed changes to the Council and Committee Procedures as part of the review of the Council's Constitution.

2.0 Decision Requested

That the Committee consider the proposals set out in the report, together with any other matters raised by Members, and where it considers appropriate, make recommendations to Council

3.0 Wards Affected

- 3.1 All Council Wards are affected by the Constitution, which has application across the Borough.

4.0 Local Ward Members

- 4.1 All local Ward Members are affected for the reasons set out in paragraph 3.0.

5.0 Policy Implications

- 5.1 The Constitution sets out the procedures by which Council policy is set. Any proposed changes to the Constitution would need to align with the requirements of legislation which often stipulates the Council decision-making route associated with the adoption of policies.

6.0 Financial Implications

- 6.1 There are no financial implications associated with the proposed review.

7.0 Legal Implications

- 7.1 Any changes to the Constitution would need to be agreed by Council, following a recommendation from the Constitution Committee. Proposed changes would need to align with any statutory requirements.

8.0 Risk Management

- 8.1 There would appear to be no risks associated with this element of review of the Constitution. The proposed review will provide an opportunity to ensure that all elements of the document are consistent with one another.

9.0 Background

- 9.1 The Constitution is a document of significant size and critical importance to the work of the Council. In its 450 pages, it provides important information about the Council, its Members and officers. It also provides a record of the officer and Member processes which underpin all decisions made by the Council. The rules by which Council, Committee and Cabinet business are conducted are recorded in the Constitution.
- 9.2 This information is not only of great importance to Members, officers and members of the public, in order for them to understand the Council's decision-making processes and rules; it is also of critical importance in directing the way in which decisions are made. Failure to follow the procedural requirements of the Constitution could invalidate decisions made.
- 9.3 The Constitution is published on the Council's website, and is available to all Members. It ensures transparency of decision-making and enables all who are interested in doing so, to check that procedures have been followed properly. Members of the public and other interested parties are able to influence decisions made by reference to the procedures and mechanisms set out in the Constitution.
- 9.4 The preparation of the Council's existing Constitution had to be carried out within a narrow timeframe but the Constitution is robust and fit for purpose. The Council has approved a number of refinements to it was originally approved. The Constitution continues to serve the Council well, but the Committee agreed at its last meeting that a review of the Constitution should take place. It agreed a schedule to help manage the process.
- 9.7 The Committee agreed that it would consider Council and Committee Procedure Rules at this meeting. Cabinet Members and Directors have been consulted and no specific matters have been raised.
- 9.8 Democratic Services Officers have identified the following issues:-
1. The Constitution is silent on the specific requirements relating to the Local Government Act in relation to timescales for holding the Annual Meeting of Council.

Set out below is a proposal.

ANNUAL MEETING OF THE COUNCIL

Timing and business

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May on a date the Council will decide at or before their last meeting prior to the Annual General Meeting. In the absence of a decision or statutory provision to the contrary the day will be the third Thursday in May.

The annual meeting will:

- (i) elect a person to preside if the Mayor is not present;
 - (ii) elect the Mayor;
 - (iii) elect the Deputy Mayor;
 - (iv) approve as a correct record and sign the minutes of the last meeting;
 - (v) receive any communications from the Mayor;
 - (vi) receive any declarations of interest from members;
 - (vii) appoint the Overview and Scrutiny Committees, the Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions;
 - (viii) consider any business set out in the notice convening the meeting.
2. The Constitution is silent on Order of Business for ordinary Council meetings. This should be listed so that members, officers and the public have certainty.

Set out below is a proposal.

Council will:

- (i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (ii) approve as a correct record and sign the minutes of the last meeting;
- (iii) receive any communications from the Mayor;

- (iv) receive any declarations of interest from members;
 - (v) deal with any business outstanding from the previous Council meeting;
 - (vi) receive questions from the public;
 - (vii) receive any recommendations from the Cabinet or any Council Committee;
 - (viii) receive questions from the public;
 - (ix) consider any motions moved without notice;
 - (x) consider any motions;
 - (xi) consider any urgent items.
3. The Constitution is silent on the control of agenda items. The agreed arrangements for pre-agenda meetings should be reflected in the Constitution. These provide for the Chairman or, in his absence, the Vice-Chairman to settle committee agendas.

10.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Brian Reed

Designation: Democratic Services Manager

Tel No: 01270 686670

Email: Brian.reed.@cheshireeast.gov.uk

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 30th September 2010
Report of: Democratic Services Manager
Subject/Title: New Executive Arrangements

1.0 Report Summary

- 1.1 The Local Government and Public Involvement in Health Act 2007 requires all local authorities to agree and implement a new leadership model.

2.0 Recommendations

- 2.1 That

(1) a public consultation exercise be undertaken between 1st October and 12th November 2010, by the way of an article and press release via the Council's website, on the options for future executive arrangements for Cheshire East Council; and

(2) the result of the consultation exercise be reported to the Constitution Committee on 18th November 2010 with a view to making a recommendation to Council on 16th December 2010.

3.0 Reasons for Recommendations

- 3.1 To comply with Government requirements to consult on two options for future executive arrangements for Cheshire East Council.

4.0 Wards Affected

- 4.1 All wards will be affected by the proposed change.

5.0 Local Ward Members

- 5.1 All local ward members will be affected by the proposed change.

6.0 Policy Implications including - Climate change - Health

- 6.1 There are no direct policy implications.

7.0 Financial Implications

- 7.1 None at this stage

8.0 Legal Implications

- 8.1 The actions outlined in this report are required in order for the Council to comply with the provisions of the Local Government and Public Involvement in Health Act 2007.

9.0 Risk Management

- 9.1 No risks have been identified.

10.0 Background and Options

- 10.1 The Local Government Act 2000 put in place a new decision-making framework, which introduced a separation of the decision-making and scrutiny roles of local authorities. Cheshire East Council, in common with the majority of local authorities, adopted a Leader with Cabinet style of executive. Cheshire East Council chose the strong leader model in which Council elects the Leader, and the Leader appoints Cabinet Members.
- 10.2 The Local Government and Public Involvement in Health Act 2007 requires local authorities to choose one of two new models of executive leadership: either a directly-elected Mayor and Cabinet, or a strong Leader and Cabinet style of governance. The requirement to hold a referendum before proceeding with the option of a directly-elected Mayor has now been removed.
- 10.3 The 2007 Act does not change the existing requirement for the Council to have arrangements to review and scrutinise executive decisions and any actions taken as a result of them. Other 'non-executive' functions (e.g. planning and regulatory functions and standards) also remain unaffected.
- 10.4 However, this change in executive arrangements, to Leader or Elected Mayor with a 4 year term of office, must come into effect from May 2011. The Council must pass a resolution giving effect to the change by 31 December 2010.

New Leadership Model

- 10.5 Once in office, there is little difference between what a new strong Leader and an elected Mayor can do. In both cases the elected Mayor or Leader will continue in office for a full four year term and will have the Council's executive powers formally vested in him/her. (The term of office of the Leader is from the date of election as Leader to the first annual meeting after their normal day of retirement as a councillor i.e. up to 4 years.) The main differences between the two models are the method of selection and the ability to remove him/her.
- 10.6 The Leader can be removed by a vote of no confidence requiring a simple majority of the Council. In this event, the motion must be set out in the

agenda for the meeting. An elected Mayor is elected separately, in addition to the 81 Councillors. Therefore an elected Mayor might not be a Councillor.

- 10.7 Either an elected Mayor or a Council-appointed Leader will initially hold all the Council's executive functions under their personal control. It will then be for him/her to choose whether to exercise some or all of these functions personally or to make arrangements for their discharge by an executive, by an individual member of the executive, or by officers.
- 10.8 As now, executive members must be appointed from amongst elected councillors, and it will be for the Council Leader or elected Mayor to choose how many members to appoint to the Cabinet (between two and nine) as well as themselves (as per the existing arrangements). He/she will also decide what (if any) executive functions are delegated to executive portfolio holders. The Mayor or Leader must appoint at least one deputy who, unless they resign or cease to be a councillor, will hold office until the end of the Mayor/Leader's term. A deputy can also be removed and replaced mid-term by the Leader or Mayor as can other members of the executive. The Act specifies that the deputy will take up the role of the Leader/Mayor if the latter is unable to act or the office becomes vacant.
- 10.9 Those functions which are the remit of the full Council remain unchanged by the 2007 Act. Therefore, setting the budget and major policies remain a decision for all Council Members.
- 10.10 The Council will continue to elect a traditional Civic ceremonial Mayor and Deputy Mayor of the Borough on an annual basis and their roles will not be altered by either of the new forms of executive. The Civic Mayor will continue to preside over meetings of the Council and carry out the ceremonial and civic duties attached to the office.

Matters To Consider

- 10.11 The new legislation requires that the Council make a formal resolution on its new executive arrangements before the end of December 2010. A table summarising the main differences between Cheshire East Council's current executive model and the two options available under the Local Government and Public Involvement in Health Act 2007 is set out in Appendix 1.
- 10.12 If the Council wishes to retain the Leader and Cabinet model, the Constitution will not need major amendment as its arrangements are largely compliant with the new requirements.
- 10.13 Although the Council already has a strong Leader model, if it wishes to opt for the new strong leader model (as opposed to the elected Mayor model) it will still be required to confirm this formally by passing a resolution to do so before 31st December 2010 for implementation at the Annual meeting in

May 2011. Before doing this, the Council must undertake a consultation exercise with electors and other interested parties.

- 10.14 If, following consultation, the Council resolves to implement the Leader and Cabinet executive model, it will need to consider changes to its executive arrangements which provide that the Leader is elected for a four year term, determines the number of members of the Cabinet and appoints members of the Cabinet.

Consultation

- 10.15 The legislation requires that the Council consult with electors and other interested persons within the Borough. The Council must draw up proposals to make a change in its executive arrangements and in so doing must consider the extent to which the proposals would be likely to help in securing continuous improvement in the way the Council's functions are exercised, having regard to economy, efficiency and effectiveness. These proposals will be approved at a meeting of Council on 16th December 2010. After the Council has drawn up its proposals it must make copies available for public inspection and publish them in local newspapers.
- 10.16 Guidance has recently been issued in the form of a letter from the Minister for Housing and Local Government (Appendix 2). It can be seen that whilst the statutory requirement to follow the consultation process must be adhered to, Councils are encouraged not to incur any significant expenditure in doing so. Indeed, it can be seen that these requirements are likely to be repealed, but not before the Council is required to make an appropriate resolution.
- 10.17 The Council will need to decide on one of two options:
- a) Leader with a 4 year term or
 - b) Elected Mayor with a 4 year term

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Brian Reed
Designation: Democratic Services Manager
Tel No: 01270 686457
Email: brian.reed@cheshireeast.gov.uk

Appendix 1

Summary of main differences between current executive model and the two options available under the LG & PlIH Act 2007

		Options available under the Local Government and Public Involvement in Health Act 2007	
	Current 'strong Leader' and Cabinet model	New 'strong Leader' and Cabinet model	Elected Mayor
Appointment and term of office	Leader appointed by full council with no fixed term	Leader appointed by full council for a 4 year term (or until the expiry of the leader's term of office as a councillor)	Elected directly by the electorate for a 4 year term
Removal	The Council may, by resolution, remove the Leader from the office	Councils may include procedures which would allow the removal of the leader from office during the 4 year period by resolution of the council: It is suggested that this is by voting at full council, which requires only a simple majority (Section 44C of the Act).	Cannot be removed during his/her term of office
Executive Functions	Leader agrees the delegation of executive functions	All executive functions would be vested in the Leader who can then delegate.	All executive functions would be vested in the Mayor who can then delegate
Appointment of Cabinet	Leader appoints the Cabinet Members and notifies Council. Leader allocates Portfolio Holder responsibilities	Council appoints Leader who then appoints his/her Cabinet Members and allocates responsibility.	Mayor appoints his/her Cabinet Members and allocates responsibility
Deputy	No legal requirement to have a Deputy Leader	Legal requirement to have a Deputy Leader.	N/A

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Leaders of Non-Metropolitan District Councils
in England

The Rt Hon Grant Shapps MP
Minister for Housing and Local Government

**Department for Communities and Local
Government**

Eland House
Bressenden Place
London SW1E 5DU

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www.communities.gov.uk

Dear Leader

**Requirement to consult under the Local Government and Public Involvement in
Health Act 2007**

I am writing to you about the requirements on your council to adopt a new governance model from May 2011, and before doing so to consult your local electorate and interested parties in the area. Whilst it is for each council to decide how it will meet these requirements, I would wish to highlight the Government's view that councils need not incur any significant expenditure on these requirements, and our expectation in today's circumstances that all councils will pursue this at minimal cost.

These requirements are in the Local Government and Public Involvement in Health Act 2007 and necessarily remain in force unless or until that Act is repealed by fresh primary legislation. It is our intention to do this. For your council the requirements mean that you must resolve by 31 December 2010 to move to either the new leader and cabinet model or mayor and cabinet model, and before so resolving you must take reasonable steps to consult the local electorate and other interested parties in your council's area.

In considering how to approach these requirements you will wish to have regard to the circumstances of today, including both the priority of cutting out all wasteful spending and the Government's commitments to allow councils to return to the committee system, should they wish to, and on elected mayors. We also intend to remove the necessity to elect a leader for four years. We intend to provide for these commitments in our Localism Bill to be introduced later in this Parliamentary session. This may mean that any governance model you adopt in May 2011 may be further changed within a year or so. Your decisions about consultation will also be taken in the context of the greater transparency and openness agenda which I am confident you will be putting in place throughout your council.

Accordingly, the case is strong for any consultation now about future governance arrangements to be the minimal cost option. It will be for each council to decide, but in our view no more than a small newspaper advert/article or press release on your website may be proportionate and right in these circumstances.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Grant Shapps', with a small dot at the end.

GRANT SHAPPS M

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 30th September 2010
Report of: Democratic Services Manager
Subject/Title: Recommendations of the Civic Sub-Committee

1.0 Report Summary

1.1 This report sets out the recommendations of the Civic Sub-Committee to the Constitution Committee in relation to the following:

- Honorary Aldermen and Freemen
- Freedom of the Borough – 1st Battalion, Mercian Regiment (Cheshire)
- Flag Flying Policy

2.0 Recommendation

2.1 That the Committee consider the recommendations of the Civic Sub-Committee as set out in the Appendices.

3.0 Reasons for Recommendations

3.1 To enable the proposals to be adopted and implemented.

4.0 Wards Affected

4.1 N/A

5.0 Local Ward Members

5.1 N/A

6.0 Policy Implications

6.1 The report deals with the adoption of policies in relation to Honorary Aldermen and Freemen appointed by Cheshire East Council and in relation to the flying of flags from civic buildings.

7.0 Financial Implications

7.1 None identified at this stage

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The granting of the Freedom of the Borough must comply with the relevant statutory requirements.

9.0 Risk Management

- 9.1 None identified.

10.0 Background and Options

- 10.1 The Civic Sub-Committee at its meeting on 3rd August 2010 considered a number of matters on which it made recommendations to this Committee.
- 10.2 Each of these matters is dealt with in a separate Appendix to this report as referred to below and sets out the relevant minute and recommendations of the Sub-Committee, any further information and/or advice received since the Sub-Committee's meeting and, for background information, the report considered by the Sub-Committee.
- Honorary Aldermen and Freeman **Appendix A**
 - Freedom of the Borough – 1st Battalion, Mercian Regiment (Cheshire) **Appendix B**
 - Flag Flying Policy **Appendix C**
- 10.3 For completion, the minutes of the Sub-Committee have been attached as **Appendix D**.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Paul Jones

Designation: Democratic Services Team Manager

Tel No: 01270 686458

Email: paul.jones@cheshireeast.gov.uk

APPENDIX A

Extract from the minutes of the Civic Sub-Committee's meeting of 3rd August 2010

4. HONORARY ALDERMEN AND FREEMEN

The Sub-Committee considered proposals relating to the Honorary Aldermen and Freemen of Cheshire East Council who were admitted under the Local Government (Structural Changes) (Transitional Arrangements) (No2) Regulations 2008.

The Sub-Committee had previously considered a report on matters relating to the Honorary Aldermen and Freemen of Cheshire East Council who had been admitted from the demised authorities. A provisional list of Honorary Aldermen and Freemen, who had been admitted by the demised authorities, had been circulated at the previous meeting together with a list of rights and privileges that had been extended to them. The Civic Sub-Committee had resolved that the Democratic Services Manager write to all Members of the Council with a view to confirming the accuracy of the list of Honorary Aldermen and Freemen and to consult with all Members of the Council on what rights and privileges should be granted by Cheshire East Council.

Cheshire East Council now needed to consider its own arrangements. A draft Scheme had been drafted for Members' consideration which dealt with:

- the criteria for the appointment of Honorary Alderman and Freemen;
- the rights and duties to be conferred on Honorary Alderman and Freeman;
- the order of proceedings for the ceremony for their admission; and
- arrangements for their attendance at meetings and events and notification of events.

RESOLVED

That the draft scheme relating to the appointment, rights and privileges of Honorary Aldermen and Freemen as set out at Appendix 5 to the report be approved and recommended to the Constitution Committee subject to the following:

1. for the purposes of the scheme, the term 'eminent service' shall mean a minimum of 12 years' service, whether consecutive or otherwise;
2. the rights and privileges previously afforded to County Honorary Aldermen as set out in Appendix 4 shall be conferred on newly-appointed Honorary Aldermen in Cheshire East and incorporated into the scheme accordingly, subject to the following amendments:

- a. parking passes shall be provided for Westfields and Macclesfield Town Hall
 - b. a life pass to Tatton Park and its facilities shall be granted to an Honorary Alderman and one guest
 3. the rights and privileges conferred on Honorary Aldermen under this Scheme shall also apply to newly-appointed Honorary Freeman; and
 4. where the title of Honorary Freeman has been conferred on a body or organisation, an appropriate representative of that body shall be invited to attend any relevant functions.
-

Note:

The recommendations of the Sub-Committee make reference to the issuing of parking passes for Westfields and Macclesfield Town Hall. The Car Parking Team has been consulted on the implications of this and has expressed concerns about placing further demands on the limited parking capacity at the two sites. The Committee may therefore may wish to revise the scheme to take into account their comments concerning the capacity at Westfields and other car parks. The provision of life passes for Tatton Park has no implications.

A proposal is set out below.

5. An Honorary Alderman of the Cheshire East Council shall enjoy such privileges as may properly be conferred by the Council from time to time and in particular shall be entitled:
 - (1) to attend civic receptions and other civic functions or ceremonies to which all Members of the Council are invited *and to be provided with a car parking space* and where the spouses and partners of Members are able to attend so shall the spouses and partners of Aldermen;
 - (2) to attend meeting of the Full Council *and to be provided with a car parking space* and to be allocated a seat in the reserved part of the Council Chamber;
 - (3) to be notified on a regular basis of significant civic matters by the Democratic Services Manager;
 - (4) *to be provided with a life pass for Tatton Park;*
 - (5) *to be provided with a pass on request when attending visiting Council premises.*

The Committee is asked to consider the additional information and what changes if any it wishes to make to the Scheme and recommend it to Council for approval.

CHESHIRE EAST COUNCIL

Civic Sub Committee

Date of Meeting: 3 August 2010
Report of: Democratic Services Manager
Subject/Title: Honorary Aldermen and Freeman

1.0 Report Summary

- 1.1 To make recommendations upon several matters relating to the Honorary Aldermen and Freeman of Cheshire East Council who were admitted under the Local Government (Structural Changes) (Transitional Arrangements) (No2) Regulations 2008. This includes the benefits, rights and privileges to which they should be entitled. Recommendations are also made in respect of the criteria for the appointment of Honorary Alderman and Freeman.

2.0 Recommendations

That the Civic Sub-Committee make recommendations to the Constitution Committee upon the benefits, rights and privileges to which Honorary Aldermen and Freeman should be entitled and the criteria for the appointment of Honorary Alderman and Freeman.

3.0 Financial Implications

- 4.1 Section 249 (6) of the Local Government Act 1972 allows Councils to spend 'such reasonable sum as they think fit' on presenting an address or casket containing the address to the Honorary Alderman or Freeman. Excluding any charges for a civic reception the cost of a framed scroll and a gift to commemorate the award of the title of Honorary Aldermen or Freeman are estimated to be a maximum of £1000. Any costs associated with the benefits, rights and privileges to which Honorary Aldermen and Freeman might be entitled will be met from the Civic and Democratic Services budgets.

4.0 Legal Implications

- 4.1 Section 248 of the Local Government Act 1972 permits the council of a relevant authority, by a resolution passed by not less than two-thirds of the members voting thereon at a meeting of the council specially convened for the purpose with notice of the object, to admit to be Honorary Freeman of the borough persons of distinction and persons who have, in the opinion of the council, rendered eminent services to the borough.

- 4.2 With regard to Honorary Aldermen, under the provisions of Section 249 of the Local Government Act 1972, “a principal council may, by a resolution passed by not less than two-thirds of the members voting thereon at a meeting of the council specially convened for the purpose with notice of the object, confer the title of honorary aldermen on persons who have, in the opinion of the council, rendered eminent services to the council as past members of that council, but who are not then members of that council”.
- 4.3 Sections 32 and 33 of the Local Government (Structural Changes) (Transitional Arrangements) (No2) Regulations 2008 confirm that a person who has been admitted as an Honorary Alderman or Freeman of a local government area that has been abolished shall be treated as being admitted as an Honorary Alderman and Freeman of the new reorganised area.
- 4.4 Part 1 Chapter 5 – of the Local Democracy, Economic Development and Construction Act 2009 makes new provisions on Local Freedoms and Honorary titles and amends Sections 248 and 249 of the Local Government Act 1972. These measures extend existing privileges to include the daughters as well as sons of a Freeman of a city or town, and provide for women to use the title of ‘Honorary Freewoman’. A civil partner will be in the same position as a spouse or surviving spouse of a person admitted to the Freedom of a city or town. The honorary title of ‘Honorary Alderwoman’ may also be awarded. This legislation came into force on 1st April 2010 and is intended to make changes which have not already been made by principal councils.

5.0 Risk Management

- 5.1 No issues can be identified as arising from the proposals contained in this report.

6.0 Background

- 6.1 At a meeting of the Civic Sub-Committee held earlier this year Members considered a report on matters relating to the Honorary Aldermen and Freeman of Cheshire East Council who had been admitted from the demised authorities.
- 6.2 A provisional list of Honorary Aldermen and Freeman, who were admitted by the demised authorities, was circulated at the meeting together with a list of rights and privileges that had been extended to them.
- 6.3 The Civic Sub-Committee resolved that the Democratic Services Manager write to all Members of the Council with a view to confirming the accuracy of the list of Honorary Aldermen and Freeman and to consult with all Members of the Council on what rights and privileges should be granted by this Council.

- 6.4 A letter was sent to all Members seeking their views on these different matters.
- 6.5 Following consultation with Members a revised list of Honorary Aldermen and Freeman, who have been admitted by the demised authorities has been prepared. This is attached at Appendix 1. The rights and privileges that each authority had conferred upon Honorary Aldermen is attached at Appendix 2. Attached at Appendix 3 is a copy of the letter sent to members. Appendix 4 summaries the responses received.
- 6.6 Correspondence on this matter has also been received from Honorary Alderman Melrose and she has given additional information that is included in Appendix 4.
- 6.7 Generally an Honorary Alderman may attend and take part in such civic ceremonies as the council may from time to time decide but shall not have the right to:
- Attend meetings of the council, cabinet or a committee of the council other than as a member of the public (including a joint committee upon which the council is represented)
 - To receive any of the allowances or other payments to which councillors are entitled.
- 6.8 The admission of a person to be an Honorary Freeman does not confer the rights granted to be an Honorary Alderman.
- 6.9 Every Council should have its own criteria for the appointment of Honorary Alderman, a list of rights and duties and its own ceremony for their admission.
- 6.10 Cheshire East Council needs to consider its own arrangements. Attached at Appendix 5 is a Scheme for the appointment of Honorary Alderman and Freeman. The Scheme confirms the rights an privileges that the Council will confer and includes an indicative Order of Proceedings for the Ceremony.

7.0 Proposals for the Sub Committee to Consider?

Set out below are the main matters for the Sub Committee to consider:

- the criteria for the appointment of Honorary Alderman and Freeman
- a list of rights and duties conferred on Honorary Alderman and Freeman
- the ceremony for their admission

- arrangements for their attendance at meetings and events and notification of events

8.0 Access to Information

- 8.1 The background papers relating to this report can be inspected by contacting the report writer:

Name: Brian Reed

Designation: Democratic Services Manager

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Email: brian.reed@cheshireeast.gov.uk

Appendix 1

ALDERMEN AND FREEMAN OF THE FORMER CHESHIRE COUNTY AND BOROUGH COUNCILS

Prior to disbandment on 31 March 2009, Cheshire County Council, Crewe & Nantwich Borough Council, Congleton Borough Council and Macclesfield Borough Council had conferred the title of Honorary Alderman and Freeman onto the following recipients:

Cheshire County Council

Alderman

Mrs J E Hill	Pre 1998
Mr D P Hood	Pre 1998
Mr Alan Barnes	2001
Mrs Margaret Melrose DL	2001
Mr David Palmer	2001
Mr William Talbot	2001
Mr D A Bould	2005
Mr K A Hemsley	2005
Cllr John Paul Findlow	2009
Mr John Gordon Alexander Fyffe	2009
Mr Barrie Rushworth Hardern	2009
Mr David Lloyd-Griffiths	2009
Cllr Peter Herbert Mason	2009
Cllr Arthur Moran	2009
Mr David John Newton DL	2009
Mr Peter Nurse	2009
Mr Neville Thomas Price	2009
Cllr Stephen Roger Wilkinson	2009

No Honorary Freemen have been admitted. Advice from the Former County Secretary suggests that the County was not empowered to do so.

Crewe and Nantwich Borough Council

Alderman

Mr Wilfred Talbot	1979
Mr Alan Gilderthorpe Chapman	1990
Mr John Michael Bedson JP	1991
Mr Roland Peter Birchall	1995
Mr Richard A Ellwood	1999
Leslie Cooper	1999
Mr Douglas Neville Butterill	2005
Mr Peter Kent	2009
Mr Howard Curran	2009
Mrs Maureen Grant	2009
Mr Steve Hogben	2009
Mr Michael Roberts	2009
Mr Steven Roberts	2009
Mr Gwyn Griffiths	2009
Mr Ray Stafford	2009
Mr Ron Salmon	2009
Mr Leslie Wood	2009
Cllr Terry Beard	2009
Cllr Brian Silvester	2009
Cllr Christopher Thorley	2009
Cllr Stanley Davies	2009

Freeman

The 22nd (Cheshire) Regiment	1986
Mrs Anne B Blacklay BSc	1989
HMS Ambuscade (de-commissioned)	1993
Mr John Michael Bedson JP	1998
Mr Michel-Antoine Rognard	2001
Mr Edward John Bowler	2003
Mr Dario Gradi MBE	2003

Congleton Borough Council

Alderman

Mr R Tomlinson	1998
Mr R C Parry	2004
Mr K A Hemsley	2004
Mrs K A Thompson	2004
Mr M J Cooper	2009
Mr T Farrell	2009
Mr R A Giltrap	2009
Mr L Morris	2009
MR F Walton	2009
Cllr D T Brown	2009
Cllr RM Domleo	2009
Cllr P J Edwards	2009
Cllr RI Fletcher	2009
Cllr DI Hough	2009

Freeman

Mr G Chambers	2009
First Battalion of the Mercian Regiment was also a Freeman of the Borough	

Macclesfield Borough Council

Alderman

Mr P. O. Davies	2009
Mrs. S. L. Hardern	2009
Mr K. Jagger	2009
Mr A. Wall	2009
Mr R. F. Short	2009
Mrs. M. D. Clampett	2009
Mrs. D. M. Millett	2009
Mrs. J. M. Barnes	2009
Mr N. H. Edwards	2009
Councillor Miss C. M. Andrew	2009
Mr G W Wright	2009
Councillor P. P. Whiteley	2009
Councillor J. B. Crockatt	2009
Mr B E Burkhill	2009
Councillor Mrs T Jackson	2009
Councillor Mrs A I E Harewood	2009
Mrs J. M. Palmer	2009
Mrs J. A. Jackson	2009
Mrs S. E. Roberts	2009

Freeman

Margaret Duddy OBE	2002
Sir Nicholas Winterton MP	2002
The Kings School, Macclesfield	2002
The Cheshire Regiment was also a Freeman of the Borough	

Appendix 2

CRITERIA FOR THE APPOINTMENT OF HONORARY ALDEREMAN AND THE RIGHTS AND PRIVILEGES CONFERRED BY THE FORMER CHESHIRE EAST COUNCILS

Cheshire County Council

SCHEME FOR THE APPOINTMENT OF HONORARY ALDERMEN

1. The Organisation Committee shall have the duty of submitting, from time to time, to the full Council, the names of past Members of the Council who, in the opinion of the Committee, have rendered eminent services to the Council and on whom should be conferred the title of "Honorary Alderman" in accordance with the provisions of Section 249 of the Local Government Act 1972.
2. When the Committee has approved such a recommendation, the Chief Executive, in consultation with the Chairman of the Council, shall convene a special meeting of the Council for the purposes of considering the proposition that the title of Honorary Alderman be conferred on the person or persons recommended by the Committee.
3. The resolution of the Council conferring the title of Honorary Alderman on a former Member shall be suitably engrossed and embodied in a Roll of Honorary Aldermen of the Cheshire County Council.
4. The Roll of Honorary Aldermen shall be kept by the County Secretary.
5. An Honorary Alderman of the Cheshire County Council shall enjoy such privileges as may properly be conferred by the Council from time to time and in particular shall be entitled:
 - (1) to attend civic receptions and other civic functions or ceremonies to which all Members of the Council are invited;
 - (2) to attend meeting of the County Council and to be allocated a seat in the Council Chamber;
 - (3) to use, by invitation, the facilities in the Group Rooms;
 - (4) to receive the privileges accorded to Members of the Council in respect of admission to Tatton Park.
6. For the purposes of this Scheme the term "eminent services" shall mean three full terms of office and/or service as Chairman or Vice-Chairman of the Council and/or the holding of a senior political office.

PRIVILEGES

As set out in Section 5 above.

Crewe and Nantwich Borough Council

SCHEME FOR THE APPOINTMENT OF HONORARY ALDERMEN

The title of Honorary Alderman was normally awarded to long serving Members on retirement.

PRIVILEGES

The privileges were the same as those for Honorary Freemen which were invitations to all major civic events and copies of the Borough Council Agenda and Minutes.

Congleton Borough Council

SCHEME FOR THE APPOINTMENT OF HONORARY ALDERMEN

The title of Honorary Alderman was normally awarded to long serving Members on retirement.

PRIVILEGES

Invitations to all major civic events.

Macclesfield Borough Council

SCHEME FOR THE APPOINTMENT OF HONORARY ALDERMEN

To be considered for the appointment of Honorary Alderman Members had either been Mayors of the Borough and/ or are still serving Councillors who have completed over three terms of office as Councillor.

PRIVILEGES

Invitations to all major civic events.

Appendix 3

To All Members of the Council

Brian Reed

Democratic Services Manager

Westfields, Middlewich Road

Sandbach, Cheshire

CW11 1HZ

Tel: 01270 686670

Fax: 01270 529891

email: brian.reed@cheshireeast.gov.uk

DATE: 26th March 2010
REF:

OUR REF:

YOUR

Dear Member

Honorary Freeman and Alderman

At a recent meeting of the Civic Sub-Committee, Members considered a report on several matters relating to the Honorary Aldermen and Freeman of the Council who had been admitted from the demised East Cheshire authorities.

A provisional list of Honorary Aldermen and Freeman, who were admitted by the demised East Cheshire authorities, was circulated at the meeting.

In addition, information was also circulated on the rights and privileges that each authority had conferred upon Honorary Aldermen.

The Civic Sub-Committee will consider this matter further in due course, but before doing so asked that I write to all Members of the Council with a view to confirming the accuracy of the list of Honorary Aldermen and Freeman and to consult with all Members of the Council on what rights and privileges should be granted by this Council.

I should be grateful therefore if you would consider the attached provisional list of Honorary Aldermen and Freeman to confirm its accuracy. Secondly please could you consider the rights and privileges that each authority had conferred upon Honorary Aldermen and let me have your views upon them?

The intention is that the Council should have its own criteria for the appointment of Honorary Aldermen and a list of rights and duties together with a civic ceremony for their Admission.

Yours sincerely

Democratic Services Manager

Appendix 4
Summary of Responses

Name of Respondent	Comment
Councillor Brown	Correction of Name
Councillor Thorley	Addition of Wilfred Talbot
Councillor Gilbert	Confirmation that list is correct in so far as he is aware
Councillor Stella Furlong	Confirmation that list is correct in so far as she is aware
Councillor Topping	Confirmation that list is correct in so far as he is aware
Councillor Hammond	Addition of First Battalion of the Mercian Regiment (Cheshire)
Councillor Carolyn Andrew	Confirmation that list is correct in so far as she is aware

In addition to the above the Council has received correspondence on this matter from Alderman Margaret Melrose. She anticipates that Cheshire East Council will remain in regular contact with Alderman and has notified the Council of the following privileges that were extended to Aldermen by Cheshire County Council.

“County Alderman were:-

- 1. Invited to all meetings of the full Council*
- 2. Sent all papers for the meeting at the same time as Councillors*
- 3. Given a seat in the Council Chamber (not staff or visitors galleries)*
- 4. Invited to all functions to which the whole Council were invited, with spouses if Councillors spouses were invited*
- 5. Provided with a top grade parking pass for all council premises and space provided*
- 6. Given a life pass to Tatton Park and all its facilities*
- 7. Given a pair of tickets for one day at the County Show at Tabley and a pair of tickets for one day at the RHS Flower Show at Tatton and invited to the Chairmen’s Lunch on both occasions (paid for by the Alderman)*
- 8. Provided with Internal Telephone directory and Council Calendar”*

Appendix 5

SCHEME FOR THE APPOINTMENT OF HONORARY ALDERMEN AND FREEMEN

1. The Civic Sub Committee shall have the duty of submitting, from time to time, to the full Council, the names of past Members of the Council who, in the opinion of the Sub Committee, have rendered eminent services to the Council and on whom should be conferred the title of "Honorary Alderman" or "Honorary Alderwoman" in accordance with the provisions of Section 249 of the Local Government Act 1972.
2. The Civic Sub Committee shall have the duty of submitting, from time to time, to the names of persons of distinction and persons who have, in the opinion of the Sub Committee, rendered eminent services to the borough who have rendered eminent services to the Council and on whom should be conferred the title of "Honorary Freeman" or "Honorary Freewoman" in accordance with the provisions of Section 248 of the Local Government Act 1972.
3. When the Sub Committee has made such a recommendation, the Constitution Committee shall consider the recommendation and if approved will request the Chief Executive, in consultation with the Mayor and Leader of the Council, to convene a special meeting of the Council for the purposes of considering the proposition that the title of Honorary Alderman or Honorary Freeman be conferred on the person or persons recommended by the Sub Committee.
4. The resolution of the Council conferring the title of Honorary Alderman on a former Member or Honorary Freeman shall be suitably engrossed and embodied in a Roll of Honorary Aldermen and Honorary Freeman of Cheshire East Council. A framed scroll and civic gift will be presented
4. The Roll of Honorary Aldermen and Honorary Freeman shall be kept by the Borough Solicitor.
5. An Honorary Alderman of the Cheshire East Council shall enjoy such privileges as may properly be conferred by the Council from time to time and in particular shall be entitled:
 - (1) to attend civic receptions and other civic functions or ceremonies to which all Members of the Council are invited and where the spouses and partners of Members are able to attend so shall the spouses and partners of Alderman;
 - (2) to attend meeting of the Full Council and to be allocated a seat in the public part of the Council Chamber;
 - (3) to be notified on a regular basis of significant civic matters by the Democratic Services Manager.

6. For the purposes of this Scheme the term “eminent services” shall mean ten years of office and/or service as Leader of the Council or Mayor. (Note for those Members who served on the demised authorities this service will be taken in to account for the purposes of calculating years of office.)
7. An Honorary Freeman of the Cheshire East Council shall enjoy such privileges as may properly be conferred by the Council from time to time and in particular shall be entitled to attend civic receptions and other civic functions or ceremonies to which all Members of the Council are invited and where the spouses and partners of Members are able to attend so shall the spouses and partners of Freeman.

CEREMONY FOR THE APPOINTMENT OF HONORARY ALDERMEN AND FREEMEN

The Mayor will open the meeting and welcome everybody to the Meeting

The Leader will move a formal motion

The Mayor will invite a Member to second the motion

The Leader will give a tribute

The Mayor will invite other members to give tributes

The Mayor will invite the Council to pass the formal resolution

The Mayor will invite the recipient(s) to come forward and sign the Roll of Honorary Alderman and Freeman

The Mayor will present a scroll and civic gift to the recipient

The recipient will give a response

The Mayor will conclude proceedings and invite Members and guests to attend a civic reception

APPENDIX B

Extract from the minutes of the Civic Sub-Committee's meeting of 3rd August 2010

5 FREEDOM OF THE BOROUGH - 1ST BATTALION MERCIAN REGIMENT (CHESHIRE)

The Sub-Committee considered proposed arrangements for the granting of the Freedom of the Borough to the 1st Battalion Mercian Regiment (Cheshire).

Members considered two options on the form of ceremony. Representatives of the Regiment could be present at the special meeting of Council and the Council deal with the Freedom of the Borough in one event. Alternatively the Council may wish to pass the resolution and defer the presentation of the scroll and gift and signing of the Roll to form part of one of the homecoming parade marches.

The suggested wording for the resolution to be considered at the Special meeting of Council was as follows:

"That pursuant to the powers contained in the Local Government Act 1972, the Council grant Freedom of Entry to the Borough to the 1st Battalion Mercian Regiment (Cheshire), and admit the Regiment to the Roll of Honorary Freemen of the Borough, in recognition of the long and close association between the Cheshire East Borough and the Regiment and confer upon the Regiment the right, privilege and honour of marching through the streets of Cheshire East on ceremonial occasions, with swords drawn, bayonets fixed, drums beating, bands playing and colours flying."

The Democratic Services Manager and the Head of Communications had been in contact with the Regimental Secretary to keep him informed of progress. The Regimental Secretary was co-ordinating a number of homecoming parades across the North West on behalf of the Officer Commanding the Rear Operations Group. Three provisional dates had been identified for Cheshire East.

RESOLVED

That the Constitution Committee be recommended to agree that

- (1) the Freedom of the Borough be granted to the 1st Battalion Mercian Regiment (Cheshire) and a special meeting of Council be convened for that purpose;
- (2) the suggested wording for the resolution at the Special Council meeting be approved;

- (3) in conjunction with the Officer Commanding the Rear Operations Group and the Assistant Regimental Secretary, the Officers agree the final, detailed arrangements for at least two, and possibly three, homecoming parades to be held in Macclesfield, Crewe and possibly in Congleton during the second week of November 2010 on dates to be confirmed; and
- (4) the Mayors of Town Councils in Cheshire East be invited to attend the relevant homecoming parade for their area.

Note:

The Assistant Regimental Secretary and Officers have agreed the final, detailed arrangements for three, homecoming parades to be held on Monday 8 November at midday in Macclesfield and 3.15pm in Crewe and Wed 10 November in Congleton at 3pm. A Cheshire East team is working with the Mercian and the three town centre managers to deliver three memorable events.

The Assistant Regimental Secretary has accepted the Civic Sub Committee's suggestion that during each Parade the Mayor should announce the resolution of the Council granting the Freedom of the Borough to the Regiment and that on each occasion a senior regimental officer will respond. At Crewe there will be a Reception and a Senior Officer will be formally presented with a scroll and civic gift and sign the Freedom of the Borough Register. The Committee is asked to endorse these revised arrangements and note that as a consequence there will be no formal ceremony as part of the Special Council meeting at which the Resolution will be considered at the conclusion of the next ordinary meeting of Council on 14th October 2010.

The Committee is asked to recommend that Council grant the Freedom of the Borough be granted to the 1st Battalion Mercian Regiment (Cheshire)

CHESHIRE EAST COUNCIL

Civic Sub Committee

Date of Meeting:	3August 2010
Report of:	Democratic Services Manager
Subject/Title:	Freedom of the Borough - 1 st Battalion Mercian Regiment (Cheshire)

1.0 Report Summary

- 1.1 To make recommendations upon granting Freedom of the Borough to the 1st Battalion Mercian Regiment (Cheshire).

2.0 Recommendations

That the Civic Sub-Committee recommends:-

1. That the Constitution Committee recommends that Freedom of the Borough be granted to the 1st Battalion Mercian Regiment (Cheshire) and requests that a special meeting of Council be convened for this purpose.
2. That, in conjunction with the Officer Commanding the Rear Operations Group and the Assistant Regimental Secretary, officers considers the two options for the form of the ceremony and reports their view to the Constitution Committee.
3. That, in conjunction with the Officer Commanding the Rear Operations Group and the Assistant Regimental Secretary, officers make arrangements for three Homecoming Parades to be held across Cheshire East as follows:-
 - 8th November Macclesfield and Crewe
 - 10th November in the afternoon for Congleton

3.0 Financial Implications

- 3.1 The costs of a framed scroll, a Roll of Honorary Freemen of the Borough, a gift to commemorate the occasion are estimated to be a maximum of £1000. These costs together with those associated with a civic reception and homecoming parades can be met from within the Civic Budget. Section 249 (6) of the Local Government Act allows Councils to spend 'such reasonable sum as they think fit' on presenting an address or casket containing the address to the Honorary Alderman or Freeman

4.0 Legal Implications

- 4.1 Section 248 of the Local Government Act 1972 permits a council of a relevant area, by a resolution passed by not less than two-thirds of the members voting thereon at a meeting of the council specially convened for the purpose, to admit to be honorary freemen of the borough persons of distinction and persons who have, in the opinion of the council, rendered eminent services to the borough.
- 4.2 Sections 32 and 33 of the Local Government (Structural Changes) (Transitional Arrangements) (No2) Regulations 2008 confirm that a person who has been admitted as an Honorary Alderman or Freeman of a local government area that has been abolished shall be treated as being admitted as an Honorary Alderman and Freeman of the new reorganised area. The demised Councils of Crewe and Nantwich, Macclesfield all admitted the Cheshire Regiment to the Freedom of their Boroughs. Congleton admitted the 1st Battalion Mercian Regiment (Cheshire). Cheshire County Council was not empowered to admit the regiment in either form. Notwithstanding Sections 32 and 33 of the Local Government (Structural Changes) (Transitional Arrangements) (No2) Regulations 2008 there does not appear to be any prohibition on Cheshire East Council from admitting in it's own right the 1st Battalion Mercian Regiment (Cheshire) to be Honorary Freeman on the basis that in the opinion of the Council, the Regiment has rendered eminent services to the Cheshire East area.

5.0 Risk Management

- 5.1 No issues can be identified as arising from the proposals contained in this report.

6.0 Background

- 6.1 The 1st Battalion Mercian Regiment (Cheshire) recently deployed to the Helmand Province in Afghanistan, for a six month active service tour. The Battalion recruits from Congleton, Sandbach, Holmes Chapel, Middlewich, Macclesfield and Crewe. Therefore, local men and women are involved. The Mayor, Councillor Baxendale, has been in contact with the Officer Commanding the Rear Operations Group, to discuss arrangements for a homecoming parade(s). The Regimental Secretary from the 1st Battalion Mercian Regiment has also contacted him in connection with this matter.
- 6.2 The Mayor submitted a motion to the Annual Meeting which proposed that, to coincide with the homecoming parade(s), Cheshire East Council should, in its own right, admit the Regiment as an Honorary Freeman and make arrangements for an appropriate ceremony. The reason for this motion was to ensure that appropriate arrangements could be made for the parade(s) and to agree a process, to ensure that matters affecting the ceremony were agreed in a timely manner, with appropriate Member input.

- 6.3 The Borough Solicitor advised Council that the motion should stand referred to the Constitution Committee.
- 6.4 When a Council convenes a special meeting of Council for the purpose of admitting a person or body Freedom of the Borough protocol suggests that at the ceremony a scroll and civic gift, usually a casket, are presented and that the person being admitted signs the Council's Freedom of the Borough Roll. This would then be followed by a civic reception.
- 6.5 The Council has two options on the form of this ceremony. Representatives of the Regiment are present at the special meeting of Council and the Council deals with the Freedom of the Borough in one event. Alternatively the Council may wish to pass the resolution and defer the presentation of the scroll and gift and signing of the Roll to form part of one of the homecoming parade marches.
- 6.6 The suggested wording for the resolution to be considered at the Special meeting of Council is as follows:-
- That pursuant to the powers contained in the Local Government Act 1972, the Council grant Freedom of Entry to the Borough to the 1st Battalion Mercian Regiment (Cheshire), and admit the Regiment to the Roll of Honorary Freemen of the Borough, in recognition of the long and close association between the Cheshire East Borough and the Regiment and confer upon the Regiment the right, privilege and honour of marching through the streets of Cheshire East on ceremonial occasions, with swords drawn, bayonets fixed, drums beating, bands playing and colours flying.*
- 6.7 The Democratic Services Manager and the Head of Communications have been in contact with the Regimental Secretary to keep him informed of progress. The Regimental Secretary is co-ordinating a number of homecoming parades across the North West on behalf of the Officer Commanding the Rear Operations Group. Three provisional dates have been identified for Cheshire East. A further update will be given at the meeting.

7.0 Proposals for the Sub Committee to Consider

Set out below are the main matters for the Sub Committee to consider

- the motion referred from Council and to recommend that Freedom of the Borough be granted to the 1st Battalion Mercian Regiment and request the Chief Executive to convene a special meeting of Council for this purpose
- the resolution to be considered
- the form of ceremony for the Regiments Admission
- arrangements for the homecoming parade

8.0 Access to Information

- 8.1 The background papers relating to this report can be inspected by contacting the report writer:

Name: Brian Reed

Designation: Democratic Services Manager

Tel No: 01270 686670

Email: brian.reed@cheshireeast.gov.uk

APPENDIX C

Extract from the minutes of the Civic Sub-Committee's meeting of 3rd August 2010

6 FLAG FLYING POLICY

Members were asked to consider proposals for a flag flying policy for civic buildings in Cheshire East.

Cheshire East Council had not yet adopted a Flag Flying Policy. The Cheshire East flag was flown permanently from a variety of Cheshire East buildings. In the last year, the Leader and the Chief Executive had agreed on an ad hoc basis that flags be flown as follows from the three main administrative buildings:

- Birthday of Her Majesty Queen Elizabeth II (Union flag)
- St George's Day (English National Flag)
- Official celebration of Her Majesty's birthday (Union flag)
- Armed Forces Week (Armed Forces flag)
- Remembrance Day (Union Flag at half mast)

The Council had also flown the English National Flag during the English Football team's participation in the World Cup, and the Polish flag at half mast outside the Municipal Building Crewe as a mark of respect following the Polish air disaster (12 April). The Cheshire East flag had also been flown at half mast following the death of Councillors.

The Department of Culture Media and Sport encouraged local authorities to fly the Union and English National Flags on a regular basis.

Members considered a proposed Flag Flying Policy for Cheshire East Council as appended to the report. This covered those occasions on which it would be appropriate to fly different flags from the Council's public buildings, in particular the Union Flag, English National Flag, Cheshire East Borough Flag, Armed Forces Flag and the national flags of overseas visitors. The manner of flying the flag in particular circumstances was also dealt with. Members agreed that the Union Flag should also be flown at half mast in the event of the death of a soldier from the 1st Battalion of the Mercian Regiment whilst on active service.

RESOLVED

That the proposed Flag Flying Policy in respect of civic buildings in Cheshire East be recommended to the Constitution Committee for approval.

Note:

There is no additional information in respect of this item. The Committee is therefore asked to recommend the policy to Council for adoption.

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CHESHIRE EAST COUNCIL

Civic Sub Committee

Date of Meeting: 3 August 2010
Report of: Democratic Services Manager
Subject/Title: Flag Flying Policy

1.0 Report Summary

- 1.1 To invite the Sub-Committee to consider making recommendations in respect of a flag flying policy for civic buildings in Cheshire East Borough.

2.0 Recommendations

That the Sub-Committee considers the contents of the report and makes recommendations to the Constitution Committee on a flag flying policy in respect of civic buildings in Cheshire East.

4.0 Financial Implications

- 4.1 The cost of replacing Flags can be met from within existing resources.

5.0 Legal Implications

- 5.1 There is no legislation relating to the flying of the Union and other flag. The Union Flag is the national flag by long established custom and practice, rather than having been provided for by statute.
- 5.2 Under Schedule 1 Class H of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, national flags, the flags of the Commonwealth, European Union, the United Nations, English counties and certain saints can be flown without the express consent of local authorities as long as they satisfy the standard conditions for the display of advertisements generally and the conditions and limitations set out within Class H itself.

6.0 Risk Management

- 6.1 Failure to fly flags to celebrate or commemorate significant events, and in particular the Union Flag and National Flag of England, can attract adverse publicity for the Council. A Flag Flying Policy will ensure that flags are flown to show Cheshire East Council's support and respect for significant events.

7.0 Background

- 7.1 Cheshire East Council has not yet adopted a Flag Flying Policy. The Cheshire East flag is flown permanently from a variety of Cheshire East buildings. In the last year the Leader and the Chief Executive have agreed on an ad hoc basis that flags be flown as follows from the three main administrative buildings:-

Birthday of Her Majesty Queen Elizabeth II (Union flag)
St George's Day (National Flag)
Official celebration of Her Majesty's birthday (Union flag)
Armed Forces Week (Armed Forces flag)
Remembrance Day (Union Flag at half mast)

- 7.2 The Council also flew the National Flag during the English Football team's participation in the World Cup, and the Polish flag at half mast outside the Municipal Building Crewe as a mark of respect following the Polish air disaster (12 April). The Cheshire East flag has also been flown at half mast following the death of Councillors.

- 7.2 The Department of Culture Media and Sport has published guidance for Government Departments that recommends that the Union Flag is flown on the following days:

- 20 January - Birthday of The Countess of Wessex
- 6 February - Her Majesty's Accession
- 19 February - Birthday of The Duke of York
- March (2nd Monday) - Commonwealth Day
- 10 March - Birthday of The Earl of Wessex
- 21 April - Birthday of Her Majesty The Queen
- 9 May - Europe Day
- 2 June - Coronation Day
- 10 June - Birthday of The Duke of Edinburgh
- June (date varies) - Official Celebration of Her Majesty's Birthday
- 17 July - Birthday of The Duchess of Cornwall
- 15 August - Birthday of The Princess Royal
- November (2nd Sunday) - Remembrance Sunday
- 14 November - Birthday of The Prince of Wales
- 20 November - Her Majesty's Wedding Day

- 7.4 The Department of Culture Media and Sport encourages local authorities to regularly fly the Union and National Flag.

- 7.5 Enclosed at Appendix 1 is a recommended Flag Flying Policy for Cheshire East Council.

- 7.6 The Flag Institute, in association with the Flags & Heraldry Committee, an all party group of the United Kingdom Parliament, has produced guidance to help and guide public bodies when flying the flag in a variety of situations.

8.0 Access to Information

- 8.1 The background papers relating to this report can be inspected by contacting the report writer:

Name: Brian Reed

Designation: Democratic Services Manager

Tel No: 01270 686670

Email: brian.reed@cheshireeast.gov.uk

FLAG FLYING POLICY AT CHESHIRE EAST COUNCIL

1. GENERAL

The Cheshire East Borough Flag will be flown permanently at full mast on all Cheshire East establishments where a safe and serviceable flag pole exists. It will be the responsibility of the Property Team to ensure that Cheshire East Flag is suitably maintained and flown.

The Cheshire East Flag will only be flown at half mast on the death of the following until sunset on the day of the funeral:

- a Member of the Council;
- an Ex-Mayor of the Borough;
- an Ex-Leader/Leader of the Council;
- an Honorary Freeman;
- an Honorary Alderman;
- a serving Member of Parliament of a Parliamentary Constituency within the Borough.

Set out below are those occasions when an alternative flag will be flown at the Administrative Centres in Sandbach, Macclesfield and Crewe only.

2. UNION FLAG

The Union flag will be flown full mast on the following days:

- 9 March – Commonwealth Day
- 21 April – Birthday of Her Majesty the Queen
- 13 June – Official Birthday of Her Majesty the Queen
- Second Sunday in November – Remembrance Sunday

The Union Flag should be flown at half mast on the day of the death of the following:

- The Sovereign; or
- The Mayor.

The flag will remain half mast until after the funeral (except in the case of the Sovereign when flags are hoisted right up from 11:00 a.m. to sunset on Proclamation Day – and then lowered back to half mast after sunset until after the funeral).

In the case of deaths within the Royal Family (except the Sovereign), the flag will be flown on the day of the funeral and subject to special commands from the Sovereign in each case.

The Union Flag will be flown to support the Great British Team during the Olympics.

3. NATIONAL FLAG OF ENGLAND

St. George's Day 23rd April.

The National Flag will be flown to support the English Team during the Commonwealth Games and, at the discretion of the Leader of the Council, in support of other National Teams.

4. ARMED FORCES

The following flags will be flown in support of the Armed Forces:

Army 18th June (Waterloo)

Merchant Navy 3rd September (Red Ensign)

Royal Air Force 15th September (Battle of Britain)

Royal Navy 21st October (Trafalgar)

Armed Forces Week (June each year)

5. OVERSEAS VISITORS

The relevant national flag will be flown when Cheshire East Borough formally receives visitors from overseas.

6. MARK OF RESPECT

The Leader of the Council will determine when Cheshire East Council will fly its flags at half mast as a mark of respect to express the sympathies of the Council in appropriate circumstances.

7. OTHER OCCASIONS

Ad hoc requests to fly flags that are not covered by this policy will be determined by the Leader of the Council.

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Civic Sub-Committee**
held on Tuesday, 3rd August, 2010 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor J P Findlow (Chairman)

Councillors R Cartlidge, A Kolker, A Moran, D Topping and J Crockatt (for Cllr Whiteley)

Apologies

Councillors S Jones, W Livesley and P Whiteley

Officers

Paul Jones, Democratic Services Team Manager
Paul Mountford, Democratic Services

1 DECLARATIONS OF INTEREST

Councillors J P Findlow, A Moran and J Crockatt declared personal, non-prejudicial interests in relation to the item on Honorary Aldermen and Freemen.

2 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

3 MINUTES OF PREVIOUS MEETING

The Democratic Services Team Manager informed the Sub-Committee that advice would shortly be issued to Members on the points of clarification raised at the previous meeting in relation to Honorary Aldermen and Freemen.

RESOLVED

That the minutes of the meeting held on 9th February 2010 be approved as a correct record.

4 HONORARY ALDERMEN AND FREEMEN

The Sub-Committee considered proposals relating to the Honorary Aldermen and Freemen of Cheshire East Council who were admitted

under the Local Government (Structural Changes) (Transitional Arrangements) (No2) Regulations 2008.

The Sub-Committee had previously considered a report on matters relating to the Honorary Aldermen and Freeman of Cheshire East Council who had been admitted from the demised authorities. A provisional list of Honorary Aldermen and Freeman, who had been admitted by the demised authorities, had been circulated at the previous meeting together with a list of rights and privileges that had been extended to them. The Civic Sub-Committee had resolved that the Democratic Services Manager write to all Members of the Council with a view to confirming the accuracy of the list of Honorary Aldermen and Freeman and to consult with all Members of the Council on what rights and privileges should be granted by Cheshire East Council.

Cheshire East Council now needed to consider its own arrangements. A draft Scheme had been drafted for Members' consideration which dealt with:

- the criteria for the appointment of Honorary Alderman and Freeman;
- the rights and duties to be conferred on Honorary Alderman and Freeman;
- the order of proceedings for the ceremony for their admission; and
- arrangements for their attendance at meetings and events and notification of events.

RESOLVED

That the draft scheme relating to the appointment, rights and privileges of Honorary Aldermen and Freeman as set out at Appendix 5 to the report be approved and recommended to the Constitution Committee subject to the following:

1. for the purposes of the scheme, the term 'eminent service' shall mean a minimum of 12 years' service, whether consecutive or otherwise;
2. the rights and privileges previously afforded to County Honorary Aldermen as set out in Appendix 4 shall be conferred on newly-appointed Honorary Aldermen in Cheshire East and incorporated into the scheme accordingly, subject to the following amendments:
 - a. parking passes shall be provided for Westfields and Macclesfield Town Hall
 - b. a life pass to Tatton Park and its facilities shall be granted to an Honorary Alderman and one guest
3. the rights and privileges conferred on Honorary Aldermen under this Scheme shall also apply to newly-appointed Honorary Freeman; and

4. where the title of Honorary Freeman has been conferred on a body or organisation, an appropriate representative of that body shall be invited to attend any relevant functions.

5 FREEDOM OF THE BOROUGH - 1ST BATTALION MERCIAN REGIMENT (CHESHIRE)

The Sub-Committee considered proposed arrangements for the granting of the Freedom of the Borough to the 1st Battalion Mercian Regiment (Cheshire).

Members considered two options on the form of ceremony. Representatives of the Regiment could be present at the special meeting of Council and the Council deal with the Freedom of the Borough in one event. Alternatively the Council may wish to pass the resolution and defer the presentation of the scroll and gift and signing of the Roll to form part of one of the homecoming parade marches.

The suggested wording for the resolution to be considered at the Special meeting of Council was as follows:

“That pursuant to the powers contained in the Local Government Act 1972, the Council grant Freedom of Entry to the Borough to the 1st Battalion Mercian Regiment (Cheshire), and admit the Regiment to the Roll of Honorary Freemen of the Borough, in recognition of the long and close association between the Cheshire East Borough and the Regiment and confer upon the Regiment the right, privilege and honour of marching through the streets of Cheshire East on ceremonial occasions, with swords drawn, bayonets fixed, drums beating, bands playing and colours flying.”

The Democratic Services Manager and the Head of Communications had been in contact with the Regimental Secretary to keep him informed of progress. The Regimental Secretary was co-ordinating a number of homecoming parades across the North West on behalf of the Officer Commanding the Rear Operations Group. Three provisional dates had been identified for Cheshire East.

RESOLVED

That the Constitution Committee be recommended to agree that

- (1) the Freedom of the Borough be granted to the 1st Battalion Mercian Regiment (Cheshire) and a special meeting of Council be convened for that purpose;
- (2) the suggested wording for the resolution at the Special Council meeting be approved;

- (3) in conjunction with the Officer Commanding the Rear Operations Group and the Assistant Regimental Secretary, the Officers agree the final, detailed arrangements for at least two, and possibly three, homecoming parades to be held in Macclesfield, Crewe and possibly in Congleton during the second week of November 2010 on dates to be confirmed; and
- (4) the Mayors of Town Councils in Cheshire East be invited to attend the relevant homecoming parade for their area.

6 FLAG FLYING POLICY

Members were asked to consider proposals for a flag flying policy for civic buildings in Cheshire East.

Cheshire East Council had not yet adopted a Flag Flying Policy. The Cheshire East flag was flown permanently from a variety of Cheshire East buildings. In the last year, the Leader and the Chief Executive had agreed on an ad hoc basis that flags be flown as follows from the three main administrative buildings:

- Birthday of Her Majesty Queen Elizabeth II (Union flag)
- St George's Day (English National Flag)
- Official celebration of Her Majesty's birthday (Union flag)
- Armed Forces Week (Armed Forces flag)
- Remembrance Day (Union Flag at half mast)

The Council had also flown the English National Flag during the English Football team's participation in the World Cup, and the Polish flag at half mast outside the Municipal Building Crewe as a mark of respect following the Polish air disaster (12 April). The Cheshire East flag had also been flown at half mast following the death of Councillors.

The Department of Culture Media and Sport encouraged local authorities to fly the Union and English National Flags on a regular basis.

Members considered a proposed Flag Flying Policy for Cheshire East Council as appended to the report. This covered those occasions on which it would be appropriate to fly different flags from the Council's public buildings, in particular the Union Flag, English National Flag, Cheshire East Borough Flag, Armed Forces Flag and the national flags of overseas visitors. The manner of flying the flag in particular circumstances was also dealt with. Members agreed that the Union Flag should also be flown at half mast in the event of the death of a soldier from the 1st Battalion of the Mercian Regiment whilst on active service.

RESOLVED

That the proposed Flag Flying Policy in respect of civic buildings in Cheshire East be recommended to the Constitution Committee for approval.

The meeting commenced at 10.00 am and concluded at 10.55 am

Councillor J P Findlow (Chairman)

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