

CHESHIRE EAST COUNCIL

Special Constitution Committee

Date of Meeting: 11th May 2012
Report of: Borough Solicitor
Title: Proposed Council Governance Arrangements

1.0 Purpose of Report

- 1.1 This report details the work undertaken so far by the Working Group appointed by Council to investigate the options available for new governance arrangements.
- 1.2 Proposals are put forward for changes to the Council's governance arrangements; these together with a phased implementation following "shadow" arrangements from May 2012, with their formal introduction by the end of the 2012 calendar year.

2.0 Recommendations

- 2.1 Council be recommended to agree that
 - (1) with effect from the end of a shadow period of operation, which shall end no earlier than October 2012, the existing Overview and Scrutiny Committees will be dissolved and be replaced with two Overview and Scrutiny Committees with the names and provisional terms of reference set out in Appendix 1 of this report;
 - (2) with immediate effect Council establishes, initially in shadow form, up to nine Policy Groups, aligned with the Cabinet, with the provisional terms of reference set out in Appendix 2;
 - (3) Council agrees that the Leader will determine the size and cross party composition of the Policy Groups and invite the Political Groups to notify the Borough Solicitor of their nominations;
 - (4) the consideration of the terms of reference of the two new Overview and Scrutiny Committees be referred to the Overview and Scrutiny Chairmen in the June/July cycle of meetings and the terms of reference thereafter be finalised by Council, following consideration by the Constitution Committee;
 - (5) the consideration of the terms of reference of the new Policy Groups be referred to the shadow Policy Groups in the June/July cycle of meetings and thereafter be finalised by Council, following consideration by the Constitution Committee; and

- (6) the Borough Solicitor submit a further report to Council which will enable Council to formalise all remaining arrangements following the shadow period.

3.0 Legal Implications

- 3.1 Under the Localism Act 2011 Councils will be permitted to introduce alternative forms of governance from those prescribed in the Local Government Act 2000. In some instances the Secretary of State's consent would also be required. The recommendations in this report, however, are made in accordance with the Local Government Act 2000 and can be introduced as soon as the Council wishes.

4.0 Risk Assessment

- 4.1 Failure to comply with legislation when appointing its committee memberships would leave the Council open to legal challenge.
- 4.2 The recommendations of this report propose shadow arrangements which would be reviewed and, if necessary, amended according to the needs of the Council before they become formally established. As a consequence, there would appear to be few risks associated with the report's recommendations.

5.0 Background Information

- 5.1 Council appointed a Joint Member Working Group consisting of 10 Members, on a cross party basis, with a view to investigating in detail all available options to review governance arrangements under the Localism Act 2011.
- 5.2 The Group has met on a number of occasions to review the options available to the Council.
- 5.3 Under the Local Government Act 2000 the Council operates a Leader and Cabinet style of governance.
- 5.4 The Localism Act 2011 would permit, in addition to the existing arrangements:
- a return to the pre-2000 legislation committee system;
 - the introduction of a "hybrid" system whereby Cabinet arrangements could be combined, to some degree, with the old committee system; and
 - a directly-elected Mayor.
- 5.5 The Joint Member Working Group has given thought to the options available and has concluded that neither a directly-elected Mayor nor a committee system would meet the needs of the Council. Views have

been expressed that the Council's governance arrangements should provide for the inclusion of non-executive members in policy initiation and development; also that the existing scrutiny arrangements have not been successful in achieving this objective.

- 5.6 Appendix 4 to this report contains the Borough Solicitor's report to the Member Working Group, together with the minutes of the meeting which the Committee is asked to consider.
- 5.7 The Committee is asked to recommend to Council that it change its governance arrangements to those illustrated in Appendix 3 as follows:
 - 5.7.1 Initially, the Council's existing Overview and Scrutiny Committees would all be reappointed by Annual Council. At the same time, Policy Groups would be appointed to operate in shadow form for a maximum period extending up to the end of the 2012 calendar year. These would have the functions set out in paragraph 5.7.3 and Appendix 2. It is anticipated, however, that the review would be finalised by the October 2012 meeting of Council.
 - 5.7.2 After the shadow period, the existing Overview and Scrutiny Committees would cease to operate and would be replaced with two Overview and Scrutiny Committees. The Policy Groups would continue their work on a formal but non-decision-making basis in the first instance.
 - 5.7.3 The Policy Groups would undertake the function of policy initiation, development and review, and would report to Cabinet. The Groups would be cross-party and would enable non-executive members to work more closely with Portfolio Holders. They would have access to financial and performance information. These arrangements would be made under the Local Government Act 2000.
 - 5.7.4 In the fullness of time, opportunity would exist for Council to examine the possibility of giving the Policy Groups decision-making powers. However, these arrangements would only be possible under the emerging Localism Act 2011 provisions.
- 5.8 Appendix 1 contains the proposed provisional draft terms of reference and operating arrangements of the two Overview and Scrutiny Committees which would be appointed by Council later in the year, at the end of the shadow period. Each Committee would have 12 members and would be supported by Democratic Services. As formal bodies they would be subject to the political proportionality, and Access to Information rules. They would meet in public.
- 5.9 Appendix 2 contains the proposed provisional terms of reference of the Policy Groups. Each Group would be supported by Democratic Services. As informal bodies they would not be subject to political proportionality rules, nor to the Access to Information rules. They would be able to meet in private but may choose to meet occasionally in public. Members of

overview and scrutiny committees may sit on the Policy Groups but should not take a seat on a Group that might lead to a conflict of interest.

- 5.10 It is recommended that a member serve on no more than one Policy Advisory Group. The relevant Portfolio Holder(s) would be able to attend the relevant Group.
- 5.11 A copy of the revised decision making structure that would be introduced after the shadow period, but no earlier than October 2012, is appended at Appendix 3 which shows the alignment of the Policy Groups with Cabinet. The titles of the Policy Groups are listed in Appendix 2 and the remit of each Group is currently being developed by the officers. The titles of the Groups, and the number of Groups will be revised once the Leader of the Council has been appointed and Portfolio Holders and their remits have been announced.
- 5.12 The Committee is asked to recommend that Council agree the provisional terms of reference of the new Policy Groups and extend an invitation to each Group to meet in shadow form to consider their terms of reference and operating arrangements. The Committee is also requested to ask the Borough Solicitor to submit a further report with recommendations to the Committee and Council later in the year. This shadow period will provide an ideal opportunity for the Groups to consider their working arrangements and to make recommendations as to whether these need to change.
- 5.13 At the end of the shadow period, and subject to the agreement of Council, the six existing Overview and Scrutiny Committees would cease to operate and their statutory functions would transfer to the two new Overview and Scrutiny Committees that would be established under the revised arrangements.
- 5.14 The Joint Member Working Group has informally consulted the Overview and Scrutiny Chairmen in arriving at its recommendations. The views of the Scrutiny Chairmen are appended to this report.
- 5.15 It should be noted that the creation of a new structure of this size may bring with it the need for additional servicing and research by officers and the resource implications of this will need further consideration. There will also be a need for the Independent Remuneration Panel to consider the implications of any new structure in terms of Member allowances.

For further information:

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Background Documents: None