

Governance & Constitution Committee

Agenda

Date: Monday, 9th June, 2008
Time: 2.00 pm
Venue: Committee Suite 1,2 & 3, Westfields, Middlewich Road, Sandbach

The agenda is divided into 2 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. Appointment of Chairman

To appoint a Chairman for the ensuing year.

2. Appointment of Vice Chairman

To appoint a Vice Chairman for the ensuing year.

3. Apologies for absence

4. Declarations of Interest

5. Terms of Reference (Pages 1 - 2)

To receive the Terms of Reference of the Governance and Constitution Committee.

6. Members Allowances (To Follow)

To consider a report of the Governance Lead Officer.

7. Constitutional Issues (Pages 3 - 8)

To consider a report of the Governance Group.

Note: - a Copy of the Constitution will be circulated separately.

8. Exclusion of the Public and Press

To consider passing a resolution under Section 100(A)(4) of the Local Government Act 1972 to exclude the public and press from the meeting for the following item(s) of business on the grounds that they involve the likely disclosure of exempt information in accordance with the paragraph specified below, pursuant to part 1 of Schedule 12 (A) of the Act.

PART 2 - MATTERS TO BE CONSIDERED WITH THE PRESS AND PUBLIC EXCLUDED

None

EXTRACT OF PART 3 OF THE CONSTITUTION**10 Responsibility of the Governance and Constitution Committee**

The Governance and Constitution Committee is responsible for:

1. overseeing, monitoring, co-ordinating and implementing the Shadow Council's administrative and political business, including electoral matters; administrative boundaries; support for and facilities for Members, including Members' learning and development and party groups for the purpose of their duties as councillors; and administrative arrangements for and the conduct of the Shadow Council and other meetings;
2. determining policies and conventions in relation to the political management of the Shadow Council, including statutory requirements concerning political balance and rights to information;
3. reviewing the Shadow Council's Constitution and recommending any changes to the Shadow Council;
4. advising the Shadow Council on, and overseeing the promotion of private legislation on behalf of the Shadow Council;
5. recommending to the Shadow Council, as appropriate, the appointment of Members to Committees and Sub-Committees (including any co-opted members other than in respect of Scrutiny Committees);
6. appointing representatives to serve on outside bodies and organisations (including education bodies and establishments) not falling to the Cabinet to appoint;
7. overseeing and monitoring the Members Allowance budget including pensions and keeping under review the scheme for the payment of allowances to Members;
8. approving annual conference and seminar attendance;
9. recommending to the Shadow Council any issues relating to the Honorary Aldermen;
10. approving reasons for absence for Members;
12. approving the overall seating plan for Shadow Council meetings;
13. overseeing and agreeing the arrangements for Members to be indemnified for and insured against risks and liabilities arising from the performance of their duties as Members of the Shadow Council, and as the Council's representatives on outside bodies.

14. overseeing the Shadow Council's role and responsibilities in respect of Corporate Governance;
15. developing a Code of Corporate Governance and to undertake as appropriate an assessment of wider governance issues;
16. supporting the Shadow Council's audit function, both internal and external;
17. ensuring the Shadow Council has in place appropriate policies and mechanisms to safeguard the Shadow Council's resources;
18. supporting the Interim/Appointed and Appointed Chief Financial Officers in relation to the performance of their duties;
19. approving any Shadow Council Statement of Accounts as may be required by the relevant Account and Audit Regulations;
20. ensuring any Shadow Council's Risk Management process is operating effectively.
21. undertaking work, and making recommendations, upon the Shadow Council's political management structure, and upon that which will operate with effect from 1st April 2009.

CHESHIRE EAST

Governance and Constitution Committee

Date: 9th June 2008
Report of: LGR Governance Group
Title Cheshire East Constitution

1.0 Purpose of Report

- 1.1 To present proposals to the Governance and Constitution Committee for the development of a full unitary authority Constitution.

2.0 Decision Required

- 2.1 That the Committee note the proposals for development of a full unitary authority Constitution and offer guidance and direction upon those proposals.

3.0 Implications for Transitional Costs

- 3.1 There are no implications for transitional costs.

4.0 Background and Information

- 4.1 At its meeting on 13th May 2008, the Shadow Council adopted its Constitution. This is appended to the report as Appendix B.

- 4.2 One of the Committee's key responsibilities is to review the Constitution and make recommendations for change to the Shadow Council. Consideration therefore needs to be given to whether the Committee wishes to make any recommendations for changes to the Constitution which should take effect prior to 1st April 2009

- 4.3 At its first meeting on 6th April 2009, the Cheshire East unitary authority will be asked to adopt its Constitution. Whilst the Shadow Council's Constitution provides an adequate basis for the governance of its business for the period up until 1st April 2009, and will provide a basis upon which the unitary authority's Constitution is created, during the coming months the unitary authority will need to adopt a more developed document which, amongst other things will address issues such as:

- Schemes of delegation
- Responsibilities of Portfolio Holders, and whether individual Cabinet Member decision making should apply
- Area working arrangements
- Arrangements for regulatory committees such as planning and licensing
- Scrutiny arrangements
- Policy and Planning Framework and Budget Procedure Rules
- Finance Procedure Rules
- Contract Procedure/Procurement Rules

- Officer Code of Conduct
 - Protocol on Member/Officer relations
 - Officer management structure
 - Whistleblowing policy
 - Code of Corporate Governance (not part of Constitution)
 - Internal Audit Plan (ditto)
- 4.4 The development of a draft Constitution which addresses these issues, and which can be recommended to the unitary authority on 6th April 2009, is a major project for the Committee and will occupy significant time during its remaining 8 meetings before that date.
- 4.5 Appendix A to this report suggests an approach which may be taken to this work, but the Committee's views and direction are sought upon the proposed way forward.
- 4.6 In developing recommendations to the Committee, there will need to be significant inputs from Block leads, representatives of the Joint Implementation Team, and officers nominated by them to work in specific areas.

5.0 General amendments to the Constitution

- 5.1 At the meeting of the Cheshire East Joint Committee on 6th May, various issues were raised by Members which it was suggested should be considered by the Governance and Constitution Committee:
- The need for an Officer Code of Conduct to be developed (see Appendix A)
 - Any financial limit which should be applied to the definition of Key Decisions.
 - Whether the number of Members empowered to call a special meeting of Council is appropriate.
 - The time limit (5 minutes) which applies to Member speaking.
 - The terms of reference of the Governance and Constitution Committee.
- 5.2 As can be seen from Appendix A, it is suggested that these issues should be considered at the meeting on 14th July.

6.0 Changes made to the Constitution under powers delegated to the Interim Monitoring Officer

- 6.1 Members are advised that various changes have been made to the Constitution following its adoption at the meeting of the Shadow Council on 13th May.
- 6.2 At the meeting on 13th Council authorised the Interim Monitoring Officer to make such minor and consequential amendments to the drafting of the Constitution as she considered necessary to facilitate the business of the Shadow Council.

6.3 Accordingly, changes have been made to reflect the following:

- Details of the Shadow Council's appointed committees added to the summary and explanation, and to Article 8.
- A decision making "Flow Plan" added to the Summary and Explanation.
- Details of Chairman, Vice Chairman, Leader, Deputy, Cabinet Members and all other Members included in Article 2 and Responsibility for Functions section.
- Council Procedure Rule 17: amendment to show that Chairmen and Vice Chairmen of committees will be elected at the first meeting.
- Proper Officers: details agreed by Council on 13th May have now been added to the Responsibility for Functions section.

7.0 Conclusion

7.1 Whilst the development of a draft Constitution for recommendation to the unitary authority on 6th April 2009 is an ambitious project, it is achievable. Indeed, the unitary authority must adopt a Constitution on that date, and officers are confident that a robust document which is fit for purpose can be achieved.

7.2 The Committee is asked to provide its views and direction on the suggested way forward.

For further information:-

Officer: Brian Reed
Tel No: 01244 972205
Email: brian.reed@cheshire.gov.uk

Background Documents:-

Constitution of Cheshire East Shadow Council

Documents are available for inspection at Joint Committee Support Offices:

Town Hall

Macclesfield

SK10 1DX

And at www.cheshireeast.gov.uk

Stages of development of a draft Cheshire East unitary authority Constitution

Section of Constitution	Comment	Date to be considered by Committee
Schemes of delegation	<p>Development of the Schemes is a major piece of work. They must reflect those powers which will be granted to officers and decision making bodies in areas such as:</p> <ul style="list-style-type: none"> • Planning • Building Control • Licensing • Environmental Health • Housing • Land and property • Human Resources • Executive functions • Legal and democratic services 	Initial report to 8 th September meeting
Responsibilities of Portfolio Holders, and whether individual Cabinet Member decision making should apply	These responsibilities will emerge over the coming weeks but, if individual Cabinet Members will be making executive decisions with effect from 01.04.09, significant work will be needed to provide clarity on their responsibilities and to establish the limits of their decision making powers.	As soon as possible as political thinking develops.
Area working arrangements	<p>Questions that need to be answered are:</p> <ul style="list-style-type: none"> • Whether area committees will have decision making powers and budgets. If so, these will need to be determined and defined in schemes of delegation. • Whether, for example, planning and licensing decisions will be made centrally or on an area basis. 	As soon as possible as thinking develops.
Arrangements for regulatory committees such as planning and licensing	These committees may be given powers to make all decisions within their field of responsibility. However, if Members wish to see powers for such decisions to be removed and “called-up” to parent committees or Council, these powers will need to be developed.	Initial report to 6 th October meeting.
Scrutiny arrangements	It is anticipated that the full unitary authorities will wish to have a developed scrutiny function, comprising a number of themed scrutiny committees. The powers and responsibilities of these committees will need to be developed in	Initial report to 8 th September meeting.

	conjunction with the Scrutiny Committee.	
Policy and Planning Framework and Budget Procedure Rules	These documents include the budget, Best Value Performance Plan, Community Strategy, Local Transport Plan, Development Plan etc. The Rules determine how these documents are adopted and changed.	Initial report to 3 rd November meeting.
Finance Procedure Rules	Major set of Rules covering a range of financial issues relating to the new unitary authority	Initial report to 1 st December meeting
Contract Procedure/Procurement Rules	These documents set the rules for the way in which goods and services are procured.	Initial report to 12 th January meeting
Officer Code of Conduct	Whilst a new draft Code is expected to be issued to local authorities in the near future, a suitable Code would need to be developed to cover the period until that time. This may need to be subject to negotiations with employees.	Report to 9 th February meeting
Protocol on Member/officer relations	Model protocols are available but, again, these may need to be subject to negotiations with employees.	Report to 9 th February meeting
Officer management structure	This will develop in the run-up to 01.04.09 and will need to be set out in the Constitution of the new unitary authority.	No need for Committee to consider report on this.
Whistleblowing Policy	Model policies are available, but may need to be subject to negotiations with employees.	Report to 14 th July meeting
Code of Corporate Governance	A Code will need to be developed but would not normally be part of the Constitution. Responsibility for developing a Code rests with the Committee but should take place independently of the work on the Constitution.	Not to be reported to the Committee as part of its Constitution work
Internal Audit Plan	Whilst the Committee has responsibility for supporting the audit function, and will therefore have an interest in recommending a Plan to the unitary authority, this is not seen as something which should form part of its work in the Constitution.	Ditto
General amendments to the current Constitution	Various issues were considered by the Joint Committee as worthy of further consideration by the Governance and Constitution Committee. Whilst it is anticipated that there may be a number of changes over the life of the Shadow Council, an early report can be presented to the Committee.	Report to 14 th July meeting

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