

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Governance & Constitution Committee**
held on Monday, 8th September, 2008 at the Tatton Room, Town Hall,
Macclesfield, Cheshire SK10 1DP

PRESENT

Councillor A Ranfield (Chairman)
Councillor D Topping (Vice-Chairman)

Councillors M Asquith, C Beard, Mrs S Bentley, D Cannon, R Cartlidge,
Mrs S Jones, A Kolker, A Moran, R Parker, R Walker and P Whiteley

Officers present

Julie Openshaw – Interim Monitoring Officer
Mike Flynn –Governance Lead Officer
John Robinson – Auditor, Macclesfield Borough Council
Carole Roberts – Democratic Services, Cheshire East

17 APOLOGIES

Apologies were received from Councillor G Merry.

18 DECLARATIONS OF INTEREST

There were no declarations of interest.

19 PUBLIC QUESTION TIME/OPEN SESSION

There were no questions from the public.

20 MINUTES

The Minutes of the meeting held on 14 July 2008 were approved as a correct record.

21 UNITARY COUNCIL CONSTITUTION: SUMMARY AND EXPLANATION

The Interim Monitoring Officer introduced a report and appendix that set out the first of a series of constituent parts of the proposed Unitary Council's Constitution: the summary and explanation. She advised that it was intended to include hyperlinks to Members' and Officers' contact details in the final electronic version of the document.

The document considered at the meeting was a summary of how Cheshire East would operate and make decisions. There would be opportunity at a later date for all members to have input into the detail contained within the Constitution. Officers would make every effort to ensure the use of plain language in the Constitution so all those reading it can easily understand it. The Summary and explanation reflected this view. However it was noted that the legal content of some parts of the Constitution would make this a challenging aspiration. It was noted that it was implicit that the Council values its residents, businesses and visitors as set out in Page 4 of the summary in the section entitled "your Rights".

RESOLVED

1. the draft Summary and Explanation of the emerging Constitution be agreed and the Shadow Council be recommended to agree the document for adoption by the unitary Council at its first meeting in April 2009.
2. the Interim Monitoring Officer be authorised to make consequential changes to the document as the unitary Council's decision-making and management structures emerge,

22 PART 2 OF THE CONSTITUTION

The Interim Monitoring Officer presented a report and appendix seeking endorsement of the draft Chapters comprising Part 2 of the emerging new unitary Council's Constitution. The appendix contained a draft of Part 2 that provides an overview of the way in which the Council operates. The Modular Constitution that had been adopted by most local authorities contained terminology and reference to local authority legislation and jargon that was not very user friendly. It was intended to use plain English and refer to the different sections of Part 2 as chapters rather than articles as in the modular version. However some of the legislation did make it difficult to express more positively the way in which the Council and Cabinet operate.

The Committee would receive further reports seeking endorsement of further information and substantive detail for the Constitution as they emerge for the new Unitary Authority. Members sought clarification on engagement with partners that would be involved in Area/Neighbourhood working and indicated that Development Control maybe an area suitable for Area working. The subsequent Cheshire East Councillor election cycle was also considered.

It was proposed that in Chapter 3 - Page 28: the second bullet point should clarify that local Councillors may be contacted at "reasonable times" and in the fourth bullet point, the first reference to meetings should be deleted so that the point reads "Attend all Council Meetings ...". Under Citizens responsibilities the end of the first line should read "... abusive or threatening to Councillors or officers...". In Chapter 13 - Page 53, it was noted that Paragraph 4.3 referred to a proposal for the definition of a key decision was that any expenditure or savings of £1m or more shall be significant for the purposes of that part of the definition.

RESOLVED

To endorse the current draft content of Part 2 subject to the minor amendments set out above.

23 SHADOW COUNCIL'S CONSTITUTION: POTENTIAL CHANGES

The Interim Monitoring Officer reported on potential changes to the Shadow Council's Constitution. During debate on the draft Constitution at the final meeting of the Joint Committee, a number of issues had been raised which it was agreed would be given further thought at a later date. The Committee had requested a report at its last meeting on these issues. A list of the issues raised, together with comment by Officers was then considered as follows: -

- Officer Code of Conduct: Due to the small number of employees and limited period of employment, the preparation of an Officer Code of Conduct to cover the shadow period was not considered to be best use of resources;

- Key decisions - Use of a financial threshold: There would be very few operational decisions made by the Shadow Cabinet during the Shadow period and the definition in the paper was accepted as adequate. It was noted that from April 2009, £1m was the sum that would be considered as significant for the definition in (a);
- Number of Members required to call a Special meeting of Council: It was confirmed that at least 8 members should be required to request a special meeting of the Council be called;
- Time Limit on members speaking at meetings: The existing 5 minute time limit was considered adequate;
- Council Seating Plan: Members were happy with the seating plan used at Crewe for the Council meeting on 30 July but considered the responsibility should remain with this Committee;
- Confirmation of minutes etc at Council meetings: The issue of members being allowed to question or comment on the records of decisions of Cabinet and minutes of other Committees to be put to any cabinet member, Chairman or Vice Chairman of the Committee as appropriate was considered together with a draft Constitutional provision. Members agreed the draft provision subject to the deletion of the reference to the word "comment" so that it reads as follows:

“ A member may ask a Cabinet member or a Committee Chairman (or in his/her absence the Vice Chairman) a question on any Record of Decision or Minute. The Cabinet Member or the Chairman or in his/her absence the Vice Chairman will respond using their reasonable endeavours to provide a response which addresses the matters raised in reply to the question as put by the Member. The provisions in Procedure Rule 11.4 in relation to replies shall also apply here. There will be no debate on any question, or response under this procedure and no further motions can be moved.

Where a Member wishes to ask a question on any Part 2 matter before the Council, the question must be given, in writing, to the Council's Monitoring Officer at least one hour before the start of the Council meeting.”

RESOLVED - to recommend to Council that the proposed change concerning Members rights to ask questions on Executive and Committee proceedings be adopted, subject to review in six months time.

24 **DELEGATION OF FUNCTIONS TO PORTFOLIO HOLDERS, DECISION MAKING BODIES AND OFFICERS**

The Interim Monitoring Officer informed the Committee of work to be carried out to ensure decision-making powers are properly delegated to the relevant decision-making individual or body of the new Unitary Council. It was noted that bodies would need to be established with responsibilities in the following areas of the unitary Council's non-executive business:

- Development Control
- Building Control
- Licensing
- Environmental Health
- Housing
- Staffing
- Education Appeals
- Highways and Transportation
- Rights of Way
- Governance/Audit

- Standards

All Local authorities relied on arrangements by which some decisions, within specific limits, were delegated to officers, whilst others are delegated to committees and sub committees. Individual Portfolio Holders, subject to certain limitations, could take executive decisions. Delegation was an important issue to resolve as it would dictate the amount of work for each Portfolio Holder (where appropriate) and each committee and sub-committee.

There were still a number of key questions to be answered to provide direction to officers and to progress constitutional work. It was noted that the detail of these issues would best be addressed through informal Member working arrangements (with the Chairman, Vice Chairman and Party Whips), and reports would be brought back to this Committee at an appropriate time.

RESOLVED – to note the content of the report and the detailed arrangements for the proposed decision making structure of the unitary Council should be given initial consideration via informal Member working arrangements.

25 CODE OF CORPORATE GOVERNANCE

The Governance Group reported on requirements for the new authority to develop a local code of corporate governance and proposed actions to implement a local code. Members considered and discussed in detail, a document tabled at the meeting setting out specific supporting principles, and specific requirements for the six core principles of good governance that should be reflected in authorities' local codes

Members were advised that the annual governance statement (AGS) was the formal statement that records and publishes an authority's governance arrangements. It was noted that with effect from 2007/08 the production of the AGS had replaced the requirement for a specific statement of internal control. The system of internal control was one of the key lines of enquiry for the use of resources assessment under CPA and would be retained under Comprehensive Area Assessment (CAA). To achieve a high rating under CAA, it was vital that a local code of corporate governance was in place to form the basis of the system of internal control.

The report set out and recommended a process to implement a local code and suggested areas of best practice should be identified not just across the Cheshire authorities, but nationally and be reflected in the code wherever possible, as follows:

1. Use the self-assessment schedule produced within the Framework, to identify the requirements which make up the code, together with the processes and documentation that provide evidence of compliance;
2. Identify the individuals or project teams which are responsible for the various elements within the code and obtain a position statement from them;
3. Identify issues that have not been addressed adequately and considering how they should be addressed;
4. Identifying the individuals who should be responsible for undertaking actions required and plan accordingly.

Officers were actively pursuing opportunities to meet with the Audit Commission to work with them to gain their views on best practice. It was also noted that a local code of corporate governance would need to be in place by 1 April 2009. The AGS (including the system of internal control) should be included with the statement of accounts, which must be published by 30 June 2010.

Members referred to best practice in existing Cheshire Councils and the importance of good communication at all levels, including member level. Training needs in this area should be given priority and Corporate Governance should be included on the Member Training Programme that was currently being developed.

RESOLVED

1. To endorse the approach set out in the report.
2. To call for a report back on progress in due course with a view to adopting the local code before 31 March 2009.

26 APPOINTMENTS TO CHESHIRE FIRE AUTHORITY

The Governance Lead Officer reported on the appointment of members to the Cheshire Fire Authority was a legal requirement. The early appointment of members as observers would also enable them to become familiar with their role and facilitate any necessary training.

It was noted that the Fire Authority was currently the Combined Fire Authority for Cheshire, Halton and Warrington in accordance with the Cheshire Fire Services (Combination Scheme) Order 1997. However in the light of LGR, a new combination order would create the Combined Fire Authority of Cheshire West and Chester, Cheshire East, Halton and Warrington.

The current constitution of the Cheshire Fire Authority required the appointment of 14 representatives from Cheshire County Council, 4 from Warrington Borough Council and 3 from Halton Borough Council.

The Fire Authority was proposing the overall size of the Authority should be increased to 23 places, and from 1 April 2009, that both Cheshire West and Chester and Cheshire East appoint 8 elected members. Prior to that date these members will have observer status.

The Fire Authority had sought nominations as soon as possible to enable those members to engage in budget and strategy setting for 2009/10.

The term of office for nominated Members is at the discretion of this authority. The report recommended appointments be made for 3 years to 2011 to tie in with member's term of office.

RESOLVED – that 8 members be appointed to the Cheshire Fire Authority as representatives of Cheshire East Council from 1 April 2009 for a period of 3 years (to 2011) acting as observers prior to that date, on the following basis: 6 Conservative: 1 Liberal Democrat: 1 Labour, and that Group Leaders advise the Governance Lead Officer of their nominations as soon as possible.

27 PROPOSALS FOR A HEALTH AND ADULT SOCIAL CARE SCRUTINY COMMITTEE FOR EAST CHESHIRE.

The Governance Lead Officer submitted a report setting out a recommendation from the Scrutiny Committee that the Council constitute a Health and Adult Social Care Scrutiny Committee for East Cheshire. The report set out in Appendix 1 the proposed terms of reference for the Committee and in Appendix 2, the Cheshire East Health and Adult Social Care related business that had been dealt with since April 2007.

It was also reported that a Joint Committee with Wirral MBC currently existed to scrutinise the Mental Health Partnership NHS Trust as the deliverer of mental health, learning disability and drug and alcohol services. The Joint Committee had also been influential in sustaining the profile of mental health issues.

Government guidance stipulated that Health Trusts must bring significant proposals for change to scrutiny. Although there was no similar requirement for Social Care, it would be good practice to act as even handedly as possible and to use internal mechanisms such as the forward plan, call in etc to achieve this.

The report indicated that the Scrutiny Committee considered a separate Health and Adult Social Care Scrutiny Committee of 14 members would be required. However consideration would need to be given to:-

- The extent of cross representation with the membership of the Council's main Scrutiny Committee;
- The opportunity to involve a wider range of members in scrutiny work;
- The representation on any external Joint Health Scrutiny Committee to be drawn from the H&ASC Scrutiny Committee.

In terms of Membership of the Committee, the Scrutiny Committee felt there was merit in leaving the issue of co-option on the table for the time being, but that Members appointed to the Committee should have some knowledge of Health and Adult Social Care issues. It was noted there was much still to be done to enable the Authority to assume its statutory responsibility for Health Scrutiny as seamlessly as possible from 1 April; and to function effectively thereafter. The Chairman of the Scrutiny Committee addressed the meeting to present the Scrutiny Committee's unanimous recommendations. It was suggested that it would be helpful for officers to have the names to be nominated in advance of the Council Meeting.

RESOLVED - to recommend to Council : -

1. that a separate Health and Adult Social Care Scrutiny Committee be established within the Council's Political Structure with terms of reference as set out in Appendix 1 to the report;
2. that the proposed Committee consist of 14 Members but that no action be taken as regards Cooption for the time being; and
3. that it support the principle of continuing Joint Scrutiny arrangements of the Cheshire and Wirral Partnership NHS Trust and authorise further discussions with the Authorities concerned with a view to bringing forward more detailed proposals.

28 DATE OF NEXT MEETING

RESOLVED - that the next meeting be held on Monday 6 October at 2:00pm in Westfields, Middlewich Road, Sandbach.

The meeting commenced at 6.30 pm and concluded at 8.05 pm

Councillor A Ranfield (Chairman)