

Governance & Constitution Committee

Agenda

Date: Monday, 12th January, 2009
Time: 2.00 pm
Venue: Committee Suite 1 & 2, Westfields, Middlewich Road,
Sandbach CW11 1HZ

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. **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 total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee.

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.

Note: In order for officers to undertake any background research it would be helpful if questions were submitted at least one working day before the meeting.

Please contact Mark Nedderman on 01270 529640
E-Mail: mark.nedderman@congleton.gov.uk with any apologies or requests for further
information or to give notice of a question to be asked by a member of the public

4. **Minutes of Previous meeting** (Pages 1 - 8)

To approve the Minutes of the Meeting held on 1 December 2008.

5. **Cheshire East Work Plan** (Pages 9 - 12)

To note the current updated work plan.

6. **Progress Report - Appointments to Outside Bodies** (Pages 13 - 16)

To note progress made with arrangements to deal with appointments to outside bodies.

7. **Member/Officer Relations Protocol** (Pages 17 - 28)

To consider the proposed member/Officer relations protocol and recommend to Full Council that the protocol be adopted into the Constitution.

8. **Scrutiny Procedure Rules** (Pages 29 - 42)

To consider a paper setting out the draft Scrutiny Procedure Rules which will apply with effect from 1 April 2009.

9. **Local Choice Functions**

Report to follow.

10. **Delegation of Executive Functions**

Report to follow.

11. **Cabinet Decision Making Arrangements**

Report to follow.

12. **Cabinet Procedure Rules**

Report to follow.

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Governance & Constitution Committee**
held on Monday, 1st December, 2008 at Committee Suite 2&3, Westfields,
Middlewich Road, Sandbach, Cheshire CW11 1HZ

PRESENT

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

Councillors M Asquith, D Cannon, R Cartlidge, Mrs S Jones, A Kolker,
Mrs G Merry, A Moran, R Parker, R Walker, R West and P Whiteley
In attendance: Councillor Mrs L Smetham

Officers present

Mike Flynn – Governance Lead Officer
Julie Openshaw – Interim Monitoring Officer
Brian Reed – LGR Governance Group
Kate Khan – Solicitor Macclesfield Borough Council
Daniel Dickenson – Solicitor Cheshire County Council

45 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor S Bentley.

46 DECLARATIONS OF INTEREST

Councillor R Walker declared a personal interest only in respect of Agenda Item 8: Cheshire East Independent Remuneration Panel in that he knew one of the people concerned. In accordance with the Code of Conduct he remained in the meeting during consideration of this item.

47 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

48 MINUTES OF PREVIOUS MEETING

The Minutes of the Meeting held on 3 November 2008 were approved as a correct record.

49 ADOPTION OF COUNCIL PROCEDURE RULES

The Interim Monitoring Officer submitted a paper setting out proposed recommendations to Council on the Council's Procedure Rules that will apply with effect from 1 April 2009.

It was noted that the Council would need to adopt a Constitution to take effect on 1 April 2009 to serve the purposes of a Unitary Local Authority. Members considered a schedule of key issues identified by officers. Some of the issues had been subject to Member comment or discussion during the Shadow Council's life, whilst others were included by way of a reminder of key provisions of the Rules.

Members also considered an appendix that set out the current Procedure Rules with minor amendments such as the removal of references to "Shadow Council" and "Interim Monitoring Officer".

During the debate members stressed the importance of decision-making being transparent and clarification was sought on asking questions at the Council meetings and the exercise of Chairman's second or casting vote. Members also referred to rule 14.2b and whether the requirement for a motion signed by at least 8 members of the Council would preclude minority Groups from seeking rescission of earlier resolutions.

RESOLVED:

(1) Council is recommended to adopt the draft Council Procedure Rules, contained in Appendix B to the report, which will take effect on 1 April 2009, subject to the following changes:

Rule 31.6: this draft Rule to be amended to the effect that the Chairman of a Committee or Sub-Committee shall have a second or casting vote, but that he/she will not be obliged to use it. A note will be added to the Rule indicating that, where there is an equality of votes, and where the Chairman does not use his/her second or casting vote; the motion in question will be lost.

Rule 19: this draft Rule to be amended so that the Constitution will identify the Committees and Panels in question, and their Membership sizes, but without showing the names of individual Committee/Panel Members.

Rule 19: this draft Rule to be amended to exclude reference to the Independent Remuneration Panel.

Rule 19: this draft Rule to be amended to include the Health and Adult Social Care Scrutiny Committee, together with the number of Members of it.

Rule 44.6: this draft Rule to be amended to require that, in circumstances where agreement is reached that an urgent Key Decision should not follow the requirements of Rule 44.5, notification of such decision is provided electronically to all Members of the Council.

Rule 49.1: this draft Rule to be clarified to indicate that hard copies of agenda papers will be provided to Members of committees/executive bodies.

Rule 54.1: This draft Rule to be modified to the effect that, only where suspension of a Procedure Rule is moved and carried, will the Procedure Rule be suspended.

Appendix 3, paragraph 11: the draft Appendix to be modified to provide for the mover of an amendment to have a right of reply before the mover of the original motion sums-up, as follows:

“The mover of the motion shall have a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall have a right of reply at the close of the debate on the amendment but shall not otherwise speak on it. The mover of the amendment shall have a right of reply to the debate on his/her amendment immediately before the mover of the original motion exercises his/her right of reply at the close of the debate on the amendment.”

Appendix 5: the draft Appendix to be modified to the effect that there will be no requirement for Council to approve reserve lists of Members for each political group who will act as reserve Members for each Committee and Sub-Committee, but that any reserve Member will simply be required to notify the Chairman of the Committee or Sub-Committee at the beginning of the meeting in question.

(2) The Interim Monitoring Officer be authorised to produce suitable wording, and to make such consequential amendments to the draft Procedure Rules as she considers are necessary to give effect to the recommended changes.

50 DELEGATION OF DECISIONS TO INDIVIDUAL MEMBERS

The Interim Monitoring Officer submitted a paper providing further information requested at the last meeting on the delegation of decisions to individual members and the powers that may be contained in the Constitution to allow urgent decisions to be made by individual members.

It was noted that legal advice had been sought and indicated there would be a real risk of legal challenge to decisions made if the Council's procedures were altered so as to give additional prominence to the role of individual Members in the urgent decision-making process. In practice such decisions were relatively infrequent and the process used only where it was not possible for a Committee decision to be made.

Members noted that there were ongoing discussions with the Council's political leadership on the model of Executive Arrangements which they would wish to see in operation in respect of Cabinet decisions after 1 April 2009. One option the Cabinet could request the Committee to explore was individual Cabinet Member decision-making, as permitted by the Local Government Act 2000. If approved, such arrangements would ensure that officer urgency powers do not need to be exercised in all cases where urgent decisions need to be made.

RESOLVED – that the report be noted.

51 LICENSING COMMITTEE - STRUCTURES, MEMBERSHIP AND DELEGATIONS

The Interim Monitoring Officer presented a paper setting out proposals for the formation of a Licensing Committee for Cheshire East Council, both as a Shadow Committee prior to 1 April 2009 and as a fully operational Committee after that date. The Council would be asked to appoint members to the Licensing Committee at its meeting on 9 December 2008.

Members considered proposals relating to the structure of the Licensing Committee based on the requirements contained in the Licensing Act 2003 and the Gambling Act 2005. Consideration had also been given to the current practices in operation in existing District Authorities and the Cheshire East Licensing Group had recommended the proposals.

Attached to the paper was a list of Licensing functions which are the responsibility of the Council together with lists of Delegation of Functions under the various Acts, a draft statement of Licensing Policy, a proposed Statement of Principles and also a proposed Scheme of Delegation in relation to the general Licensing functions.

During the debate members referred to the arrangements for the establishment of one or more sub-committees and expressed a preference for there to be five members on any Sub Committee. They also debated the proposed the structure and membership of the Licensing Committee and recognised the geographical differences and expertise in the Cheshire East area. It was noted the training requirements for members appointed to a Licensing Committee would have to be met to ensure that a clear robust scheme of delegation and fully operational Licensing Committee was in place prior to 1 April.

RESOLVED - to recommend to Council at its meeting on 9 December 2008 that it considers:

1) the creation of a Licensing Committee on the following terms:

- i)** A full Licensing Committee of fifteen Members (with a quorum of eight) on a politically proportional basis, i.e. Conservatives 11; Liberal Democrats 2; Labour 1; Independent Group 1 ;

- ii) That the Licensing Committee then establishes Sub-Committees of three Members drawn from the full Committee to deal with matters under the Licensing Act 2003 and the Gambling Act 2003;
 - iii) That Sub-Committees of five Members (with a quorum of three) drawn from the full Committee (of which at least one shall, subject to availability, be the Chairman or Vice Chairman of the full Committee) are established on an ad hoc basis to deal with 'general' licensing matters;
- 2) the requirement of political proportionality under section 15 of the Local Government and Housing Act 1989 is waived in relation to the sub-committee established under iii) above;
 - 3) to delegate to the Licensing Committee those licensing functions which are the responsibility of Council as set out in Appendix 1, subject to the proviso that before any Councillor who is a member of the Licensing Committee can attend a meeting and participate in the determination of an application or appeal by any individual or body, that Councillor must have attended a suitable training course dealing with the quasi-judicial nature of the role of the Committee; and
 - 4) authorising the Interim Monitoring Officer to make such consequential changes to the Constitution as she considers appropriate to give effect to the decision of Council in relation to 1) above.

52 CHESHIRE EAST INDEPENDENT REMUNERATION PANEL

The Governance Lead Officer updated Members on the appointment of the Independent Remuneration Panel for Cheshire East Council and sought approval to its composition and related operational matters.

The Chairman and spokespersons had met on 18 November with four current Independent Remuneration Panelists who had volunteered to join the Cheshire East Panel and a fifth Panelist had subsequently been identified. The Panel would commence its work immediately to meet deadlines for producing a report and recommendations for consideration by this Committee and adoption by the Council.

The Committee then considered the term of office and Chairmanship of the Independent Remuneration Panel together with the payment of travel and out of pocket expenses to the Remuneration Panel Members when carrying out their duties, and whether any further allowance should be paid. There was merit in enabling Panel Members to attend elected Member development events appropriate to their work, as this would assist the Panel's understanding of elected members' roles and responsibilities in the new Authority.

Members noted that any views they would wish to make known to the Panel should be raised in the first instance with the Governance Lead Officer who would be providing support to the Panel.

RESOLVED –

- 1) To approve the appointment of the Cheshire East Independent Remuneration Panel with the following membership:

Mr David Routs (Cheshire Panel)
Mrs Christine Crowe (Crewe and Nantwich Panel)
Mrs Jan Charles (Congleton Panel)
Mr Peter Foden (Congleton Panel)
Professor Michael Burdekin (New Member)

- 2) The Panel be requested to determine its Chairmanship from within its membership;
- 3) The period of office for Panel Members be three years;
- 4) That an allowance of £30 per meeting together with travel and out of pocket expenses be paid to Panel members; and
- 5) That Panel Members be permitted to attend elected Member Development events appropriate to their work.

53 OFFICER CODE OF CONDUCT

The HR Joint Transition Group submitted a paper that enclosed a proposed Code of Conduct for Employees of the new Cheshire East Council. The Government had recently issued a revised draft Officer Code of Conduct for consultation. It was noted that it may be some time before any final document is produced by the Government. It was suggested that in the meantime the Council should agree its own Code, which can be reviewed if necessary when any final national framework is issued. Members noted that Schools will have their own Codes of Conduct.

The Staffing Committee had considered the draft Code of Conduct at its meeting held on 27 November 2008, as staff appointments were beginning to be made, and it was vital that there is a Code of Conduct for Officers in place.

This key document would ensure the good governance of the new Council and provide clear direction to employees on the standards of Conduct expected of them. It would be necessary for this Committee to recommend to the Council that it considers the adoption of an Officer Code of Conduct, its immediate inclusion in the Shadow Council's Constitution and, thereafter in Cheshire East Unitary Council's Constitution with effect from 1 April 2009.

RESOLVED – to recommend that the Council:

- 1) adopts the Officer Code of Conduct appended to the Report (Noting that the Core Values for Cheshire East as a whole are still in draft and will require Cabinet approval in January 2009);
- 2) agrees that the Officer Code of Conduct will take effect immediately and will apply to all officers appointed by the Shadow Council;
- 3) agrees that the Officer Code of Conduct will continue to have effect, and will apply to all officers employed by Cheshire East successor authority on 1st April 2009 and thereafter;
- 4) agrees that the Officer Code of Conduct will be included immediately in the Shadow Council's Constitution and, with effect from 1st April 2009, in Cheshire East successor authority's Constitution; and
- 5) authorises the Interim Monitoring Officer to make such consequential amendments to the Constitution as she considers are necessary to give effect to the decision of Council.

54 **CHESHIRE EAST WORK PLAN**

The Interim Monitoring Officer submitted an updated work plan detailing the timescale of reports to be brought to the Committee and the current status of each work area. Members then commented on various aspects of the Work Plan, and in particular the timetable of meetings. The Member/Officer Relations Protocol would be submitted to the January 2009 meeting and the report of the Outside Bodies task group would be submitted to the February 2009 meeting.

RESOLVED - That the Committee note the current detail of the Work Plan as referred to at the meeting.

The meeting commenced at 2.00 pm and concluded at 4.25 pm

Councillor A Ranfield (Chairman)

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CHESHIRE EAST

Governance and Constitution Committee

Date: 1st December 2008
Report of: Interim Monitoring Officer
Title Cheshire East Work Plan

1.0 Purpose of Report

- 1.1 To present to the Committee an updated Work Plan for consideration.

2.0 Decision Required

- 2.1 That the Committee:
- 2.1.1 note the current detail of the Work Plan; and
- 2.1.2 note that this will be developed and periodically brought back to the Committee for approval.

3.0 Implications for Transitional Costs

- 3.1 There are no implications for transitional costs.

4.0 Background and Information

- 4.1 It has been agreed that the Committee should have a programme of work which provides for periodic reports to be made upon the development of a Constitution and other key governance-related matters.
- 4.2 Appendix A is the current version of the Work Plan. The details contained in it represent the timescales within which reports are proposed to be brought to the Committee. Information has also been added to show the current status of each work area.
- 4.3 It has previously been accepted that the timescales within the Work Plan need to be flexible in order to account for work priorities, changes in legislation etc. It will therefore be important for the Committee to receive regular reports with updates of the Work Plan.

5.0 Conclusion

5.1 The Committee is asked to note the current version of the Work Plan as the basis for its work, and that the Work Plan will be developed and periodically brought back to the Committee for approval.

For further information:-

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

Background Documents:- Nil

Documents are available for inspection at the Cheshire East Support Office:
Westfields
Middlewich Road
Sandbach

And at www.cheshireeast.gov.uk

Appendix A

	Work Area	Current status
6 th October 2008	Whistleblowing Protocol	Approved by Cttee. on 6 th October
	Police Authority appointments	Approved by Cttee on 6 th October
	Borough Status	Recommended to Council on 6 th October. Council accepted recommendation on 20 th October
	Outside Bodies appointments	Process agreed on 6 th October
3 rd November 2008	Process for appointment of School Governors	Process agreed on 3 rd November
	Report considered on urgency decision-making process	Report back to Committee on 1 st December
	Report on appointment of statutory co-opted Members to scrutiny committees-Parent Governors and Church Reps.	Recommendation made to Council on appointment
1 st December 2008	Review Constitution for new Council	
	Council Procedure Rules	
	Member/Officer Relations Protocol	
	Licensing Committee delegations	
	Urgency powers	
12 th January 2009	Consider overall committee structure for new authority	
	Scrutiny Procedure Rules	
	Executive Procedure Rules	
	Proposals for Leadership model	
	Proposals for Portfolio Decision-Making powers	
	Boundary Review preparations	
	Code of Corporate Governance	
	Audit arrangements & recommend an Audit Plan	
9 Feb 09	Recommend a Scheme of Delegation to Officers	
	Recommend a Scheme of Delegation to individual members	
	Timetable for meetings 2009/10	
	Code of conduct for officers (including TU consultation)	

	Protocol on member/officer relations (possible TU consultation)	
	Codes and Protocols	
	Finance and Procurement Procedure Rules	
9 March 09	Decide on representation on outside bodies	
	Recommend a constitution for the new Council	
	Recommend a committee structure for the new council	
	Recommend Members Allowances for the new council	

CHESHIRE EAST

GOVERNANCE AND CONSTITUTION COMMITTEE

Date of meeting: 12 January 2009

Report of: Task Group (Appointments to Outside Organisations)

Title: Progress Report – Appointments to Outside Organisations

1. INTRODUCTION

At its meeting held on 14 July 2008, the Governance and Constitution Committee set up a Task Group *“To devise a work programme and develop recommendations to deal with appointments and implement best practice.”*

The Task Group comprises Councillors R Cartlidge, S Jones, A Ranfield, R Walker and P Whitely.

At its first meeting, Councillor Shirley Jones was elected Chair.

2. DECISION REQUIRED

No decision required. The report is for information to enable the Governance and Constitution Committee to note progress to date.

3. CRITERIA FOR APPOINTMENTS

- 3.1** At its meeting held on 6 October 2008, the Governance and Constitution Committee adopted the following criteria for making appointments to outside organisations.

(a) The Appointment is a Statutory Requirement

There will be a limited number of bodies to which the authority is required to appoint but statutory requirement should be included as a criterion. Examples include the Police Authority and Fire Authority.

(b) Appointment allows the Authority to Influence Policy at National or Regional Level

This will apply to those organisations which give the authority a voice at national or regional level and enables it to influence high-level policy decisions. Examples will include the Local Government Association, 4 North West and the North West Employers Organisation.

(c) Appointment Assists the Authority to Deliver its Strategic Objectives and Priorities

This is a key part of any appointment system, where it can be demonstrated that the appointment will make a direct or significant contribution to the authority's strategic objectives, in particular the Community Strategy and Corporate Plan.

(d) Appointment is to an Organisation Receiving Major Funding from the Authority, or Provides Key Public Services

Representation will ensure that the organisation uses its funding properly and develops in a way which the authority considers appropriate.

Those organisations which provide key public services, for example Housing Trusts, are often created by a local authority which reserves the right to place Members on its Board.

3.2 Criterion for Declining to make Appointment

In rare cases, it may not be appropriate to appoint to an outside organisation; for example, where there are significant cost or resource implications for the Authority when balanced against the benefits.

3.3 Additional Criterion for Appointment

The Group has agreed to recommend that for organisations whose activities relate to a single ward only, where possible, the representative should be one of the Ward Members.

4. PROGRESS TO DATE

The Task Group has met on five occasions and expects to be able to make its final recommendations to the Governance and Constitution Committee at its meeting on 9th March 2009.

To assist in its work, each of the constituent authorities provided a schedule of current appointments which were prioritised –

Category 1 Statutory or high level strategic (which the Cabinet has agreed to reserve to itself)

Category 2 Organisations which are important to each authority and must continue after 31st March 2009

Category 3 Organisations where representation is useful but not crucial

Category 4 Organisations which did not fall into Categories 1, 2 or 3

In addition, the Task Group surveyed each organisation requesting the information listed below to enable it to assess the relevance to the new authority of representation on each.

- 1) Copy of organisation's constitution.
- 2) Category of representative – for example, does the representative need to be an elected Member, or is the Council entitled to nominate a representative from the community?
- 3) Does the Council make a nomination, which is then agreed by the organisation, or is the Council entitled to *appoint* to it?
- 4) How many representatives will be required from Cheshire East Council? *Under the new Council, given that there are only 81 Councillors for the whole of the Cheshire East area, it may be that there will be 1 representative only appointed, whereas at present, there may be up to 4 representatives who are drawn from each of the constituent authorities.*
- 5) Does the organisation's constitution require the representative to be the local Ward Member?
- 6) How many times a year does the organisation meet and where are the meetings held? *This was to enable the Task Group to assess the commitment required of the representative.*
- 7) How long is the term of office?
- 8) Is the representative a voting member, a trustee or an observer? (or other category)
- 9) Is there any financial remuneration, either in the form of expenses or honoraria?
- 10) Is there a Service Level Agreement or other contract in place between the organisation and the current appointing Council?

There was a reasonable response rate to the survey and the information provided has proved helpful.

5. RECOMMENDATION

The Task Group expects to hold another three meetings, following which, it will be able to recommend to the Governance and Constitution Committee –

- (a) A procedure for making appointments to outside organisations, with effect from 1st April 2009 which will include -
 - Recommendation as to Cabinet appointments
 - Recommendation as to appointments to be made by the Governance and Constitution Committee
 - Term of office

- Basis of making appointments
- Means of monitoring effectiveness of representation
- Protocol for dealing with casual vacancies

(b) Recommended named appointments to Category 2 organisations.

Contact Officer:

Carol Jones – Democratic Services
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CHESHIRE EAST

Governance and Constitution Committee

Date of meeting: 12 January 2009
Report of: Interim Monitoring Officer
Title: Member/Officer Relations Protocol

1.0 Purpose of Report

- 1.1 To seek the approval of the Committee in respect of the new unitary Council's Member/Officer Relations Protocol.

2.0 Decision Required

- 2.1 To endorse the proposed Member/Officer Relations Protocol and recommend to Full Council that the Protocol be adopted into the Constitution.
- 2.2 To recommend that the Protocol apply to all Officers and Members from the date of this meeting.

3.0 Financial Implications for Transition Costs

- 3.1 There are no financial implications for Transition Costs.

4.0 Financial Implications 2009/10 and beyond

- 4.1 No financial implications arise for 2009/10 and beyond.

5.0 Legal Implications

- 5.1 It is proposed that the Protocol should be contained in the unitary Council's Constitution and, therefore the Committee will need to make a recommendation to the Shadow Council to that effect.
- 5.2 It is recommended that the Protocol apply to all Officers and Members of the Authority from the date it is endorsed by this Committee.
- 5.3 The attached draft Protocol contains transitional arrangements in Clause 12. On the 1 April 2009 clause 12 will be deleted and the remaining 11 clauses will continue to be part of the Council's constitution.

6.0 Risk Assessment

- 6.1 Failure to adopt a Member/Officer Relations Protocol may affect the Council's ability to evidence its commitment to good governance.

7.0 Information

- 7.1 One indicator of local authority good governance is that the authority in question has a Member/Officer Relations Policy or Protocol.
- 7.2 The document “Delivering Good Governance in Local Government: Guidance Note for English Authorities” cites such a policy as a source document or good practice that may be used to demonstrate compliance with a number of the CIPFA Code of Corporate Governance requirements.
- 7.3 The Council’s ability to carry out its functions depends on the co-operation of Members and Officers. The service the Council provides to the people of Cheshire East will be improved if Members and Officers have a good working relationship. The aim of the Protocol is to help build these relationships and help resolve problems if they should occur.
- 7.4 A draft Member/Officer Relations Protocol is attached in the Appendix to this report.

8.0 Conclusion

- 8.1 The Committee is asked to endorse the Protocol and make a recommendation to Full Council that the Protocol be adopted and included in the Constitution.

For further information:

*Officer: Julie Openshaw, Interim Monitoring Officer
Tel No: 01625 504250
Email: j.openshaw@macclesfield.gov.uk*

Background Documents:

N/a

APPENDIX

PROTOCOL MEMBER/OFFICER RELATIONS

1.0 INTRODUCTION

- 1.1 The aim of this Protocol is to guide Members and Officers of Cheshire East Council in their relations. It is hoped the Protocol will help build good working relationships between Members and Officers as they work together to build the new authority.
- 1.2 A strong, constructive, and trusting relationship between Members and Officers is essential to the effective and efficient working of the Council.
- 1.3 It is recognised that relationships between Members and Officers are very varied and can often be complex. Therefore, this Protocol does not seek to be comprehensive and may not cover all situations. However, it is hoped that framework it provides will serve as a guide to dealing with a wide range of circumstances.
- 1.4 This Protocol forms a key part of the Council's approach to corporate governance and its commitment to uphold standards in public life.

2.0 INTERPRETATION OF THE PROTOCOL

- 2.1 Members and Officers must observe this Protocol at all times.
- 2.2 The provisions of this Protocol will be interpreted having regard to the requirements of the Members' Code of Conduct, the Officers' Code of Conduct, the Council's Whistleblowing Protocol and the Council's policies, procedures and processes.
- 2.3 Where there is a conflict or discrepancy between this Protocol and the Codes and Policies referred to in 2.2 above then those Codes and Policies shall have precedence. Conventions will also be taken into account in cases of conflict or discrepancy. Any questions over interpretation will be decided by the Monitoring Officer in consultation with the Chief Executive.
- 2.4 It is recognised that in the period preceding any Council Election or by-election specific protocols are in place. These protocols will take precedence over this Protocol where there is again conflict or a discrepancy.
- 2.5 This Protocol does not affect or interfere with any rights or protection which a person may have in law.

3.0 THE ROLE OF MEMBERS

- 3.1 Members are accountable to the electorate who determine every four years the people they wish to represent them on the authority. Therefore, this Protocol recognises that Members are elected to serve the people of Cheshire East.
- 3.2 Members, as politicians, may express the values and aspirations of their party political groups but they must recognise that in their role as Members they have a duty to always act in the public interest.
- 3.3 Members may have a number of roles within the Council and need to be alert to the possible conflicts of interest that may arise.
- 3.4 At all times Members should be aware that the role they are performing may impact upon the nature of their relationship with Officers and the expectations that Officers may have of them.
- 3.5 Members are mainly responsible for:
 - the political direction and leadership of the Authority
 - the determination of policies, plans and strategies
 - deciding matters to give effect to or implement those policies, plans and strategies particularly in service delivery terms
 - performing the Council's regulatory functions
 - monitoring and reviewing, primarily through the Executive and Overview and Scrutiny functions, the Council's performance in implementing its policies, plans and strategies and in delivering its services
 - participation in partnership working
 - representing the Council on national regional and local bodies and organisations
 - representing the views of their communities and individual constituents
- 3.6 Some Members will have additional responsibilities relating to their membership of the Executive, Scrutiny Boards or other committees and sub-committees. The holding of these roles will involve a different relationship with certain Officers in areas where the Member has particular roles and responsibilities.
- 3.7 Members who serve on committees and sub-committees collectively have delegated responsibilities. These responsibilities may include deciding quasi-judicial matters which by law are excluded from the remit of the Executive.

3.8 Officers can expect Members:

- to act within the policies, practices, processes and conventions established by the Council
- to work constructively in partnership with Officers acknowledging their separate and distinct roles and responsibilities
- to understand and support the respective roles and responsibilities of Officers and their associated workloads, pressures and reporting lines
- to give political leadership and direction and to seek to further their agreed policies and objectives with the understanding that Members have the right to take the final decision in issues based on advice
- to treat them fairly and with respect, dignity and courtesy
- to act with integrity, to give support and to respect appropriate confidentiality
- to recognise that Officers work to the instructions of their senior Officers and not to individual Members
- not to subject them to intimidation, harassment, or put them under undue pressure. Members will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between the Member and Officer, and the potential vulnerability of Officers, particularly at junior levels
- not to request them to exercise discretion which involves acting outside the Council's policies and procedures
- not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a Member without proper and lawful authority
- not to use their position or relationship with Officers to advance their personal interest or those of others or to influence decisions improperly
- to comply at all times with the Members Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and conventions agreed by the Council.

3.9 It is important that Members of the Authority:

- respect the impartiality of Officers and not undermine their role in carrying out their duties

- do not ask Officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an Officer being criticised for operating in a party political manner
 - do not ask Officers to exceed their authority where that authority is given to them in law, by the Council or by their Managers
- 3.10 The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (section 151 Officer) and other Statutory Officers have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council. Where an Officer is discharging his/her responsibilities under any statutory office a Member or Members shall not:
- interfere with or obstruct the Officer in exercising those responsibilities
 - victimise any Officer who is discharging or has discharged his/her responsibilities of the Statutory Office

4.0 THE ROLE OF OFFICERS

- 4.1 The primary role of Officers is to advise, inform and support all members and to implement the lawfully agreed policies of the Council.
- 4.2 Officers are responsible for day-to-day managerial and operational decisions within the Council. Members should avoid inappropriate involvement in such matters.
- 4.3 In performing their role Officers will act professionally, impartially and with political neutrality. Whilst Officers will report a Members' view on an issue, the Officer should not be influenced or pressured to make comments, or recommendations which are contrary to his professional judgement or views.
- 4.4 Officers should:
- implement decisions of the Council and its subordinate bodies which are lawful, which have been properly approved in accordance with the requirements of the law and the Council's constitution, and are duly recorded.
 - work in partnership with Members in an impartial and professional manner
 - assist and advise all parts of the Council. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.

- respond to enquiries and complaints in accordance with the Council's standards
 - be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
 - act with honesty, respect, dignity and courtesy at all times
 - provide support and learning and development opportunities for Members to help them in performing their various roles
 - not seek to use their relationship with Members to advance their personal interests or to influence decisions improperly
 - comply, at all times, with the Officer Code of Conduct, and such other Policies or Procedures approved by the Council
- 4.5 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities.
- 4.6 Some Officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their personal capacity.

5.0 THE RELATIONSHIP: GENERAL

- 5.1 Members and Officers are servants of the public. They are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the Public, whereas Officers are accountable to the Council as a whole.
- 5.2 At the heart of the Codes, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party.

6.0 THE RELATIONSHIP: OVERVIEW AND SCRUTINY BODIES

- 6.1 It is accepted that in carrying out the Council's overview and scrutiny functions Members may require an Officer to attend to answer questions or to discuss issues.
- 6.2 It is recognised by this Protocol that challenge in a constructive and non-confrontational way is important in ensuring policies and

performance are meeting the Council's strategic objectives. Therefore, nothing in this Protocol is intended to stop Members holding Officers to account for decisions made under delegated powers. Nor is it intended to affect the Council's overview and scrutiny functions

- 6.3 When deciding whether to require an Officer to attend, the body will consider the seniority of the Officer it would be appropriate to invite. There is a presumption against inviting Officers outside the senior Officers' range to attend in this capacity. Requests for Officer attendance should be made to the Director concerned. Such requests should indicate in broad terms the areas which Members will want to discuss, and should give reasonable notice of the dates when attendance is needed
- 6.4 Where an Officer attends such a body his/her contribution should be confined to matters of fact and explanation. However, an Officer may be asked to explain and justify advice which he/she has given prior to a decision having been taken, including decisions taken by him/her under delegated powers.
- 6.5 Officers should not be drawn, overtly or covertly, into discussions of a political nature which would be inconsistent with the political neutrality requirement. Any questioning of an Officer should not be reasonably interpreted as constituting harassment.
- 6.6 In overview and scrutiny proceedings the capability or competence of Officers must not be questioned. The distinction needs to be drawn between reviewing the policies, performance and decisions of the Council or its services and the appraisal of staff's individual performance. The latter is not a function of overview and scrutiny bodies.
- 6.7 The approach here is consistent with the Overview and Scrutiny Procedure Rules as set out in the Council's Constitution.
- 6.8 In applying this part of the Protocol, account will be taken of any guidance agreed by Overview and Scrutiny bodies provided that guidance is consistent with the principles of this Protocol.

7.0 POLITICAL GROUPS

- 7.1 The Chief Executive, together with Directors and Heads of Service and occasionally other employees all with the permission of the Chief Executive may at times decide that it is appropriate to attend a political group meeting with a view to briefing and advising on the formulation of policy. This may be of his/her own initiative or at the request of a political group. However, the decision on whether he/she should attend is the Chief Executive's, in either case.

- 7.2 If the Chief Executive decides that he/she or another Officer may attend a political group meeting and it concerns a proposed significant policy change which is about to be presented to a meeting of the Council, Executive Group or committee, then he/she must offer the facility to all other political groups within the Authority, indicating the area of policy upon which he/she is offering to brief/advise. He/she will inform the leader of the political group with whom he/she is having the meeting that he/she will be offering the facility to the other political groups.
- 7.3 Certain points must be clearly understood by all those participating in this process, Members and Officers alike. In particular:
- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present at meeting, or parts of meeting, when matters of party business are to be discussed;
 - (b) political group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
 - (c) similarly, where Officers provide information and advice for a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Executive Group or relevant committee when the matter in question is considered.
- 7.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a political group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Model Code of Local Government Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.
- 7.5 Officers must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussions to another political group.

8.0 ACCESS TO PREMISES

- 8.1 Officers have the right to enter the Council land and premises to carry out their work. Some Officers have the legal power to enter property in the ownership of others.

8.2 Members have the right of access to Council land and premises to fulfil their duties.

8.3 When making visits as individual Members, Members should:

- notify and make advance arrangement with the appropriate manager or Officer in charge (unless this is not practicable);
- comply with health and safety, security and other workplace rules;
- not interfere with the services or activities being provided at the time of the visit; and
- notify ward Members beforehand if visiting somewhere outside his/her own ward.

9.0 USE OF COUNCIL RESOURCES

9.1 All Members are provided with services such as typing, printing and photocopying and goods such as stationary and computer equipment, to assist them in discharging their roles as Members. These goods and services are paid for by public funds and should only be used for Council purposes.

9.2 Members should not ask Officers to provide resources or support which they are not permitted to give, for example support or resources

- which are to be used for business which is solely to do with a political party;
- for work in connection with a ward or constituency party political meeting or electioneering;
- for work associated with an event attended by a Member in a capacity other than as a Member of the Council;
- for private personal correspondence;
- for work in connection with another body or organisation where a Member's involvement is other than as a member of the Council; and
- which constitutes support to a Member in his/her capacity as a member of another authority.

10.0 BREACHES OF THE PROTOCOL

10.1 Where a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the

appropriate Director or Head of Service. Where the Officer concerned is a Director, the matter should be raised with the Chief Executive, and in the case of a Head of Service with the appropriate Director. Where the employee concerned is the Chief Executive, the matter should be raised with the Monitoring Officer.

- 10.2 On the Members' side, where the relationship between Members and Officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by an appropriate senior manager or Members. Officers will also have recourse to the Grievance Procedure or to the Council's Monitoring Officer, as appropriate, in certain circumstances. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive who, having advised the Leader of the Council and the other appropriate Group Leaders, will decide on the course of action to be taken, following consultation with the Standards Committee if appropriate.
- 10.3 Breaches of the protocol by a Member may also constitute a breach of the Members Code of Conduct.

11.0 STATUS OF THIS PROTOCOL

- 11.1 This Protocol was approved by Full Council on 24 February 2009. It now forms part of the Council's Constitution. As such, it is binding on all Members including co-opted and independent Members, and Officers.
- 11.2 This Protocol shall apply, as appropriate and necessary, to any person appointed individually or on behalf of a body or organisation to advise support or assist the Authority in its work.

12.0 TRANSITIONAL PERIOD

- 12.1 Prior to 1 April 2009 this Protocol will apply to relationships between Cheshire East Council Members and Officers of the following organisations:
- 12.1.1 Cheshire County Council
 - 12.1.2 Chester City Council
 - 12.1.3 Congleton Borough Council
 - 12.1.4 Crewe and Nantwich Borough Council
 - 12.1.5 Ellesmere Port and Neston Borough Council;
 - 12.1.6 Macclesfield Borough Council and
 - 12.1.7 Vale Royal Borough Council
- 12.2 Prior to 1 April 2009 reference to the 'Council' should be interpreted as to include the 'Shadow Authority'.

- 12.3 References to the Monitoring Officer should be interpreted as reference to the Interim Monitoring Officer until such time as the Monitoring Officer for Cheshire East Council is appointed.

CHESHIRE EAST**GOVERNANCE AND CONSTITUTION COMMITTEE**

Date of meeting: 12 January 2009
Report of: Monitoring Officer
Title: Scrutiny Procedure Rules

Purpose of Report

- 1.1 For the Committee to consider the draft Scrutiny Procedure Rules which will apply with effect from 1 April 2009.

2.0 Decision Required

- 2.1 That, having considered the issues raised in this report, the Committee recommends the adoption by Council of the Scrutiny Procedure Rules appended to this report, these to take effect on 1 April 2009.
- 2.2 That Council be recommended to authorise the Monitoring Officer to make such consequential changes to the Constitution as he considers are necessary in order to give effect to its intentions.

3.0 Financial Implications for Transition Costs

- 3.1 There are no implications for Transition Costs.

4.0 Financial Implications 2009/10 and beyond

- 4.1 There are no financial implications 2009/10 and beyond.

5.0 Legal Implications

- 5.1 The legal implications are taken into account in the body of this report.

6.0 Risk Assessment

- 6.1 As the recommended model of Procedure Rules largely follows the Modular Constitution format prepared by the Government Department, taking on board tried and tested provisions of Rules in use across Cheshire, no identifiable risks arise.

7.0 Background

- 7.1 The Council has adopted a Constitution, including Procedure Rules, which govern the way in which its Council meetings, Committees, Sub-Committees and Cabinet operate during the Shadow Council period.
- 7.2 These are currently in use and, with the exception of a small number of changes which have been considered by Members, have served the Council well.
- 7.3 Whilst the existing Constitution has been in operation since the Council came into being, this was prepared to serve the needs of the limited functions for which it was responsible. However, the Council will need to adopt a Constitution which will take effect on 1st April 2009 and which will serve the purposes of a unitary local authority.
- 7.4 The adoption of a new Constitution is therefore an opportunity for Members to consider whether the current Scrutiny Procedure Rules contain satisfactory provisions.
- 7.5 Attached to this report as Appendix B are the current Rules, containing minor amendments e.g removal of references to “Council” and “Interim Monitoring Officer”.
- 7.6 Appendix A is a schedule of key issues identified by officers by way of a reminder of key provisions of the Rules.
- 7.7 At its meeting on 15th December, 2008, the Council’s Scrutiny Committee considered the draft Rules and recommended that they should take effect, in the appended form, with effect from 1 April 2009.

8.0 Conclusions and Recommendation

- 8.1 The Committee is asked to give consideration to the proposed Rules and to make a recommendation to Council upon the provisions which should be included in the Rules which will form part of the Constitution from 1 April 2009.

For further information:

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Background Documents:

- ***Cheshire East Council Constitution***
- ***Government Department Modular Constitution***
- Cheshire local authorities’ constitutions

Appendix A

Ref	Issue	Comment
R 2.2	Task and Finish Panels	Scrutiny Committees may appoint such Panels
R 2.10	Scrutiny structure	Any expansion of the Scrutiny Committee structure will need to be reflected in the drafting
R 4.3	Scrutiny Work Programme	The approved Scrutiny Work Programme is to be provided to all Members of the Council
R 5.2	Scrutiny Member rights	Any Scrutiny Member may require that an item appear on the Committee's agenda
R 5.3	Cabinet Member rights	Any Cabinet Member may require that an item appear on the Committee's agenda
R 5.4	Council Member rights	Any Council Member may request that an item appear on the Committee's agenda
R 6.2	Policy Development	Scrutiny Committees have a role in developing policy. This role needs to be developed and reflected in the Policy and Planning Framework. Scrutiny Committees may involve themselves in the development of policy which is not strictly part of the Policy and Planning Framework, so long as policy falls within their remit.
R 6.3 & 4	Powers of Scrutiny Committees	In carrying out their work, they may hold enquiries, appoint specialists to assist them, visit sites, conduct public surveys, hold public meetings, commission etc. They may call witnesses on any matter under consideration and may pay specialists and witnesses for doing so within budgetary provision.
R 7	Scrutiny reports to Council/ Cabinet	Such reports are to be considered at the next appropriate meeting.
R 10	Officer and Member attendance at Committee meetings	Scrutiny Committees may require officers (with the agreement of the Chief Executive) and Cabinet Members to attend meetings.
R 11	Other attendance at	Individuals may be invited to

	meetings	attend meetings to discuss issues of local concern/ answer questions.
R 12.1	Call-in (application to decisions)	Call-in applies to all executive decisions, including those which may be taken under delegated powers
R 12.2	Call-in (decisions not to take effect)	Executive decisions not to take effect until 5 working days have elapsed from publication
R 12.3	Call-in (number of Members required)	Call-in is triggered by any 8 Members of the Council
R 12.8	Call-in (advice to decision-maker)	Scrutiny Committees may offer advice to the Cabinet but cabinet is not bound to accept such advice (note that, where referred-up for reconsideration, Cabinet performs this role).
R 13	Call-in (urgency)	Call-in is suspended where delay caused by the call-in process would seriously prejudice the Council's or the public's interests. The Chairman of the appropriate committee must agree the reasons for urgency. All Members will be notified where such agreement is reached.
R 14	Party Whip	General assumption that there will be no Whip in respect of scrutiny matters but, where it applies, there is a requirement for disclosure.
R 16	Where a scrutiny matter falls within the remit of more than one Committee	The matter will be resolved by the relevant Committee Chairmen and Vice Chairmen.

Appendix B

SCRUTINY PROCEDURE RULES

1 Scrutiny Arrangements

- 1.1 The Council has established Scrutiny arrangements in accordance with the Local Government Act 2000.
- 1.2 It is recognised that these arrangements are an important and integral part of the Council's functions, not only in relation to calling the Cabinet to account but in allowing all Members of the Council to participate in the development of the Council's policies, plans and strategies, including budgetary work, and to contribute to decision making in the Council, and to work with partners in developing services and improving outcomes for local people.
- 1.3 The role of the Council in scrutinising other public bodies such as the National Health Service is recognised and the Council's arrangements reflect these statutory responsibilities.
- 1.4 The Council's political structure seeks to provide a wide-ranging, robust and well managed Scrutiny function with particular emphasis on ensuring that the Council and its successors can meet obligations and deliver services effectively and as efficiently as possible to its citizens. The monitoring, reviewing and developing of the Council's policies, plans and strategies is also recognised as a key and important function for the authority on both the Cabinet and Scrutiny sides of the organisation.
- 1.5 The Council will keep under review its Scrutiny arrangements and will make changes where it considers these are appropriate and will lead to improvements and an improved Scrutiny function.

2 Scrutiny Structure

- 2.1 Subject to any matters reserved to the Council, the Scrutiny Committees will oversee the discharge of the Council's Scrutiny functions and responsibilities. The detailed responsibilities of the Committees are set out in Part 3 of this Constitution.
- 2.2 The Committees may appoint such task and finish panels as they consider appropriate to undertake specific tasks on their behalf, with the same powers as those Committees. Whilst these will be on a task and finish basis in most cases, the Committees are not precluded from establishing such Panels on a more permanent basis subject to regular

review. Task and finish panel members do not have to be members of the Scrutiny Committees, but may not be members of the Cabinet.

- 2.3 Where the Committees establish any Panel under 2.2 above, they will set out the name of the Panel, its membership (including the Chairman and, if appropriate, the Vice-Chairman) and the terms of reference including relevant dates for completion of the task or review.
- 2.4 The Council may from time to time, as it considers appropriate, review and change its Scrutiny arrangements.
- 2.5 The functions of the Council's Scrutiny Committees are set out in detail in Part 3 of this Constitution.
- 2.6 Any body established under these Scrutiny arrangements will be a politically proportionate body reflecting the overall political representation on the Council.
- 2.7 The Council will appoint the Chairman and Vice-Chairman of the Scrutiny Committees at its Annual meeting.
- 2.8 A Member who is appointed to and sits on the Cabinet shall not be appointed as a Member of any Scrutiny Committee, or any task and finish panel.
- 2.9 No Member of the Council shall be involved in scrutinising a decision where he/she has been directly involved.
- 2.10 The Council has appointed the following Scrutiny Committees:

[Insert details of the appointed Committees as further details emerge]

3 Co-option

- 3.1 There are four statutory co-optees in respect of the Council's Education function as follows:
 - A Church of England Diocese representative
 - A Roman Catholic Diocese representative
 - Two parent governor representatives
- 3.2 The statutory co-optees will be voting members of the **[appropriate]** Scrutiny Committee. They will be invited to attend other Scrutiny Committee meetings (excluding Full Council) where Children's Services matters are under consideration, subject to any exclusions in law or statutory guidance.
- 3.3 At those other bodies to which they have not been appointed, they shall be entitled only to speak on matters relating to Children's

Services issues. They may speak on other issues only with the consent of the Chairman.

The Scrutiny Committees shall be entitled to appoint persons to be non-voting co-optees taking into account any advice or guidelines issued from time to time by the Council. Such co-options may relate to a prescribed period of office or to specific issues under consideration. Any person co-opted under these arrangements will be entitled to participate fully in the work of the Committees subject to any conflicts of interests.

4 Work Programme

- 4.1 The Scrutiny Committees will consult with other parts of the organisation as appropriate, including the Cabinet, on the preparation of any work programme.
- 4.2 The Committees will take into account any views expressed following consultation under 4.1 above in drawing-up and agreeing any work programme. It should also take into account the resources, both officer and financial, available to support its proposals.
- 4.3 Once any programme has been approved, a copy will be sent to all Members of the Council and all relevant officers.
- 4.4 The Scrutiny Committees shall respond, as soon as they may consider it is possible to do so, to requests from the Council and the Cabinet, to review particular areas of Council activities. Where they do so, they will report their findings and any recommendations back to the Cabinet and/or Council.

5 Agenda for Scrutiny Committees

- 5.1 Matters to be considered will be set out in an Agenda, together with appropriate and relevant supporting papers.
- 5.2 Any Member of a Scrutiny Committee shall be entitled to require, in writing, that an item be included on the agenda, and such item shall appear on the agenda for the next meeting of the Committee in question. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.
- 5.3 Similarly, the Leader of the Council or a Cabinet Member with specific portfolio responsibilities may give notice in writing requiring an item to appear on an agenda of a Scrutiny Committee, relating to their area of responsibilities. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.

- 5.4 Subject to Council Procedure Rule 34 and Appendix 6 of the Council Procedure Rules, any other Member may give notice in writing to the Monitoring Officer, requesting an item to appear on an agenda of a Scrutiny Committee. The item shall be included after consulting the Chairman of the Committee.
- 5.5 Any Member raising an item under 5.2, 5.3 and 5.4 above shall be precluded from raising the matter again for a period of six months from the date it is considered by the Committee in question.

6 Policy Review and Development

- 6.1 The Scrutiny Committees have a key role in policy and budget development.
- 6.2 The Budget and Policy Planning Framework contains details of the process by which the Scrutiny Committees may perform that role.
- 6.3 In relation to the development of the Council's approach to other matters not forming part of its Policy and Planning and Budget Framework, the Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- 6.4 Scrutiny Committees may hold enquiries and investigate options for future direction in policy development and may appoint specialists to assist them in this process. They may visit sites, conduct public surveys, hold public meetings, commission research and undertake such other things they consider reasonable and necessary to inform their deliberations. They may call witnesses on any matter under consideration and may pay to any specialists and witnesses a reasonable fee and expenses for doing so within budgetary provision.

7 Reports from the Scrutiny Committees

- 7.1 The Council or Cabinet (as appropriate) shall consider any report from the Committees at its next programmed meeting.

8 Access to the Forward Plan

- 8.1 The Scrutiny Committees will have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation.

9 Rights of Scrutiny Members to documents

- 9.1 In addition to their rights as Councillors, Members of Scrutiny Committees have the additional right of access to documents, and to

notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

- 9.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Scrutiny Committees depending on the particular matter under consideration.

10 Members and Officers giving account

- 10.1 The Scrutiny Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. As well as reviewing the documentation, in fulfilling its scrutiny role, it may require any Member of the Cabinet, to attend before it to explain in relation to matters within their remit:

- any particular decision or series of decisions;
- the extent to which the actions taken implement Council policy; and/or
- their performance.

and it is the duty of those persons to attend if so required.

- 10.2 Where any Scrutiny Committee requires an officer to attend to answer questions or discuss issues, this will be agreed with the Chief Executive.

Where it is agreed that an officer should appear to answer questions, their evidence should, as far as possible, be confined to questions of fact and explanation relating to policies and decisions. Officers may explain:-

- what the policies are;
- the justification and objectives of those policies as the Cabinet sees them;
- the extent to which those objectives have been met; and
- how administrative factors may have affected both the choice of policy measures and the manner of their implementation.

- 10.3 Officers may be asked to explain and justify advice they have given prior to executive decisions being taken. They may also be asked to explain and justify executive decisions they have taken under delegated powers.
- 10.4 Officers should not be expected and should avoid being drawn into discussions of politically contentious matters and any officer input should be consistent with the requirements for political impartiality.
- 10.5 The requirements of any protocols on Member/Officer relationships and the Officer Code of Conduct must be adhered to where an officer is attending the Scrutiny Committees.

- 10.6 Where any Member or Officer is required to attend a Scrutiny Committee under this provision, the Chairman of that Committee will inform the Monitoring Officer, who will inform the Member or Officer in writing giving, at least ten clear working days notice of the meeting. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or Officer concerned will be given reasonable and sufficient notice to allow for its preparation.
- 10.7 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Committee shall, in consultation with the Member or Officer, arrange an alternative date for attendance.

11 Attendance by others

- 11.1 The Scrutiny Committees may invite individuals other than those referred to in paragraph 10.1 and 10.2 above to address it, discuss issues of local concern and/or answer questions.

12 Call-in

- 12.1 When a decision is made by the Cabinet, or a Committees or Sub-Committees of the Cabinet, by an individual Cabinet Member, or when a key decision is made by an officer with delegated authority from the Cabinet, the decision shall be published, by electronic means, and shall be available at the main offices of the Council normally within 2 clear working days of being made. All Members of the Council will be sent an electronic record of all such decisions within the same timescale.
- 12.2 Subject to paragraphs 12.3 and 12.4 below a decision taken and to which paragraph 12.1 above refers will not come into force, and may not be implemented, until the expiry of 5 clear working days after the decision was made and recorded.
- 12.3 Where a decision referred to in paragraph 12.1 has been made, any 8 or more Members of the Council may submit a call-in notice, in writing, within the period specified in paragraph 12.2 above, to the Monitoring Officer. Where the notice is valid, the decision cannot be implemented until the procedures in this section have been followed. Where a valid notice is received the decision shall stand referred to the appropriate Scrutiny Committee for advice.
- 12.4 Where as a result of a corporate electronic system failure or planned shutdown, which prevents the issuing of or access to Cabinet decisions or the submission of a call-in notice by electronic means in accordance

with the Council's call-in provisions, the periods for notification or submission shall be extended by the period of delay, provided that period is in excess of four hours. When, in the opinion of the Monitoring Officer, the period of delay is likely to extend beyond two clear working days, he/she shall agree with the Chairman of the appropriate Scrutiny Committee, alternative arrangements to avoid any delay in implementing Cabinet decisions not subject to "call-in".

- 12.5 The decision will be referred to the first available meeting of the appropriate Scrutiny Committee, subject to the Access to Information Procedure Rules.
- 12.6 The Committee may decide to offer no advice, in which case the decision may be implemented. Where advice is offered, the Cabinet will reconsider the decision as set out in paragraph 12.8 below.
- 12.7 Once the Scrutiny Committees has decided to offer advice or not to offer advice, no further call-in notices may be served in respect of that matter subject to the decision in question. This does not prevent the matter being scrutinised further by the appropriate Committee after the decision has been implemented in accordance with these rules.
- 12.8 Where a matter is considered and advice is offered by a Scrutiny Committee, its advice will be submitted to the Cabinet for a decision to be made on the matter. The Cabinet shall consider the advice but shall not be bound to accept it in whole or in part. It shall have sole discretion to decide on any further action to be taken in relation to the decisions in question, including confirming with or without amendment, of the original decision or deferment pending further consideration, or making a different decision. There are no further rights to enable a Member of the Council to submit a call-in notice. The decision may then be implemented.
- 12.9 If under this procedure the Scrutiny Committee, having considered the matter, indicates that it does not wish to offer any advice to the Cabinet, then the decision can be implemented immediately.
- 12.10 A submitted call-in notice can only be withdrawn with the written consent of all of its signatories.
- 12.11 The "call-in" facility does not apply to the determination of a Motion under Standing Order 12 (Notices of Motion) – Appendix 2.

13 Call-in and Urgency

- 13.1 The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay, caused by the call-in process, would be likely to seriously prejudice the Council's or the public's interests. The Chairman of the appropriate Scrutiny committee or, in his/her absence, the Chairman of

the Council must agree that the decision should be treated as urgent, and that the call-in procedure should not apply. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Chief Executive or her nominee's consent shall be required. Where such agreement is reached, all Members of the Council shall be notified by electronic means.

14 The Party Whip

- 14.1 It is generally accepted that the Party Whip should be suspended in respect of Scrutiny matters. However, when considering any matter in respect of which a Member of the Scrutiny Committees is subject to a formal party whip, the Member must declare the existence of the Whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the Minutes of the meeting.

15 Procedure at Scrutiny Committees Meetings

- 15.1 Scrutiny Committees shall consider the following business:
- record of the last meeting;
 - consideration of any matter referred to the Committee by the Council or by the Cabinet;
 - consideration of any matter referred to the Committees for advice in relation to call-in or a decision;
 - responses of the Cabinet on reports of the Scrutiny Committees; and
 - the business otherwise set out on the agenda for the meeting.
- 15.2 Where a Scrutiny Committee conducts investigations (e.g. with a view to policy development), it may also ask people to attend to give evidence at its meetings, which are to be conducted in accordance with the following principles:
- the investigation is to be conducted fairly and all Members of the Committees are to be given the opportunity to ask questions of attendees, and to contribute and speak;
 - those assisting the Committees by giving evidence are to be treated with respect and courtesy; and
 - the investigation to be conducted so as to maximise the efficiency of the investigation or analysis.
- 15.3 Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall, unless there are exceptional reasons, make its report and findings public.

16 Matters within the remit of more than one Scrutiny Committee

- 16.1 Where a matter before a Scrutiny Committee also falls within the remit of one or more Scrutiny Committee, the decision as to which body will consider it, including any arrangements for joint working or sharing information, will be resolved by the Chairmen and Vice Chairmen of the Scrutiny Committees concerned.

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