

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Governance & Constitution Committee**
held on Thursday, 25th June, 2009 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor A Ranfield (Chairman)
Councillor A Kolker (Vice-Chairman)

Councillors M Asquith, D Cannon, R Cartlidge, S Jones, R Menlove, G Merry,
A Moran, R Parker, D Topping, R West and P Whiteley

Substitute

Councillor B Livesley

In attendance

Councillor F Keegan

Apologies

Councillors S Bentley

Officers present

Brian Reed, Democratic Services Manager
Andrew Leadbetter, Legal Services Manager
Lisa Quinn, Borough Treasurer and Head of Assets
Christine Mann, Finance Manager
Vivienne Quayle, Internal Audit Manager
Paul Mountford, Democratic Services Officer
Paul Goodwin, Finance
Sandra Shorter, People Department

113 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

114 **PUBLIC SPEAKING TIME/OPEN SESSION**

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

115 **MINUTES OF PREVIOUS MEETING**

RESOLVED

That the minutes of the meeting held on 21 May 2009 be approved as a correct record.

Members considered a report on the Draft Statement of Accounts 2008/09 which had to be approved by 30 June 2009 in accordance with the Accounts and Audit Regulations 2003 as amended by the Accounts and Audit (Amendment) Regulations 2006.

A Member briefing session had been held immediately prior to the meeting.

The report outlined the revenue outturn and capital programme positions of the former Macclesfield, Congleton and Crewe and Nantwich Borough Councils, highlighting particular financial management and reporting issues where appropriate. The report also dealt with a number of issues common to all sets of accounts, including LGR-related expenditure and performance reward grants. An updated report on the revenue outturn for Macclesfield Borough Council was circulated at the meeting.

Officers confirmed that the final accounts would be available for public inspection at Council offices and libraries in July, with comments to be submitted to the Council by 3rd August.

Arising from the discussion, Officers undertook to circulate to Members of the Committee details of the approach used by the Council's Valuer in valuing land and buildings.

RESOLVED

That the Draft Statement of Accounts for 2008/09 for the following former authorities of Cheshire East Borough Council be approved:

- Crewe and Nantwich Borough Council
- Macclesfield Borough Council
- Congleton Borough Council

Members considered a report on the Audit Commission's draft Cheshire East Audit fee letter for 2009/10. The letter was appended to the report and set out the proposed audit work for 2009/10 and the associated fee.

Judith Tench of the Audit Commission attended the meeting to present the Commission's proposal and answer questions.

Keith Ward of Baker Tilly also attended the meeting to advise Members on the audit process.

The draft Audit fee letter set out the audit work to be undertaken during the year in relation to the financial statements, the Use of Resources assessment and Value for Money conclusion (which formed part of the

Comprehensive Area Assessment), and certification of grant claims and returns.

Audited bodies were required by statute to meet the cost of audit as specified by the appointed auditors, and the associated charges were therefore unavoidable. The proposed audit fee for 2009/10 was £401,925 (exclusive of VAT). This was based on the Audit Commission's national fee rate with an uplift of 15% to reflect the perceived risks likely to impact the 2009/10 accounts. The base budget for audit fees, inherited from the predecessor councils, totalled £299,557. The quoted audit fee for 2009/10 therefore exceeded the budget provision by £102,368. This overspend would fall to be met from council balances as there was no contingency provision to cover the additional costs.

The Audit Commission had indicated, however, that the fee would be reviewed throughout the year as their risk assessment was updated and refined. There was scope, therefore, to mitigate the potential budget shortfall. The Officers confirmed that there was scope to reduce the level of fee by adopting the risk management approach outlined in the report. This could eliminate some or all of the 15% risk element of the fee, which would reduce the potential overspend by up to £52,425.

Keith Ward advised that the key risks affecting the Audit Plan were the impact of LGR in terms of transitional and restructuring costs, and the authority's core financial systems which were still being developed. He added that the Governance Statement was a key component and he needed to be satisfied that it was consistent with the rest of the Plan. He congratulated the Council on maintaining three independent teams for the purpose of producing the final accounts of the former District Councils.

At the conclusion of the discussion, the Chairman thanked Judith Tench and Keith Ward for their attendance.

RESOLVED

That the Audit Commission's audit fees letter for 2009/10 be received and the proposed work programme, indicative fee and associated budgetary implications be noted.

118 ADDITIONAL FUNCTIONS – HEAD OF SAFER AND STRONGER COMMUNITIES

Members considered a proposed amendment to the Powers of Officers within the Constitution to include a range of powers and responsibilities relating to the safer and stronger communities function.

A list of legislation appeared in the Appendix to the report. An updated version of the list was circulated at the meeting.

The proposed changes to the Constitution would bring environmental health functions into line with the approach adopted in respect of trading standards and licensing legislation.

RESOLVED

That Council be recommended to agree

- (1) that the list of legislation as amended and re-circulated at the meeting be added to the list in the Appendix to the “Powers and Responsibilities of Officers” (section of Part 3 of the Constitution) which will have the effect of bringing responsibility for this legislation within the remit of the Head of Safer and Stronger Communities by virtue of paragraph 25.1.2 of that Part; and
- (2) that such consequential amendments be made to the Constitution as the Borough Solicitor considers are necessary to give effect to the wishes of Council.

119 ATTENDANCE BY SUBSTITUTE MEMBERS AT PLANNING MEETINGS

The Chairman agreed to the consideration of this matter as an item of urgent business in accordance with Paragraph 37.2 of the Committee Procedure Rules. The item was considered urgent because the Committee was required to give advice to Council at its next meeting.

The report proposed alternative arrangements to restrict the appointment of substitute members for planning matters.

The Local Government and Housing Act 1989 prescribed a regime of proportional representation for political groups on Committees. The Local Government (Committees and Political Groups) Regulations 1990 (“the Regulations”) provided more detailed working rules, in particular that seats allocated to political groups could only be filled by the nominations of the Group Leaders (not by Council or a Committee) and that seat allocations must be revisited at least annually and at or as soon as possible after the first meeting of the authority each year.

The responsibility for constitutional change and for the allocation of seats to groups rested with full Council on the advice of the Governance and Constitution Committee. Council had given the Strategic Planning Board special powers regarding the makeup of planning committees.

A protocol within the Constitution provided that no Member could sit or be a substitute on a planning committee without planning training. The Strategic Planning Board now proposed further restrictions. At its meeting on 17 June, the Board recommended to the Governance and Constitution Committee and Council “that the scheme of substitution in the Constitution be amended as follows:

(a) No substitution shall be made to the North Area Planning Committee except with a Member from the South Area Planning Committee and vice versa. The substitute Member should wherever possible come from the same political group but may come from a different political group.

(b) No substitutions shall be made to the Strategic Planning Board from the area committees or at all.”

The Governance and Constitution Committee, having considered the proposals and the reasons given for them as set out in the report to the Board, felt unable to support the Board’s recommendation (b).

RESOLVED

That Council be recommended that the scheme of substitution in the Constitution be amended as follows:

“No substitution be made to the North Area Planning Committee except with a Member from the South Area Planning Committee and vice versa. The substitute Member should, wherever possible, come from the same political group but may come from a different political group.”

120 TERMS OF REFERENCE FOR INTERNAL AUDIT

Members considered a report on suggested Terms of Reference for the Internal Audit function at Cheshire East Council.

It was considered good practice to clarify and explain the terms of reference for the Internal Audit function by setting them out in a formal document. This was in accordance with CIPFA’s Code of Practice for Internal Audit in Local Government 2006.

RESOLVED

That the Terms of Reference for the Internal Audit function at Cheshire East as set out in Appendix A to the report be approved.

121 DRAFT RISK MANAGEMENT AND BUSINESS CONTINUITY STRATEGIES

Members considered a proposed risk management strategy designed to take risk management forward and enable the corporate strategic risk register to be compiled.

Risk management was a fundamental element of corporate governance, and was integral to all areas of the Council’s activities. Business Continuity Management, aimed at ensuring that the Council was a resilient organisation, capable of delivering its critical services regardless of any

unforeseen event, was an essential element of risk management, and needed to be managed within the risk management framework.

RESOLVED

That Cabinet be recommended that

- (1) the Risk Management and Business Continuity Strategies attached as Appendices to the report be approved; and
- (2) a Member representative be included in meetings of the Corporate Risk Management Group.

122 AMENDMENTS TO FINANCE AND CONTRACT PROCEDURE RULES

Members considered a report setting out proposed amendments to the Finance and Contract Procedure Rules.

The Rules were part of the Council's framework for financial control and required periodic review to ensure that resources were used in the most effective way.

During the first few months of the new Council, various issues had been highlighted where Finance and Contract Procedure Rules required amendment. Those amendments considered to be non-substantive had been approved by the Borough Solicitor under the authority delegated to him, following consultation with the Group Whips. Those amendments considered to be more substantive were set out in the Appendix to the report.

RESOLVED

That Council be recommended that

- (1) the amendments to the Finance and Contract Procedure Rules as set out in the Appendix be approved; and
- (2) the Borough Solicitor be authorised to continue to exercise his corrective powers with regard to the Constitution in those cases where he considers it appropriate to do so.

The meeting commenced at 3.00 pm and concluded at 5.14 pm

Councillor A Ranfield (Chairman)