

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Governance & Constitution Committee**
held on Wednesday, 30th September, 2009 at Council Chamber, Municipal
Buildings, Earle Street, Crewe CW1 2BJ

PRESENT

Councillor A Kolker (Vice-Chairman) (in the Chair)

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

In attendance

Councillors F Keegan, H Davenport and A Thwaite

Apologies

Councillors A Ranfield, W Livesley, A Moran and D Topping

Officers present

Brian Reed, Democratic Services Manager
Andrew Leadbetter, Legal Services Manager
Lisa Quinn, Borough Treasurer and Head of Assets
Vivienne Quayle, Internal Audit Manager
Lindsey Parton, Elections and Registration Team Manager
Paul Mountford, Democratic Services
Joanne Wilcox, Corporate Finance

123 **DECLARATIONS OF INTEREST**

No interests were declared.

124 **PUBLIC SPEAKING TIME/OPEN SESSION**

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

125 **MINUTES OF PREVIOUS MEETING**

RESOLVED

That the minutes of the meeting held on 25 June 2009 be approved as a correct record.

2008-09 ANNUAL GOVERNANCE REPORTS FOR THE FORMER AUTHORITIES OF CHESHIRE EAST BOROUGH COUNCIL

The Committee received a report on the 2008/09 Annual Governance Reports produced by external auditors for the former authorities of Cheshire East Borough:

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

Following the approval of the draft accounts on 25 June 2009, the external audit had now taken place. The auditors were responsible for giving an opinion on whether:

- the accounts presented fairly the financial position of the authority and its expenditure and income for the year in question; and
- the accounts had been prepared properly in accordance with relevant legislation and applicable accounting standards.

The findings, conclusions and recommendations from the audit work undertaken by the appointed auditors for the former authorities of Cheshire East Borough Council had been included in the Annual Governance Reports, which had been circulated to Members.

Cheshire West and Chester Council was the responsible authority for the closure of accounts for Cheshire County Council. The Department of Communities and Local Government had recognised that issues could arise during the audit that could have a material impact on the opening financial position for Cheshire East Council and therefore the Audit Commission was required to report on the Annual Governance report for Cheshire County Council to both authorities.

Judith Tench of the Audit Commission presented the annual governance report for Cheshire County Council; Keith Ward of Baker Tilly Presented the reports for Crewe and Nantwich and Congleton Borough Councils; and Ged Small of the Audit Commission presented the report for Macclesfield Borough Council. Each highlighted key messages and indicated any necessary adjustments. It would not be possible to issue the certificate for the Macclesfield audit by 30 September but this would not prevent the Council from publishing its accounts.

Judith Tench advised Members that the amount of work carried out in relation to exceptional items and significant changes in balances had both had a significant impact on the audit fee. If it was not possible to accommodate the cost within the existing fee, she would notify the Council in due course.

At the conclusion of the presentation, the Chairman on behalf of the Committee thanked the audit representatives and the Council's Finance and Audit staff for their respective contributions.

RESOLVED

That

(1) the Annual Governance Reports for 2008/09 for the former authorities of Cheshire East Borough Council be received and noted;

(2) the final Statement of Accounts for 2008/09 be approved and accordingly the Vice-Chairman of the Committee sign the letters of representation for the following former authorities of Cheshire East Borough Council:

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

(3) the position regarding the audit fee be noted.

127 INTERNAL AUDIT STRATEGY

The Committee considered a report on the Internal Audit Strategy.

The CIPFA Code of Practice for Internal Audit in Local Government suggested that it was good practice to have terms of reference for Internal Audit as well as an Internal Audit Strategy document. The Terms of Reference had been approved by the Committee in June.

The Internal Audit Strategy covered: scope and authority; status; delivery; contribution to corporate governance, risk management and internal control; relationships and linkages; and culture and working practices.

RESOLVED

That the Internal Audit Strategy be endorsed.

128 INTERNAL AUDIT PLAN 2009/10 AND UPDATE REPORT

Members received an update on the full audit plan 2009/10, summarising work during the first five months, highlighting key audit issues arising and describing future working arrangements.

The report covered the planning process, progress against the interim plan and the full audit plan for 2009/10. It also summarised findings to date, work relating to anti-fraud and corruption, work on other policies and procedures, and future issues and ways of working.

RESOLVED

That the approach to internal audit planning and the content of the internal audit plan be endorsed and the internal audit findings to date be noted.

129 DELEGATION OF LICENSING FUNCTIONS (EXPEDITED REVIEWS)

The Committee considered a report on the delegation of functions in relation to expedited reviews under the Licensing Act 2003 from the full Licensing Committee to the Licensing Sub-Committee. The report sought approval for the resulting changes to the Constitution.

The Licensing Committee at its meeting on 22 May 2009 had resolved to delegate certain functions in relation to 'expedited' review applications (i.e. applications for the urgent review of a premises licence or club premises certificate) to the Licensing Sub-Committee established under the Licensing Act 2003. Although the Licensing Committee had the authority to delegate its functions to a sub-committee, any consequential amendments to the Constitution had to be approved by Council on the recommendation of the Governance and Constitution Committee.

RESOLVED

That

- (1) the delegation of functions in relation to expedited reviews under sections 53A, 53B and 53C from the full Licensing Committee to the Licensing Sub-Committee be noted; and
- (2) Council be recommended to approve the consequential changes to the Constitution as set out in Appendix 2 to the report.

130 FUNDING PARISH ELECTIONS

The Committee reviewed the Council's policy on recharging for parish elections.

The practice of the three former district authorities had been to recharge the cost of by-elections but to bear the cost of all-out combined elections themselves.

The annual cost of parish by-elections could be around £40,000 a year, assuming 8 by-elections at an average cost of £5,000.

In future, the Council and all parish councils would have all-out elections on the same day. If parish councils were recharged for all-out elections, the potential cost to parish councils would currently be approximately £200,000.

The current available budget for elections in Cheshire East was £498,000 and the implications of this proposal and how best to use this budget were still being assessed.

Members considered the relative merits of recharging or otherwise for by-elections and all-out elections. Members noted in particular the impact that recharging for all-out elections could have on parish council budgets and on participation in local democracy.

RESOLVED

That

- (1) the policy of recharging parish councils for parish by-elections be continued; and
- (2) the cost of all-out combined elections be not recharged to parish councils.

131 REVIEW OF APPOINTMENTS TO OUTSIDE ORGANISATIONS

The Committee considered a progress report on the work of the Task Group (Outside Organisations), including the Task Group's recommendations on appointments to a number of organisations.

RESOLVED

That

- (a) one Councillor, as identified below, be appointed to each of the following Cheshire Association of Local Councils' groups –
 - (i) The Quality Accreditation Panel (Councillor A Moran)
 - (ii) The Quality Forum (Councillor S Jones)
 - (iii) The County Training Partnership (Councillor D Flude)

(on the basis set out in paragraph 11.4 of the report)
- (b) Councillor C Tomlinson be appointed to the Fence Trust (Macclesfield);

(on the basis set out in paragraph 11.5 of the report)
- (c) Cheshire East Council join Groundwork Trust as a full Company Member;
- (d) Councillor P Whiteley be appointed to the Wilmslow Aid Trust;

- (e) Evans Arts Trust be reinstated as an outside organisation (Category 3) to which appointments should be made, with two Councillors being appointed;
- (f) Councillors J Crockatt and P Whiteley be appointed to the Evans Arts Trust;
- (g) the Citizens Advice Bureaux (CAB) in Cheshire East be informed that this Council would be appointing two Councillors to each of its two branches;
- (h) Councillors A Thwaite and M A Martin be appointed to Cheshire East CAB and Councillors J Goddard and C Tomlinson be appointed to Cheshire CAB North;
- (i) the Cabinet be recommended to include "Dial-a-Ride", currently a Category 2 organisation, within its remit as a Category 1 organisation, in view of its strategic importance within the Local Transport Plan;
- (j) the Cabinet be recommended to appoint 1 Cabinet Member and 1 Local Member to each of the two branches of "Dial-a-Ride", subject to the constitutional requirements of the organisation;
- (k) the new request from Bollington Cross Youth Project be declined and the request from Senior Voice be addressed by the Task Group in due course when further information is available; and
- (l) it be noted that Cheshire and Warrington Local Access Forum, a statutory organisation, has been added to the schedule of outside organisations as a Category 1 organisation, which falls within the remit of the Cabinet.

132 **MEMBER DEVELOPMENT STRATEGY 2009/2010 AND POLICY STATEMENT 2009/2010**

Members considered a proposed Member Development Strategy and Policy Statement for Cheshire East Council.

The Member Development Panel had been working towards the creation of a framework for the delivery of Member Training and Development at Cheshire East Council. The elements which made up the framework had now been brought together to form the Member Development Strategy 2009/2010, which had been circulated to Members. The Strategy would enable the Council to realise the full potential of its Members and was tailored to the Council's needs.

Its key aims and objectives were to:

- establish a culture whereby continuous elected Member Development was seen as a key component to the success of the organisation;
- identify individual and common learning needs; ensuring that the Member Development Programme consistently addressed these needs and the Council's strategic themes;
- provide Members with the opportunity to access events and activities that were appropriate to their roles and responsibilities, recognising the importance of their role within the Council, their constituencies and with partner organisations;
- enable Members to be fully conversant with the Council's key strategic themes, in order that their activities as Councillors were consistent with Council priorities; and
- ensure that the ongoing requirements of the North West Charter on Elected Member Development were met.

The Strategy would be used primarily at induction as a means of explaining to new Members the Council's commitment to Member training and development. However, to ensure that all serving Councillors were similarly informed, the Committee was invited to approve the document so that it could be issued to Members.

For ease of reference, a short policy statement had also been produced which summarised the commitments outlined in the document. The statement had been circulated to Members.

RESOLVED

That the Member Development Strategy 2009/2010 and associated Policy Statement 2009/2010 be approved and adopted with immediate effect.

133 APPOINTMENT OF MEMBER DEVELOPMENT CHAMPIONS

The Committee considered the nominations for the position of Member Development Champion for Cheshire East Council.

The Member Development Panel had recently agreed in principle to the drawing up of role descriptions for Members of Cheshire East Council. Work was currently underway on drafting the descriptions which would be shared with Members before being submitted to the Governance and Constitution Committee for consideration in due course.

The Member Development Panel had considered ways of establishing formal links between the Officers tasked with supporting Member training and development and the Members themselves. Its conclusion was to recommend the appointment of Member Development Champions, who

would act as advocates for Member Training and Development and who would work with Members and Officers to deliver the commitments outlined in the Member Development Strategy. A draft role description for Member Development Champions had been circulated with the report. It was proposed that a Champion should be nominated from each of the political groups.

RESOLVED

That

- (1) the role description for the position of Member Development Champion be approved; and
- (2) Councillors Wesley Fitzgerald, Ainsley Arnold, Paul Edwards and Dorothy Flude be appointed as Member Development Champions for Cheshire East Council.

134 MEMBERS' ALLOWANCES SCHEME 2009/2010

The Committee considered proposals to reconvene the Independent Remuneration Panel for the purpose of reviewing the Members' Allowances Scheme for 2009/2010, and considering a number of additional allowances.

The Members' Allowances Scheme had been approved by Council on 2 April and had been in operation for six months; it was now due for review.

Whilst the Independent Remuneration Panel had made recommendations on the formal elements of the Scheme in line with Regulations, there was now a need to review a small number of additional allowances such as telephone/broadband connections and consumables. It was also proposed that the Panel be asked to consider options for determining and quantifying these associated allowances/expenses.

RESOLVED

That

- (1) the Independent Remuneration Panel be reconvened for the purpose of reviewing the Members' Allowances Scheme 2009/2010;
- (2) a report be submitted to the Independent Remuneration Panel for the purpose of clarifying and quantifying the range of additional allowances which are claimable by Members; and
- (3) until such time as Council considers the report of the Independent Remuneration Panel, the current arrangements for the payment of Members' Allowances/additional Allowances continue to apply.

135 **LOCAL WARD MEMBERS' PROTOCOL AND THE COUNCILLOR
CALL FOR ACTION PROTOCOL**

The Committee considered a report proposing a Local Ward Members' Protocol and a Councillor's Call for Action Protocol which would strengthen Member involvement at Ward level through the provision of timely, relevant information on local issues.

The Local Government and Public Involvement in Health Act emphasised the importance of the role of Ward Members as community leaders and advocated their empowerment to deal with local issues. The proposed Protocols would illustrate how Members, with officer support, could achieve this.

The Local Ward Members' Protocol had received the informal comments of the Leader and Cabinet and their suggestions had been incorporated. The Councillor Call for Action Protocol had been considered by the five Scrutiny Committee Chairmen and appropriate revisions had been made.

RESOLVED

That Council be recommended to adopt the Local Ward Members' Protocol (Appendix A to the report) and the Councillor's Call for Action Protocol (Appendix B) for incorporation into the Constitution.

136 **PUBLIC AND MEMBER QUESTIONS AND STATEMENTS AT
MEETINGS**

The Committee considered a report setting out the recommendations of the Corporate Scrutiny Committee and Cabinet with regard to public and Member questions and statements at meetings.

At its meeting on 16 April 2009, the Committee had reviewed the arrangements for public and Member questions and statements at meetings following proposals to disapply those provisions of the Constitution from the meetings of planning, licensing and scrutiny bodies. The Committee had decided to seek the views of the Corporate Scrutiny Committee and the Cabinet. The matter was subsequently considered by the Corporate Scrutiny Committee on 12 June and the Cabinet on 14 July. The Cabinet had concurred with the recommendations of the Corporate Scrutiny Committee and the recommendations of both bodies to the Governance and Constitution Committee were considered.

RESOLVED

That Council be recommended that

- (1) the recommendations of the Corporate Scrutiny Committee and Cabinet in relation to public and Member questions and statements at meetings be approved as follows:

1. That the existing Planning and Licensing Protocols which override the member and public speaking and questioning provisions that apply to other committees, should be retained;
2. That the facility to allow questions by Members of the Public at meetings of Overview and Scrutiny Committees should be removed, but a period of 15 minutes be provided at the beginning of meetings to allow members of the Public to make a statement(s) on any matter that falls within the remit of the relevant committee, subject to individual speakers being restricted to 5 minutes each;
3. That whilst acknowledging that Planning and Licensing Committees have separate arrangements in place for public involvement, in all other cases, members of the Public should provide 3 clear working days notice, in writing, if they wish to ask a question at any other decision making meeting, in order for an informed answer to be given, but they should not be required to give notice of intention to make use of public speaking provision (although as a matter of courtesy, a period of 24 hours notice should be encouraged);
4. That members of the Council should, in accordance with the current rules, be required to provide 3 clear working days notice in writing if they wish to ask a question at a full Council meeting or Cabinet in order for an informed answer to be given;
5. That the existing provisions of the constitution relating to the way in which questions may be answered be preserved.

(2) the relevant provisions of the Constitution be amended accordingly.

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CABINET DECISION-MAKING ARRANGEMENTS

The Committee considered a proposed change to the existing Cabinet Decision-Making arrangements.

Despite Council having agreed that individual Cabinet Members should have their own decision-making powers, the collective Cabinet was still being expected to deal with many decisions which could be dealt with on an individual basis. Despite a series of training sessions, Officers were still reluctant to refer decisions to individual portfolio holders rather than collective Cabinet. Cabinet Members were themselves reticent in using their powers and often deferred to full Cabinet.

A further reduction in the volume of Cabinet business could be achieved by removing paragraph (d) of the existing restrictions on individual Cabinet Member decision-making. This related to decisions which “are significant in terms of their effect on communities living or working in an area comprising two or more wards”. Many decisions were “significant in terms of their effect on communities” but could readily be taken by the relevant

portfolio holder. By removing this provision, Council would bring clarity and certainty to its executive decision-making arrangements. There were no implications for the Council's call-in provisions which would continue to apply to all executive decisions whether taken collectively or individually.

Cabinet Members would also be given some assurance in the use of their individual decision-making powers by:

- (a) the opportunity to discuss a proposal first at an informal Cabinet meeting; and
- (b) the scheduling of regular weekly Cabinet Member decision days on Tuesdays.

RESOLVED

That Council be recommended that

- (1) an amendment be made to the decision-making powers of individual Cabinet Members by the removal of paragraph (d) from the existing restrictions on individual Cabinet Member decision-making, the revised restrictions being as follows:

“Cabinet Members may make all executive decisions in respect of their portfolio areas except:

- (a) Decisions already taken by Cabinet or an officer acting under delegated powers.
- (b) Decisions involving a departure from the Council's Budget and Policy Framework or any Cabinet or regulatory committee policy.
- (c) Decisions involving expenditure or savings of £1 million or more.
- (d) Decisions which the Leader wishes to be taken by full Cabinet.

PROVIDED THAT all such decisions shall be taken in public and that regard shall be had to the advice of the Borough Solicitor by the decision-maker in interpreting these provisions.”

- (2) the Constitution be amended accordingly.

The meeting commenced at 2.00 pm and concluded at 4.23 pm

Councillor A Kolker (Vice-Chairman)