

# **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Constitution Committee**  
held on Thursday, 1st May, 2014 at Council Chamber - Town Hall,  
Macclesfield, SK10 1EA

## **PRESENT**

Councillor A Martin (Chairman)  
Councillor D Marren (Vice-Chairman)

Councillors C Andrew, G Baxendale, P Groves, M Hardy (for Cllr Wait),  
S Hogben, S Jones, W Livesley, R Menlove, A Moran, B Murphy, D Newton  
and P Whiteley

## **Officers**

Brian Reed, Head of Governance and Democratic Services  
Anita Bradley, Head of Legal Services and Monitoring Officer  
Paul Mountford, Democratic Services Officer  
Lindsey Parton, Registration Service and Business Manager  
Mark Nedderman, Senior Scrutiny Officer  
Leah Benson, Solicitor

## **Also present**

Anthony Cross, Solicitor

## **Apologies**

Councillor G Wait

## **36 DECLARATIONS OF INTEREST**

There were no declarations of interest.

## **37 PUBLIC SPEAKING TIME/OPEN SESSION**

There were no members of the public wishing to speak.

## **38 MINUTES OF PREVIOUS MEETING**

### **RESOLVED**

That the minutes of the meeting held on 20<sup>th</sup> March 2014 be approved as  
a correct record.

## **39 MACCLESFIELD COMMUNITY GOVERNANCE REVIEW UPDATE**

The Committee considered the proposed arrangements and timescale for  
the second stage of consultation and for the remainder of the community  
governance review which was being conducted under the provisions of the

## Local Government and Public Involvement in Health Act 2007 and Government Guidance.

The first stage of consultation had been conducted in June/July 2013 and had consisted of consultation with stakeholders and the public. The consultation had focussed on 7 options. Eight public meetings had been held, which had been attended by 114 people out of a possible electorate of 39,750 (ie 0.3%). 94 responses to the consultation had been received (0.24% of the electorate). 46 respondents had expressed a wish to see a Town Council while 10 had expressed a wish to see multiple parish councils. The Committee noted that little interest appeared to have been generated in the review to date.

On the basis of the feedback received, the Community Governance Sub-Committee had agreed that the second stage of consultation should focus upon the options of parishing and an enhanced Local Service Delivery Committee. With regard to parishing, electors would be given the opportunity to say whether they wished to see a single parish/town council for the whole of Macclesfield or a parish council based on their Borough Ward boundary.

The Sub-Committee, with input from the Macclesfield Local Service Delivery Committee, had proposed terms of reference for the option of an Enhanced Service Delivery Committee as set out in Appendix 1 to the report.

A 15 page leaflet to fully explain the two options had been developed by the Sub-Committee with the assistance of the Cheshire Association of Local Councils (ChALC). The Sub-Committee sought the Committee's views on a shorter version of the leaflet to be sent out to all electors with the voting paper.

The wording for a postal voting paper had been devised by the Sub-Committee and was attached as Appendix 4 to the report for information. The proposed timetable for the second stage of consultation and the remainder of the review was attached at Appendix 5.

## **RESOLVED**

That

1. the progress made to date with the conduct and outcome of the first stage of consultation be noted;
2. the proposed arrangements and timescale for the second stage of consultation and for the remainder of the review be agreed, based on the proposed two options of parishing and an enhanced Local Service Delivery Committee, with parishing comprising either a single parish/ town council or 7 parish councils (based on existing Borough ward boundaries);

3. the proposed terms of reference for an enhanced Local Service Delivery Committee be agreed, and this form the basis of one of the two options for the second stage of public consultation;
4. the size and format of the explanatory leaflet to accompany the voting paper to electors be approved; and
5. the voting paper be amended to the extent that all references to 'parish (town) council' or 'parish council' are capitalised.

#### **40 REVIEW OF POLLING DISTRICTS AND POLLING PLACES**

The Committee considered arrangements to undertake a review of polling districts and polling places.

The Electoral Administration Act 2006 had introduced a statutory duty for local authorities to carry out a review of their parliamentary Polling Districts and Polling Places by 31<sup>st</sup> December 2007; and at least every four years thereafter. In accordance with this legislation, the Council had conducted its last Review in 2011 and a Polling Arrangements Review Sub-Committee had been appointed for this purpose.

The Electoral Registration and Administration Act 2013 had introduced a change to the timing of compulsory reviews of UK Parliamentary Polling Districts and Polling Places. The next compulsory review must now be completed by 31<sup>st</sup> January 2015. Subsequent compulsory reviews must then be completed every five years thereafter.

#### **RESOLVED**

That

1. authority be given for the publication of the notice of the Polling Districts and Polling Places Review;
2. the Polling Arrangements Review Sub-Committee be convened to undertake the Review of Polling Districts and Polling Places as required by the Electoral Administration Act 2013; and
3. it be recommended to Council that the final decision concerning the outcome of the Polling Districts and Polling Places Review be delegated to the Constitution Committee at its meeting on 27<sup>th</sup> November 2014.

#### **41 CHESHIRE/WIRRAL/MERSEYSIDE - JOINT SCRUTINY ARRANGEMENTS**

The Committee considered the adoption of a protocol for setting up joint scrutiny arrangements across Cheshire, Wirral and Merseyside to consider proposed substantial developments or variations in health services.

The Health and Social Care Act 2012 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations had introduced new arrangements to require a joint scrutiny committee to be established for the purposes of considering consultations by a relevant NHS body or provider of NHS funded Services where such proposals impacted on more than one local authority area and where more than one authority agreed that the proposal was a substantial development or variation in service (SDV).

Knowsley Borough Council, as lead authority on behalf of the Merseyside authorities, had developed a draft protocol, attached as an Appendix to the report, which proposed a framework for the operation of joint scrutiny across Cheshire, Merseyside and Wirral. The protocol would put in place arrangements to convene a joint health overview and scrutiny committee to be made up of each of the constituent local authorities that deemed a proposal to be an SDV. Cheshire, and Merseyside authorities had been invited to consider and adopt the protocol in order for it to be in place in time for the formal consultation process regarding changes to the provision of cancer services at the Clatterbridge Centre in Wirral.

## **RESOLVED**

That it be recommended to Council that

1. the draft joint scrutiny protocol as appended to the report be adopted; and
2. nominations to any joint scrutiny committees established in accordance with the protocol be made by the Chairman of the Health and Wellbeing Scrutiny Committee (or successor body) in compliance with the proportionality requirements set out in the protocol.

## **42 COUNCIL CONSTITUTION - REVISIONS TO SCHEME OF DELEGATION TO OFFICERS**

The Committee considered a revised scheme of delegation to officers.

The revisions were required because of the revised Council Chief Officer Management Structure following the review of management roles and responsibilities, and the Council's decision to become a Strategic Commissioning Council with the creation of Alternative Service Delivery Vehicles for the provision of Council Services.

The main revisions reflected the Chief Officer Management changes, in particular the span of functions for which the Executive Director of Strategic Commissioning was now responsible. A number of additional amendments were reported and circulated at the meeting.

A rolling programme would be required in order to keep the Scheme of Delegation up to date and ensure that Directors established, operated and kept under review Local Schemes of Delegation within their departments. The Scheme of Delegation would also require appropriate revision as further Alternative Service Delivery Vehicles were developed.

## **RESOLVED**

That Council be recommended to

1. approve the revised Scheme of Delegation to Officers as appended to the report subject to the additional amendments reported at the meeting;
2. authorise the Head of Legal Services and Monitoring Officer to update the Council's Constitution accordingly by inclusion of the revised Scheme of Delegation;
3. authorise the Head of Legal Services and Monitoring Officer to undertake consequential drafting amendments to the remaining parts of the Council's Constitution to ensure consistency with the revised Scheme of Delegation; and
4. authorise a rolling programme approach to keep the Scheme of Delegation up to date.

## **43 THE COUNCIL'S DECISION-MAKING AND GOVERNANCE ARRANGEMENTS**

The Committee considered a range of proposals concerning the Council's governance arrangements.

### *PDG/Scrutiny Review*

The Constitution Committee had appointed a cross-party member working group to conduct a review of the arrangements relating to the Council's scrutiny committees and policy development groups. The Working Group had appointed Professor Steve Leach and Professor Colin Copus of DeMontfort University to undertake the work required in respect of the review. Professors Leach and Copus were widely acknowledged for their expertise in scrutiny and other local government matters.

Professors Leach and Copus had presented their report to the PDG/Scrutiny Review Working Group on 14<sup>th</sup> April 2014. The report was attached to the Committee's report as Appendix A. The Working Group had supported the recommendations in the report.

In considering the proposals, Members felt that the policy and performance commissions should be termed 'overview and scrutiny committees'.

Members also had regard to recommendation (12) of the Professors' report which stated that the chair and vice-chair of each commission should be held by councillors from different political parties and that in the medium term it would be advantageous if there were some sharing of commission chairs with opposition parties, provided that an appropriate behavioural protocol could be agreed.

#### *Size of Committees*

The Constitution Working Group had recently considered the merits of reducing the size of committees to free-up members' time and to make meetings shorter and more manageable. The Working Group had suggested the following reductions subject to further consideration:

<b>Committee (current size)</b>	<b>Proposed size</b>
Constitution Committee (14)	10
Strategic Planning Board (14)	12
Northern Planning Committee (14)	12
Southern Planning Committee (15)	12
Public Rights Of Way Committee (7)	5
Licensing Committee (15)	10
Lay Members Appointments Committee (7)	5
Local Authority School Governor Appointments Panel (8)	5
Appeals Sub-Committee (5)	3

No changes had been proposed to the size of the Audit and Governance and Staffing Committees.

In considering the proposed reductions, Members had regard to the fact that the Licensing Committee's sub-committees met very frequently and at relatively short notice and that the membership for each meeting was drawn from the membership of the parent committee. Any reduction in the size of the Licensing Committee would result in a smaller pool of members available for sub-committee meetings, making it more difficult for such meetings to be convened. Members concluded therefore that the Licensing Committee's membership should remain at 15 (and that consequently the quorum of the Committee should remain unchanged).

### *Terms of Reference of Committees*

The Committee considered revised terms of reference for the Staffing Committee, Audit and Governance Committee and Health and Wellbeing Board.

The background to each review was set out fully in the report.

The Staffing Committee at its meeting on 24<sup>th</sup> April 2014 had considered revised terms of reference which were recommended to the Constitution Committee for approval by Council. These were circulated at the meeting and replaced the version attached to the report at Appendix C.

A number of additional amendments to the terms of reference of the Audit and Governance Committee were also proposed and agreed at the meeting. The terms of reference as attached to the report at Appendix D would be amended accordingly.

The Constitution Committee at its meeting on 20<sup>th</sup> March 2014 had approved revised terms of reference for the Health and Wellbeing Board for submission to Council subject to certain amendments. The terms of reference as amended were attached to the report at Appendix E.

### *Cabinet Support Members*

In considering the report of the Independent Remuneration Panel at its meeting on 27<sup>th</sup> February 2014, Council had noted the Panel's conclusion that in the absence of a job description or terms of reference, a Cabinet Support Member did not appear to have any individual responsibility in order to qualify for a Special Responsibility Allowance (SRA) under its criteria.

It was now considered opportune to review the role of Cabinet Support Members. A suggested list of responsibilities of those appointed by the Leader of the Council to undertake a support role for Cabinet Members was attached as Appendix F to the report. Given the comments of the IRP, it was considered appropriate for these roles to be defined in the Constitution, which would require a recommendation to Council.

The Leader had indicated that the title of those appointed to these roles should properly reflect their responsibilities; he had therefore allocated the title "Deputy Cabinet Member" to these positions.

The Committee was asked to determine whether, having regard to the recommendations of the Panel, and in the light of the roles in question now being clearly defined, SRAs should be paid to the newly-appointed Deputy Cabinet Members and, if so, whether these should mirror the arrangements which currently applied to Cabinet Support Members.

## RESOLVED

That Council be recommended to approve the following:

1. the abolition of the Council's existing Scrutiny and Policy Development Group arrangements and the creation of five overview and scrutiny committees, reflecting Cheshire East Council's five strategic priorities: Communities, Economy, Life Skills, Environment and Health;
2. the adoption of the terms of reference, attached as Appendix B to the report, as the committees' terms of reference, with each committee having all relevant overview and scrutiny powers under the Local Government Act 2000; together with the appropriate committee having responsibility for the ASDV which best fits within the work of that committee;
3. the creation of an overarching Cheshire East Overview and Scrutiny Committee, having all relevant overview and scrutiny powers under the Local Government Act 2000, and the terms of reference and scrutiny powers appended to the report, with those additional responsibilities set out in recommendation 10 of the PDG/Scrutiny Review Report; the powers of this committee also to include the power to determine which overview and scrutiny committee should take responsibility for specific pieces of work where there may be uncertainty;
4. the designation of the Communities Overview and Scrutiny Committee to deal with crime and disorder issues under the Police and Justice Act 2006; the Environment Overview and Scrutiny Committee to deal with scrutiny of Flood Risk Management arrangements under the Flood Risk management Overview and Scrutiny (England) Regulations 2011; the Health Overview and Scrutiny Committee to deal with health scrutiny requirements under the Health and Adult Social Care Act 2012;
5. that the Life Skills Overview and Scrutiny Committee have the responsibility of co-opting faith and parent-governor representatives to deal with education matters;
6. the amendment of the existing call-in arrangements as set out in recommendation 13 of the PDG/Scrutiny Review Report, including the reduction in the number of Members required to trigger a call-in from 8-6 and the inclusion of provisions requiring reasons for call-in (as set out in the PDG/Scrutiny report) to be stipulated and the empowerment of the Head of Legal Services and Monitoring Officer to be the arbiter if the justification for call-in is disputed;
7. that the number of Council Members who will be members of each of the five overview and scrutiny committees be eight (which may be supplemented by up to two members of the public);



8. that, in acknowledgement of recommendation 12 of the report by Professors Leach and Copus as set out in Appendix A, the Council move to a position where there is some sharing of committee chairs and vice chairs with opposition parties, subject to an appropriate behavioural protocol being adopted;
9. the Special Responsibility Allowances paid to the Chairmen and Vice-Chairmen of the new overview and scrutiny committees be the same as those paid to the Chairmen and Vice-Chairmen of the Council's existing scrutiny committees;
10. the membership of those bodies referred to in paragraph 12.2 of the report be reduced as indicated in that paragraph with the exception of the Licensing Committee whose membership shall remain at 15 (and whose quorum as a consequence shall remain unchanged), with the quorum for planning boards and committees being reduced from 5 to 4 members;
11. the proposed terms of reference of the Staffing Committee as circulated at the meeting, and those of the Audit and Governance Committee and the Health and Wellbeing Board, as set out in Appendices D and E respectively, be adopted as the terms of reference of those bodies subject to the further amendments to the Audit and Governance Committee's terms of reference as agreed at the meeting;
12. the responsibilities of Deputy Cabinet Members, as contained in Appendix F, be noted and included in the Constitution subject to any further drafting changes which might be made to reflect the discussion at the Committee's meeting and which might be put forward before consideration by Council;
13. given that a recommended job description is now in place in respect of the role of Deputy Cabinet Members, and having regard to the report of the Independent Remuneration Panel presented to Council on 27<sup>th</sup> February 2014, Special Responsibility Allowances be paid to the newly-appointed Deputy Cabinet Members in accordance with the arrangements which currently apply to Cabinet Support Members; and
14. the Head of Legal Services and Monitoring Officer be given delegated authority to make such consequential and other changes to the Council's Constitution as she considers necessary to give effect to the wishes of Council.

The meeting commenced at 10.00 am and concluded at 2.15 pm

Councillor A Martin (Chairman)