

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Sub-Committee**
held on Friday, 17th November, 2017 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor A Martin (Chairman)
Councillor B Burkhill (Vice-Chairman)

Councillors G Baxendale, S Edgar, S Hogben, N Mannion, D Bebbington (for
Cllr Beanland) and P Groves (for Cllr Gaddum)

Officers

Dan Dickinson, Acting Director of Legal Services
Jan Willis, Director of Finance and Procurement
Brian Reed, Head of Governance and Democratic Services
Julie Gregory, Solicitor
Paul Mountford, Executive Democratic Services Officer

Other Members present

Councillors J Nicholas, S Pochin and A Stott

Apologies

Councillors M Beanland and H Gaddum

29 DECLARATIONS OF INTEREST

There were no declarations of interest.

30 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public wishing to speak.

31 MEMBERS SPEAKING

Councillor S Pochin referred to the revised Member Code of Conduct and suggested that where a complaint had been made against a member by the Leader of the Council, the Monitoring Officer may have a conflict of interest. She asked whether in those circumstances it would be appropriate for a Monitoring Officer from another council to consider the complaint. The Director of Legal Services responded that the Monitoring Officer was a statutory officer and was independent of the Council's leadership. In addition, the law required the appointment of an independent person to sit alongside the Monitoring Officer in considering complaints under the Member Code of Conduct; the Council had three such independent persons. If it were supposed that there had been a breach of the Code, the matter would be considered by a sub-committee

of members with the independent person. Finally, there would be an issue of confidentiality in bringing in a Monitoring Officer from outside the authority. The Director was therefore satisfied that there was enough independence in the Council's existing process which was similar to that of other local authorities.

Councillor Pochin also referred to a statement made in a report at the previous meeting in relation to proposed changes to the planning committees that the planning chairmen and vice-chairmen had been consulted. This had turned out not to be the case and she wondered how the statement could have found its way into the agenda papers. She wondered if there were other statements in the agenda papers which claimed that members had been consulted when they had not. The Chairman responded that the specific matter relating to the planning chairmen had been discussed at the previous meeting and the proposed changes to the planning committees had not been accepted. The Head of Governance and Democratic Services indicated that the particular point had been raised with the Acting Chief Executive and that she was looking into the matter. He added that the minutes of the previous meeting had recorded Councillor G Merry's statement that she as Chairman of the Strategic Planning Board had not been consulted on the proposals. He also reaffirmed the officers' commitment to being open and transparent and to bringing any substantive issues to the attention of members.

32 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 3rd November 2017 be confirmed as a correct record.

33 REVIEW OF THE CONSTITUTION - GENERAL

The Sub-Committee considered a report recommending a process to ensure that the revised constitution, to be presented to the Constitution Committee for consideration, was complete and incorporated all requested amendments.

The review of the whole constitution had been a substantial exercise. This had required the segmentation of the constitution into five separate work packages which had been considered by the Sub-Committee over a number of meetings.

It would be necessary, however, to bring the work packages together into a single cohesive document for presentation to the Constitution Committee on 30th November 2017. This would necessarily change all the paragraph referencing and page numbering of the content previously presented to the Sub-Committee. It would also be necessary to provide reassurance to the Constitution Committee that all requests and recommendations of the Sub-Committee had been addressed and incorporated where necessary.

In order to achieve this, and to ensure consistency between the different work packages as part of the collation exercise, the following approach was proposed:

- A new draft Constitution presented in whole as a single document which took into account those matters agreed as part of the various work packages, together with all changes and other recommendations of the Sub-Committee.
- A combined Explanatory Note (List of Substantive Changes) listing all of the original substantive issues raised with the Sub-Committee, in accordance with the agreed approach, together with a note against each one which recorded the recommendations of the Sub-Committee.
- A general report highlighting any changes arising from the collation process, together with any additional issues that could arise between the meetings of the Sub-Committee and presentation of the final set of recommendations to the Constitution Committee.
- A combined document of all content previously held within the Constitution that was now proposed to sit outside the Constitution, in accordance with the process agreed at the Sub-Committee on 3rd November 2017.

The officers had already committed to the following additional processes if requested:

- Provide printed copies of both the existing Constitution and the revised Constitution to any Member that requested them.
- Highlight any specific changes (with page number references for both documents) as requested by Members on a case-by-case basis, if these were not immediately apparent and/or incorporated within the Explanatory Note (List of Substantive Changes).

Any changes requested by the Constitution Committee on 30th November 2017 would be incorporated into the documentation ahead of presentation to Council on 14th December 2017. Any further consequential changes arising between presentation to the Constitution Committee on 30th November 2017 and the Council on 14th December 2017 would be dealt with under delegated powers by the Monitoring Officer, subject to drawing full attention to these in the general report.

RESOLVED

That the Constitution Committee be recommended to approve the proposed approach to collating and summarising the revised content and Explanatory Notes (Lists of Substantive Changes) as set out above.

34 REVIEW OF THE CONSTITUTION - WORK PACKAGE 4: PROCEDURE RULES

The Sub-Committee considered a draft revised Explanatory Note (Schedule of Substantive Issues) for Work Package 4, and a redrafted element of Work Package 4 – Procedure Rules (New Constitution Section 3).

The Explanatory Note (Schedule of Substantive Issues) highlighted proposed changes to the constitution in three categories:

Section I – substantive changes required by law for approval

Section II – substantive changes based on best practice recommended for approval

Section III – substantive changes for consideration by the Sub-Committee

Sections of the Work Package had previously been presented to the Sub-Committee on 3rd November 2017 and the comments received had been incorporated into the updated version.

The Sub-Committee considered those substantive changes not previously considered and agreed an appropriate course of action in respect of each.

(The Explanatory Note (Schedule of Substantive Changes) has since been updated to reflect the Sub-Committee's decisions and will be incorporated into a single document for consideration by the Constitution Committee.)

RESOLVED

That

1. the content of the report and the significant progress made to date be noted;
2. the Constitution Committee be recommended to approve:
 - (a) the proposed Substantive Issues as set out the Explanatory Note (Schedule of Substantive Issues) Sections I & II;
 - (b) the specific recommendation in respect of each individual issue as set out in the Explanatory Note (Schedule of Substantive Issues) Section III;
 - (c) the table of Financial Limits for insertion into the Finance

Procedure Rules as set out in pages 228-232 of the agenda; and

- (d) the revised draft of Section 3 of the Constitution (Work Package 4) as set out in Appendix B to the report and the accompanying Explanatory Note (Schedule of Substantive Issues), subject to the specific responses agreed by the Sub-Committee.

35 **REVIEW OF THE CONSTITUTION - WORK PACKAGE 5: CODES AND PROTOCOLS**

The Sub-Committee considered a draft revised Explanatory Note (Schedule of Substantive Issues) for Work Package 5, and a redrafted element of Work Package 5 – Codes and Protocols (New Constitution Section 4).

The Explanatory Note (Schedule of Substantive Issues) highlighted proposed changes to the constitution in three categories:

Section I – substantive changes required by law for approval

Section II – substantive changes based on best practice recommended for approval

Section III – substantive changes for consideration by the Sub-Committee

The Sub-Committee considered the substantive changes and agreed an appropriate course of action in respect of each.

(The Explanatory Note (Schedule of Substantive Changes) has since been updated to reflect the Sub-Committee's decisions and will be incorporated into a single document for consideration by the Constitution Committee.)

RESOLVED

That

1. the content of the report and the significant progress made to date be noted;
2. the Constitution Committee be recommended to approve:
 - (a) the proposed Substantive Issues as set out in the Explanatory Note (Schedule of Substantive Issues) Sections I & II;
 - (b) the specific recommendation in respect of each individual issue as set out in the Explanatory Note (Schedule of Substantive Issues) Section III; and

(c) the revised draft of Section 4 of the Constitution (Work Package 5) as set out in Appendix B to the report and the accompanying Explanatory Note (Schedule of Substantive Issues), subject to the specific responses agreed by the Sub-Committee.

The meeting commenced at 10.00 am and concluded at 12.50 pm

Councillor A Martin (Chairman)