

# Constitution Committee

## Agenda

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**Date:** Monday, 5th October, 2020

**Time:** 10.30 am

**Venue:** Virtual Meeting

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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 in the report.

It should be noted that Part 1 items of Cheshire East Council decision-making meetings are recorded, and the recordings are uploaded to the Council's website.

### **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 disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with paragraph 2.32 of the Committee Procedure Rules, a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the Committee. Individual members of the public may speak

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Please contact Paul Mountford, Executive Democratic Services Officer  
Tel: 01270 686472  
E-Mail: [paul.mountford@cheshireeast.gov.uk](mailto:paul.mountford@cheshireeast.gov.uk)

for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.

Members of the public wishing to ask a question or make a statement at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

4. **Minutes of Previous meeting** (Pages 3 - 6)

To approve the minutes of the meeting held on 19<sup>th</sup> March 2020.

5. **High Speed Rail 2 Phase 2a - Procedure for Decision-Making** (Pages 7 - 20)

To consider a report on proposed decision-making arrangements for High Speed Rail 2 (HS2).

6. **Independent Remuneration Panel: Review of Members' Allowances Scheme** (Pages 21 - 26)

To consider a report on a review the indexation arrangements for Cheshire East Council's Scheme of Members' Allowances.

7. **Review of the Member Training Programme** (Pages 27 - 32)

To consider a report which seeks to formalise the current required elements of the Member Training Programme and propose new arrangements in respect of Members' attendance at training events.

8. **Committee System Form of Governance - Update** (Pages 33 - 46)

To consider an update report on the proposed committee system.

**THERE ARE NO PART 2 ITEMS**

**Membership:** Councillors M Asquith, R Bailey, M Benson, J Bratherton, J Clowes, L Crane, S Edgar, T Fox, S Hogben (Vice-Chairman), A Martin, B Murphy, J Nicholas (Chairman), A Stott and P Williams

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Constitution Committee**  
held on Thursday, 19th March, 2020 at Committee Suite 1,2 & 3, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor J Nicholas (Chairman)  
Councillor S Hogben (Vice-Chairman)

Councillors M Asquith, M Benson, J Bratherton, J Clowes, D Marren, A Martin  
and P Williams

**Substitutes**

Councillors C Bulman, J P Findlow, A Stott and L Wardlaw

**Officers**

Jane Burns – Executive Director, Corporate Services  
Jan Bakewell – Director of Governance and Compliance  
Brian Reed – Head of Service, Democratic Services and Governance  
Katie Small – Governance Officer

**31 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors R Bailey, L Crane,  
S Edgar and R Moreton.

**32 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**33 PUBLIC SPEAKING TIME/OPEN SESSION**

There were no members of the public present wishing to speak.

**34 MEMBER SPEAKING**

There were no Members wishing to speak.

**35 MINUTES OF PREVIOUS MEETING**

Consideration was given to the minutes of the meeting held on 21  
November 2019.

**RESOLVED**

That the minutes be approved as a correct record subject to Councillor  
Moreton's apologies being recorded.

**36 COMMUNITY GOVERNANCE REVIEW: PRE-CONSULTATION SURVEY RESPONSES AND NEXT STEPS**

The committee considered an update on the pre-consultation survey carried out across the borough and the next steps for the Community Governance Review. Stage 2, the proposal development, would take several months to address a proposed response for all wards, even if the recommendation was for no change. The Constitution Committee would be involved in the development of the proposals through a series of workshops, the draft recommendations would then be submitted to the Sub Committee and Constitution Committee for approval prior to stage 3 being initiated.

**RESOLVED**

That the pre-consultation survey responses be received and the initiation of the development of the Council's proposals for all parish ward boundaries be approved.

**37 PROPOSED CHANGE TO THE COUNCIL'S GOVERNANCE ARRANGEMENTS - FORMAL RESOLUTION TO MOVE TO A COMMITTEE SYSTEM FORM OF GOVERNANCE**

The Committee considered the work of the Governance Working Group, and the proposed introduction of a committee system form of governance, specifically:

1. The design principles of the proposed committee system
2. Proposed service committee structure chart
3. Proposed committee functions
4. Draft Terms of Reference
5. Roles of Leader and Deputy Leader
6. Decision review process
7. Urgent decisions
8. Role and powers of committee and sub-committee chairs

It was confirmed to Members that further constitutional provisions, including the officer scheme of delegation, would be considered by the Constitution Committee at an appropriate time.

Consideration was also given to a recommendation that the Council should cease operating the existing Leader and Cabinet model of governance and implement a committee system model of governance, to take effect from the Annual Council meeting in May 2021.

**RESOLVED**

1. That full Council be recommended to resolve that the Council cease operating the existing Leader and Cabinet model of governance

and implement a committee system model of governance, to take effect from the Annual Council meeting in May 2021;

2. That Appendix A to the report, Design Principles, be approved subject to paper copies of agendas being available to Members upon request.
3. That Council be recommended to approve the following, subject to the amendments to the appendices to the report, as detailed below:
  - a. The structure of the service committees (appendices B, C and D to the report); subject to the role of the Scrutiny Committee being considered further by the Governance Working Group.
  - b. Roles of Leader and Deputy Leader (Appendix E to the report); subject to the removal of the power to call extraordinary Council meetings, given the existing procedures in place to deal with this.
  - c. Decision Review Process (Appendix F to the report); subject to decisions being referred direct to Council; it being agreed that the Director of Governance and Compliance should have an opportunity to review the proposed criteria and submit them to the Governance Working Group for further consideration and; the proposed requirement for referral of a decision to Council having to be made by two or more political groups be removed.
  - d. Urgency Provisions (Appendix G to the report); subject to the existing provisions of Appendix 4 to the Constitution being incorporated; which deal with urgent decisions made as a consequence of failure to plan appropriately, or work without due regard to timeliness.
  - e. Role and Powers of Committee and Sub Committee Chairs (Appendix H to the report), subject to (paragraph C) being amended to read 'appointments should take into account relevant skills, knowledge, experience and suitability subject to suitable training.
4. That the Director of Governance and Compliance be authorised, in consultation with the Constitution Committee, to prepare such draft constitutional provisions as she considers necessary to give effect to the wishes of the committee, which will be submitted to the Constitution Committee in phases during 2020/21 for recommendation to Council.
5. That the Director of Governance and Compliance be authorised to recommend such constitutional provisions as reflect the developing

nature of the progression to a committee system form of governance and best practice.

The meeting commenced at 2.00 pm and concluded at 4.40 pm

Councillor J Nicholas (Chairman)



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## **Constitution Committee**

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**Date of Meeting:** 5 October 2020

**Report Title:** High Speed Rail 2 Phase 2a – Procedure for Decision Making

**Portfolio Holder:** Cllr Toni Fox – Planning

**Senior Officer:** Frank Jordan, Executive Director - Place

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### **1. Report Summary**

- 1.1. The purpose of this report is to seek approval for the proposed decision-making arrangements for High Speed Rail 2 (HS2) to ensure that appropriate officer delegated authority and where necessary Planning Committee procedures are in place to deal with applications submitted in relation to works along the route of Phase 2a of HS2.
- 1.2. The route is anticipated to be approved in principle via the enactment of the High Speed Rail (West Midlands - Crewe) Bill ("the Bill"). The decision making arrangements set out in this report will enable the Council to handle requests for the approval of relevant details in an expeditious manner and to comply with the strict timescales imposed.

### **2. Recommendation**

- 2.1. That the Constitution Committee consider and note the content and conclusions of the report and approve the decision-making arrangements for the determination of all planning matters submitted under Schedule 17 (the Planning Conditions Schedule) of the Bill as set out in the report and agree to all necessary amendments to the Council Constitution as required to secure these provisions.

### **3. Reasons for Recommendation**

- 3.1. The recommended approach would allow the Council to ensure appropriate officer delegated authority and where necessary Planning Committee procedures are in place to enable officers to deal with applications

submitted in relation to works along the route of Phase 2a of HS2 in a timely manner and meet the timescales set out in the Planning Memorandum.

#### **4. Other Options Considered**

- 4.1. The alternative option is to retain existing decision-making arrangements. Without a change in the Constitution, there is a risk that the Council would be unable to determine Schedule 17 Applications in a timely manner. As a result of this, the Council would lose its Qualifying Authority status and its determination powers; and the Secretary of State would take all decisions on Schedule 17 Applications.

#### **5. Background**

- 5.1. The Bill will grant planning permission for the construction of a high speed railway between the West Midlands and Crewe. The Bill grants what is termed as 'deemed' planning permission. This will be subject to a number of conditions requiring the nominated undertaker (the party/parties who will construct the railway) to obtain the consent or approval of the Local Planning Authorities for various matters of detail along the route. These works do not fall within the scope of control covered by the Town and Country Planning Act and will require a separate approval under the Bill. They will be known as 'Schedule 17 Applications'.
- 5.2. At its meeting of 18 July 2019, Full Council approved the signing of the Planning Memorandum to become a Qualifying Authority for the purposes of the Bill. As a Qualifying Authority, the Council has responsibility for determining Schedule 17 Applications.
- 5.3. A Qualifying Authority is responsible for issuing approvals in respect of details of the design and appearance of key structures and other elements of the scheme, but that responsibility does not extend to the principle of the construction which is permitted by the Act itself. This deemed planning permission is therefore similar in nature to an outline planning permission. Structures and features that the appropriate Qualifying Authority will be able to consider details for include:
- Buildings and vehicle parks
  - Terracing
  - Cuttings
  - Embankments and other earthworks
  - Fences and walls
  - Telecommunication masts
  - Power take-off compounds



- Artificial lighting
- Bridges and viaducts
- Borrow pits and waste disposal sites

5.4. A Qualifying Authority can only refuse to approve (or impose conditions in respect of) the plans and specifications on two main sets of grounds:

a) The design or external appearance of the building works ought to be modified to:

- preserve the local environment or local amenity;
- prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area;
- preserve a site of archaeological or historic interest or nature conservation value, and is reasonably capable of being so modified; or

b) The development ought to, and could reasonably, be carried out elsewhere on land within the Bill limits.

5.5. The determination of Schedule 17 applications under the Bill is a regulatory function of the Council and therefore can be determined by either Planning Committee or delegation to officers. However, Schedule 17 Applications do not fall within the remit of the existing Council Constitution. In order to allow decisions to be made, alternative decision making arrangements therefore need to be agreed by Members.

5.6. It is important to note that the prescribed time period in the Bill for the Local Planning Authority to determine Schedule 17 Applications is 8 weeks from receipt. There is no validation process so the clock starts on receipt. If the Council fail to determine the application within this period it would be deemed to be approved unless an agreed extension of time is in place. If a Qualifying Authority repeatedly fails to expedite requests for approval or seriously fails to act in accordance with the Planning Memorandum, the Secretary of State may order that an authority shall cease to have the powers of a Qualifying Authority. Consequently, the decision-making powers that the authority has for determining Schedule 17 applications would be significantly reduced, with the Secretary of State making the ultimate decision.

5.7. Additionally, if a Qualifying Authority is looking to seek amendments, they will be required to fully justify that such a modification is reasonable, and that it can be made without, for example, adding unduly to the cost or programme of HS2, or conflicting with the operational requirements of the railway. This would need to be done within the prescribed period of 8

weeks. The scope of matters for consideration and the timescale for considering the Schedule 17 Applications are therefore very constrained and it will be important that officers negotiate any amendments and deal with such submissions in a timely manner.

- 5.8. The applications are likely to be for relatively minor works in the initial phases, but could be substantial in number and frequency. As such in view of these points, and the need to ensure that the applications are dealt with within the set timescales, there is a risk that the anticipated volume of work could have a significant impact upon the capacity of the Planning Committee to consider these additional items within the required period.
- 5.9. For these reasons, a cascaded delegated authority is sought to allow the Head of Planning to determine approvals under Schedule 17 (the Planning Conditions Schedule) of the Bill.
- 5.10. The approach to Committee reporting would broadly reflect that of the existing process for determining planning applications, allowing Members the opportunity to 'call-in' such approvals – subject to specifying relevant planning reasons and following agreement with the Head of Planning in liaison with a Principal Planning Officer.

## **6. Approach to Decision Making for Schedule 17 Applications**

- 6.1. The proposed approach has been identified as the best option to provide a necessary degree of flexibility to ensure that the appropriate level of decision-making is applied to each application based on the specific considerations of that case; whilst also providing the appropriate level of Member scrutiny.
- 6.2. Schedule 17 Applications would be determined as follows:
  - Delegated Authority to the Head of Planning to determine all applications and notifications submitted in relation to HS2 matters in consultation with the Principal Planning Officer; subject to the provisions below.
  - All live applications, including Member call-in's, to be reviewed fortnightly and considered for Planning Committee determination by the Head of Planning and Principal Planning Officer. Both officers to jointly determine whether a delegated or committee determination is appropriate (and if a committee determination is necessary, the specific planning committee) based on the scale, complexity and level of public scrutiny of each application.

- In line with the existing procedures for Members, any request for call-in by the relevant Local Ward Member must be received within 15 days of the issue of the electronic notification of the application; and must set out the material planning consideration(s) specific and relevant to the matters which can be considered under Schedule 17 which warrant the application going before Planning Committee.
  - The scheme of delegation shall be subject to a review after 6 months in consultation with the Head of Planning and the Chairs of Planning Committees to ascertain whether any changes are necessary to the scheme of delegation as lessons are learned throughout its application.
- 6.3. The type of applications which would be referred to planning committee for determination would likely be of a scale and nature that present more significant impacts to the local environment and amenity; or present complex planning and environmental considerations which requires appropriate scrutiny by Members. Examples of such applications could include:
- Development of large-scale bridges and viaducts;
  - Significant ground engineering works;
  - Creation of borrow pits;
  - Buildings which are of a scale and nature which may create impacts beyond the immediate locality.

#### Other procedural arrangements – consultation and notification

- 6.4. Under the HS2 Bill, there is no statutory requirement for the Council to carry out any consultation on Schedule 17 applications with any other parties other than key statutory bodies (Natural England, English Heritage and the Environment Agency) and no requirement to inform the public on receipt of such submissions.
- 6.5. In view of the restrictions the HS2 Bill places on the Council in terms of timescales for determination and the matters that can be taken into consideration, the Council would not carry out any formal consultation with local residents and Parish Councils on Schedule 17 submissions.
- 6.6. The Council however recognises that there may be high levels of interest in any HS2 related developments. In order to ensure local people and Members are therefore kept up to date and made aware of all applications, and in order to reflect the existing procedures for all planning applications, the Council would as a minimum undertake the following:

- Write to inform the affected Parish Councils on the route of the receipt of a Schedule 17 application;
- Write to inform all neighbours immediately adjoining the relevant part of the route;
- Notify Local Ward Members of all Schedule 17 Applications;
- Provide Local Ward Members with the opportunity to request that the application be 'called-in' for a committee determination – subject to specifying relevant planning reasons and following agreement with the Head of Planning in liaison with a Principal Planning Officer;
- Make full details of all Schedule 17 submissions (including plans and supporting documents) available to view on the Council's website. The purpose of this process is to keep the public informed, but the Council will not be requesting comments.

## **7. Amendment to Council Constitution**

- 7.1. The proposed amendments to the scheme of delegation as outlined above will require an amendment to the Council Constitution.
- 7.2. The Council Constitution details the current Scheme of Delegation in relation to the extent of powers delegated to Executive Director of Place. The powers are delegated further through Local Schemes of Delegation to the Head of PLanning. This is detailed in Annex 1 to this report along with the proposed amendments sought.
- 7.3. The Council Constitution also details the current terms of reference for Northern and Southern Planning Committee, and Strategic Planning Board. This is detailed in Annex 2 to this report along with the proposed amendments sought.
- 7.4. It is recommended that Members approve the proposed amendments to the Council Consitution in order to ensure appropriate delegated authority and Planning Committee procedures are in place to deal with requests for approval of detailed design and external appearance of buildings and structures along the route of Phase 2a of HS2.

## **8. Implications of the Recommendations**

### **8.1. Legal Implications**

- 8.1.1. Councils who have signed up to be Qualifying Authorities are required to sign the "Planning Memorandum". The Planning Memorandum sets

out rules of conduct and administrative arrangements for the local planning authorities.

8.1.2. Due to the time pressures on the project, the Planning Memorandum requires the Council to put in place appropriate internal decision-making arrangements to ensure that the 8 week period for determining requests is achieved. If adherence to the normal Planning Committee cycle would make it difficult to reach decisions in accordance with the timetable, the Council should give consideration to authorising greater delegated powers for officers.

8.1.3. If the Council repeatedly fails to expedite requests for approval, or seriously fails to expedite a request in line with the stipulated timescale, or repeatedly or seriously fails to act in accordance with all the requirements of the Planning Memorandum, the Secretary of State may have sufficient grounds to order that the Council shall cease to have the additional powers of a Qualifying Authority.

8.1.4. Failure to secure the appropriate decision-making powers for determining Schedule 17 Applications could put the Council at risk of missing deadlines set out in the Planning Memorandum and in turn losing the decision-making powers secured under Qualifying Authority status.

## **8.2. Finance Implications**

8.2.1. There are no changes to the MTFs needed as a result of these changes to decision-making arrangements. Any costs associated with staff time will be covered by budgets held within the Planning service..

## **8.3. Policy Implications**

8.3.1. HS2 is supported in the Cheshire East Local Plan Strategy under Strategic Priority One which states that promoting economic prosperity by creating conditions for business growth will be delivered by (amongst other things) maximising the opportunities that may be offered by High Speed 2 Rail Links (HS2).

## **8.4. Equality Implications**

8.4.1. All public sector authorities are bound by the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010. In exercising their powers authorities must have regard to the effect of any differential impacts on groups with protected characteristics. In deciding to become a qualifying authority the Council must pay due

regard to its Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010.

8.4.2. The enhanced controls provided for in becoming a qualifying authority should have a positive public benefit when it comes to the PSED.

#### **8.5. Human Resources Implications**

8.5.1. It shall be necessary to ensure that sufficient resource is allocated to support determination of the applications within the timescales required.

#### **8.6. Risk Management Implications**

8.6.1. Key risks to the Council relate to the ability of officers to determine the applications within the required statutory timescales and staff resource implications associated with the additional workload.

8.6.2. This will be managed through the use of the SLA between the Council and HS2 Ltd to secure additional finance to ensure sufficient resources to manage the process effectively. Early engagement with HS2 Ltd has already taken place about the likely timing and number of future applications which will also enable the staff resource to be managed well in advance of any increased workload. This engagement is continuing with early pre-application discussions.

#### **8.7. Rural Communities Implications**

8.7.1. The route of the scheme passes through a number of rural communities which are likely to be subject to applications for the approval of detailed designs or other associated developments. Each application for approval would enable an assessment of the relevant environment effects for those matters that the Council is able to control under the Bill.

#### **8.8. Implications for Children & Young People/Cared for Children**

8.8.1. There are no direct implications for children and young people.

#### **8.9. Public Health Implications**

8.9.1. There are no direct implications for public health.

#### **8.10. Climate Change Implications**

8.10.1. There are no direct implications for climate change.

## **9. Ward Members Affected**

9.1.1. Those wards affected would be those covered by the route of HS2 phase2a which are: Haslington, Wybunbury, Crewe south and Crewe East.

9.1.2. There are potential wider implications of HS2a for all Wards.

## **10. Consultation & Engagement**

10.1. There is no statutory provision for public consultation on the planning approval process outlined in the hybrid bill however public consultation and engagement has taken place as part of the wider HS2 phase 2a project.

## **11. Access to Information**

11.1. Details of the HS2 phase2a Qualifying Authority process can be found in the 'Main Provisions of the Planning Regime' information paper prepared by HS2. This is available to view on the following link.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/627917/B2\\_Main\\_Provisions\\_of\\_the\\_Planning\\_Regime\\_v1.0.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627917/B2_Main_Provisions_of_the_Planning_Regime_v1.0.pdf)

## **12. Contact Information**

12.1. Any questions relating to this report should be directed to the following officer:

Name: David Malcolm

Job Title: Acting Head of Planning

Email: [David.Malcolm@cheshireeast.gov.uk](mailto:David.Malcolm@cheshireeast.gov.uk)

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### **Annex 1: Changes to Local Scheme of Delegation in relation to Executive Director of Place and Director of Environment and Neighbourhood Services**

In respect of section 3 of the current Local Schemes of Delegation for the Delegation of Powers from Executive Director of Place and Director of Environment and Neighbourhood Services it is proposed that the following is added to the 'Area of responsibility' column of the table:

- **HS2 Schedule 17 Applications**

### **Annex 2: Cheshire East Council Constitution**

In respect of the current Cheshire East Council Constitution Edition: 16 June 2020, Chapter 2 part 6 Delegations to the Executive Director (Place) it is proposed that the following is added into the list on paragraph 52 under 'Environment and Neighbourhood Services':

- **HS2 Schedule 17 Applications**

Additionally, with respect to the current Cheshire East Council Constitution Edition: 16 June 2020, Chapter 2 part 5 'Functions of Committees paragraph 22 the following amendments are proposed (shown in bold, italics and underlined)

#### **Strategic Planning Board**

Terms of Reference

1. To oversee the division of the Council's Development Management functions and workload in order to ensure timely and consistent decision-making at the most appropriate level, and to that end

(a) to monitor the volume and type of applications determined; assessing the performance of the Development Management service, and, if appropriate

(b) to vary the division of functions and delegations between the Board, the Planning Committees and the Head of Planning;

(c) to adopt working protocols and procedures: eg: protocols governing the direction of applications between the Planning Committees, public speaking rights, Referral procedure and others.

2. To exercise the Council's functions relating to town & country planning and development control, the protection of important hedgerows, the preservation of trees and the regulation of high hedges, and any **relevant applications pursuant to Schedule 17 of the High Speed Rail (West Midlands-Crewe) Bill" (Act following its assent)**. Most of these functions are delegated to the Planning Committees and then onwards to the Head of Planning, but the following are reserved to the Board:

(a) Applications for Large Scale Major Development as defined by the Strategic Planning Board from time to time. Currently this includes

- residential developments of 200 dwellings or more, or 4 ha or more;
- 10,000 square metres or more, or 4ha. or more of retail, commercial or industrial or other floor space.

This does not include re-applications for extant schemes or detailed applications where outline consent has been given or removal/variation of conditions.

Where the application is to vary or remove a condition that was imposed by the Planning Committee it will not be delegated.

However, there will be a presumption that a call in request by a local ward Member will be agreed where applications are for the renewal (or extension of time) of extant unimplemented permissions.

(b) Applications for major minerals or waste development other than small scale works which are ancillary to an existing mineral working or waste disposal facility.

(c) Applications involving a significant departure from policy which has been referred to SPB which a Planning Committee is recommended to approve.

(d) Any other matters which have strategic implications by reason of their scale, nature or location.

(e) Any other matters referred up to it at the discretion of the Head of Planning, including major development of less than the thresholds set out in (a) above which have wider strategic implications.

3. To exercise a consultation and advisory role, commenting upon the content of proposed planning policy and upon the effectiveness of existing policies employed in development control decisions.

4. To exercise on behalf of the Council the function of final approval of the Area Action Plans, and any other document including a Site Allocation Policy, which form part of the Local Plan.

**5. To determine any relevant Schedule 17 applications as deemed appropriate by the Head of Planning in liaison with a Principal Planning Officer**

## **Northern and Southern Planning Committees**

### Terms of Reference

To exercise the Council's functions relating to town and country planning and development control, the protection of important hedgerows, the preservation of

trees, the regulation of high hedges and any **relevant applications pursuant to Schedule 17 of the High Speed Rail (West Midlands-Crewe) Bill**” (Act following **its assent**). Some applications have been reserved to the Strategic Planning Board: others are delegated on to the Head of Planning: the following are retained for the Planning Committees:

1) Applications for Small Scale Major Development for:

- residential developments of 20 to 199 dwellings or between 1 and 4ha
- retail or commercial/industrial or other floor space of between 5,000 and 9,999 square metres or 2-4ha.

This does not include re-applications for extant schemes or detailed applications where outline consent has been given or removal/variation of conditions.

Where the application is to vary or remove a condition that was imposed by the Planning Committee it will not be delegated.

However, there will be a presumption that a Referral request by a local ward Member will be agreed where applications are for the renewal (or extension of time) of extant, unimplemented permissions.

To determine any other planning and development control matters:

- advertised as a departure from policy, which the Head of Planning is minded to approve
- submitted by a Councillor, senior Council officer (Grade 12 or above) or a member of staff employed within the Development Management and Policy service area; or by an immediate family member or partner of these where representations objecting to the application have been received. Where objections have been received, applications recommended for refusal can be dealt with by officers under delegated powers
- significant applications by the Council either as applicant or land owner. This category will not normally include minor developments which accord with planning policy and to which no objection has been made
- referred up to them by a Councillor in accordance with the Committees` Referral procedure. However:
  - any request must be received within 15 working days of the issue of the electronic notification of the application and set out the material planning consideration(s) which warrant the application going before committee. **Except for a request to review the Schedule 17 Application where a 7 day time frame will apply.**

- applications for householder development, listed building consents to alter/extend and conservation area consents will normally be dealt with under delegated powers
- applications for advertisements, tree work, prior approvals, Certificates of Lawfulness and notifications will not be eligible for call in and will be dealt with under delegated powers
- there will be a presumption that a call-in request by a local ward Member will be agreed where applications are for the renewal (or extension of time) of extant, unimplemented permissions.
- any other matters referred up to them at the discretion of the Head of Planning.
- **To determine any relevant Schedule 17 Applications as deemed appropriate by the Head of Planning in liaison with a Principal Planning Officer**

The Committees will refer up to the Strategic Planning Board matters involving a significant departure from policy which they are minded to approve contrary to recommendation by the Head of Planning.



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## **Constitution Committee**

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**Date of Meeting:** 5 October 2020

**Report Title:** Independent Remuneration Panel: Review of Members' Allowances Scheme

**Senior Officer:** Brian Reed, Head of Democratic Services and Governance

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### **1. Report Summary**

- 1.1 Following the appointment of the Independent Remuneration Panel in 2019, the Panel was asked to review the indexation arrangements for Cheshire East Council's Scheme of Members' Allowances.
- 1.2 The report sets out the Panel's views in respect of those arrangements in paragraph 5.4 and notes the current position regarding the 2020 NJC officer pay award.
- 1.3 The report also seeks to confirm what arrangements should be put in place to plan for yearly increases to the budget over the period the index would be in place.

### **2. Recommendation to Council: That**

- 2.1 The current indexation criterion, equivalence with the NJC officers pay award, should apply from 1 April 2020 for a period of four years or until such time as any new Members' Allowances Scheme is approved by Council;
- 2.2 The NJC officer pay award for 2020, be applied to the Scheme and backdated to 1 April 2020; and
- 2.3 Annual increases in the Members' allowances budget, be built into the Council's budget-setting process.

**3. Reasons for Recommendations**

- 3.1 In accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003, the indexation arrangements applicable to a scheme of allowances must be reviewed when the period of indexation expires.

**4. Other Options Considered**

- 4.1 Not to apply an index to the scheme of allowances.
- 4.2 Retain the present arrangements in respect of budget forecasting.

**5. Report of the Independent Remuneration Panel on Indexation Arrangements**

- 5.1 In accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003, the Council is required to have a scheme of allowances in place, which may make provision for an annual adjustment of allowances (aka indexation). In such circumstances, the scheme only needs to be reviewed at the point the indexation arrangements come to an end.
- 5.2 In 2016, the Independent Remuneration Panel (the Panel) recommended to Council, that the NJC officers' pay award be adopted as the index for Cheshire East's scheme, to apply for the maximum period of four years ending in 2020. Council approved the Panel's recommendation.
- 5.3 In October 2019, the Panel was invited to consider whether the indexation arrangements should continue beyond 2020 and if so, whether the NJC pay award should be retained as the preferred index or an alternative be proposed.
- 5.4 Having considered the matter, the Panel is of the view that the current indexation criterion, equivalence with the NJC officers pay award, should continue for the foreseeable future.

**6. NJC Officer Pay Award 2020/2021**

- 6.1 The National Joint Council for Local Government Services has offered employees a 2.75% pay rise for 2020/2021, which has been accepted.
- 6.2 The Committee is invited to recommend to Council that the NJC officer pay award for 2020/2021, be applied to Cheshire East Council's Scheme of Members Allowances', to be backdated to 1 April 2020.

## **7. Implications of the Recommendations**

### **7.1 Legal Implications**

7.1.1 The recommendations proposed in the report are in line with the Local Authorities (Members' Allowances) (England) Regulations 2003.

### **7.2 Finance Implications**

7.2.1 Adoption of an index would commit the Council to an annual increase to the Members' Allowances budget for a period of four years (the maximum allowed), if an increase in officer pay is proposed year on year and Council decides to implement each year's increase. The cost for 2020/21 based on an increase of 2.75% is £37,400 which can be met from an in-year underspend on Members Allowances due to a seat remaining vacant as the election has been delayed by COVID-19. Future years increases will be in-line with officers pay and will be factored into ongoing annual calculations of Pay and Pensions in the MTFS.

### **7.3 Equality Implications**

7.3.1 None identified

### **7.4 Human Resources Implications**

7.4.1 None identified

### **7.5 Risk Management Implications**

7.5.1 None identified

### **7.6 Rural Communities Implications**

7.6.1 There are no direct implications for rural communities.

### **7.7 Implications for Children & Young People/Cared for Children**

7.7.1 There are no direct implications for children and young people.

### **7.8 Public Health Implications**

7.8.1 There are no direct implications for public health.

### **7.9 Climate Change Implications**

7.9.1 None identified.

**8. Ward Members Affected**

8.1 The implications in this report are borough wide.

**9. Access to Information**

9.1 Local Authorities (Members' Allowances) (England) Regulation 2003.



**10. Contact Information**

10.1 Questions relating to this report should be directed to the following officer:

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## Constitution Committee

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**Date of Meeting:** 5 October 2020

**Report Title:** Review of the Member Training Programme

**Portfolio Holder:** Councillor Jill Rhodes, Portfolio Holder for Public Health and Corporate Services

Councillor Toni Fox, Portfolio Holder for Planning

**Senior Officer:** Brian Reed, Head of Democratic Services and Governance

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### 1. Report Summary

1.1. To formalise the current required elements of the Member Training Programme and propose new arrangements in respect of Members' attendance at these events.

### 2. Recommendation to Council: That:

2.1 Delegated authority to be granted to the interim Monitoring Officer to formally identify within the Constitution, those subjects which have been designated as foundation skills, and therefore required training for Councillors in accordance with the Member Training Programme - Corporate Parenting, Safeguarding Children and Adults, Equality, Diversity and Inclusion, General Data Protection Regulations (GDPR), Members' Code of Conduct;

2.2 The wording in italics in paragraph 4.2.2 of the report, to be added to the Council's Constitution in respect of the functions of the following Committees: Public Rights of Way Committee, Licensing Committee, Staffing Committee and Appeals Sub-Committee:

2.3 In respect of the three Planning Committees, the wording in italics in paragraph 4.3.3 of the report to be inserted into the Council's Constitution at the appropriate juncture; and

2.4 The wording at paragraph 21, page 47 of the Constitution to be replaced with the wording set out in italics in paragraph 4.3.4 of this report.

### **3. Reasons for recommendation**

3.1. In 2018, a new framework for the Member Training Programme was endorsed by the Member Technology and Development Panel, the main purpose of which was to identify the skills and knowledge Members would need in order to perform their roles effectively. The subjects which made up the programme have been grouped into four blocks: induction, foundation skills, committee skills and developmental skills.

3.2. Where a subject within a block is considered to be required learning, it has been referred to as being mandatory. Whilst e-invites issued to Members have identified key events in this way for some time, the requirement on Members to attend is not explicitly recognised within the Council's Constitution. It is therefore proposed that the Constitution be updated, at the appropriate junctures, to reflect the nature of the training set out in this report.

### **4. Current Arrangements**

#### **4.1. Foundation Skills**

4.1.1 Becoming a Councillor places both regulatory and statutory responsibilities on the elected Member. The Member Technology and Development Panel has placed at the heart of the training programme, those key subjects which Members need to have regard to when performing their role - Corporate Parenting, Safeguarding Children and Adults, Equality, Diversity and Inclusion, General Data Protection Regulations (GDPR), Members' Code of Conduct. It is important that the Constitution formally recognises the need for Members to undertake training in these subjects every year.

#### **4.2. Committee Skills**

4.2.1 In accordance with the Council's Member Training Programme, before any Councillor who is a member of a quasi-judicial body can attend and participate in a meeting, that Councillor must have attended a suitable training course dealing with the quasi-judicial nature of the Committee. In practice, this means attendance at an induction event prior to taking up their seat.

- 4.2.2 Other than Licensing Committee, the Constitution does not stipulate that Members must attend training for the quasi-judicial bodies, as a requirement of their membership of the Committee. For the avoidance of doubt and to provide this clarification, it is proposed that the following wording be inserted within the roles and functions of the Public Rights of Way Committee, Licensing Committee, Staffing Committee and Appeals Sub-Committee:

*Before any Councillor who is a member of the (insert name) Committee can attend a meeting and participate in the business of the meeting, the determination of an application or an appeal by any individual or body, the Councillor must attend a suitable training course dealing with the quasi-judicial nature of the role of the Committee, as a requirement of their membership of the Committee.*

#### 4.3 Planning Committees

- 4.3.1 It is not possible to cover all aspects of planning law in the detail required during induction and so, for that reason, supplementary training is provided throughout the municipal year. Planning Members need to be cognisant of current planning law and of any guidance which may be pertinent to their consideration of an application. It is vital that Planning Members attend the supplementary sessions, particularly Chairmen and Vice Chairmen who may have to exercise their casting vote at a meeting.

- 4.3.2 A recent review of attendance by Planning Members at these supplementary sessions indicated that some do not attend training on a regular basis or have only attended induction. Given that Members need to keep their training up to date, it is proposed that Planning Committee/Pool Members should be required to attend supplementary training.

- 4.3.3 Unlike the stand-alone induction events where dates can be tailored to the individuals concerned, Members will be expected to fit their commitments around supplementary planning training. The following wording is suggested for inclusion in the Constitution:

*Any Councillor appointed to Northern Planning Committee, Southern Planning Committee or Strategic Planning Board (including planning pool Members), must attend all planning training sessions held each year (including induction when held), as a requirement of the membership of the Committee they are appointed to, in order to properly discharge their planning committee obligations.*

*Any Member who cannot attend must submit their apologies in advance to the event organiser. If a Member fails to attend, they must undertake refresher training, in line with the Committee training programme.*

4.3.4 Planning Committees have a pool of Members who may attend meetings in place of a colleague from the same party. It is important that the same requirements regarding training apply equally to these substitute members as to ordinary Committee members. Accordingly, it is proposed that the wording at paragraph 21, page 47 of the Constitution be amended to read as follows,

*A cross party pool of 9 planning substitutes shall be maintained to supplement the arrangements referred to above. Each member of the pool must receive appropriate and up to date planning training without which they may not serve as a member of a planning committee. Political groups may nominate their own members to the pool in accordance with the proportionalities in force at the time and may vary their nominees as and when required subject to the training requirements referred to in the paragraph above.*

## **5. Other Options Considered**

5.1. To retain the status quo in respect of training arrangements.

## **6. Background**

6.1 Training is designed to inform Members of their role and continuously improve both the functionality of the Committees and the decision-making process by:

- Keeping Members up to date with any legislative changes (lawful decisions)
- Addressing contemporaneous issues which have arisen at meetings previously ('lessons learnt')
- Advising Members on matters which may come before them in the future

6.2 Not attending training puts the Member at a disadvantage as their knowledge will become outdated. It can also impede the effectiveness of the Committee. In respect of planning matters, which can be a highly contentious and emotive subject, it could expose the Council to legal challenge.

## **7. Implications of the Recommendations**

### **7.1 Legal Implications**

7.1.1. Designating training as a requirement of membership will improve attendance. None attendance will be monitored and reported to the Monitoring Officer and Group Leaders.

### **7.2. Finance Implications**

7.2.1. Sessions would be offered in house as part of the overarching Member Development Programme but would incur officer time in order to deliver the training.

### **7.3. Policy Implications**

7.3.1. If the recommendations in the report are adopted, this would require changes to be made to the Council's Constitution.

### **7.4. Equality Implications**

7.4.1. There are no direct implications for equality.

### **7.5. Human Resources Implications**

7.5.1. There are no direct implications for Human Resources.

### **7.6. Risk Management Implications**

7.6.1. Improving decision making will assist the Council to avoid reputational damage.

### **7.7. Rural Communities Implications**

7.7.1. There are no direct implications for rural communities.

### **7.8. Implications for Children & Young People/Cared for Children**

7.8.1. There are no direct implications for children and young people.

### **7.9. Public Health Implications**

7.9.1. There are no direct implications for public health.

### **7.10. Climate Change Implications**

7.10.1. There are no direct implications for climate change

## **8. Ward Members Affected**

8.1 All Members of the Council. The changes set out in the report seek to clarify a Member's obligations in respect of their own training.

## **9. Consultation & Engagement**

9.1 The Member Technology and Development Panel has endorsed the content of the Member Development Programme.

## **10. Access to Information**

10.1 Statistical analysis of planning training attendance

## **11. Contact Information**

11.1 Any questions relating to this report should be directed to the following officer:

Name: Diane Moulson

Job Title: Senior Member Development Officer

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## **Constitution Committee**

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**Date of Meeting:** 5 October 2020

**Report Title:** Committee System Form of Governance - Update

**Senior Officer:** Brian Reed – Head of Democratic Services and Governance

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### **1. Report Summary**

- 1.1. At its meeting held on 19 March 2020, the Constitution Committee resolved to recommend to Council to cease operating the existing Leader and Cabinet model of governance and implement a committee system model of governance, to take effect from the Annual Council meeting in May 2021.
- 1.2. The Constitution Committee also recommended to Council that the design principles; structure of committees; role of Leader and Deputy Leader; urgency provisions and roles and powers of committee and sub-committee chairs be approved.
- 1.3. Additionally, the Governance Working Group was requested to give further consideration to a decision review process and scrutiny functions. The Minute extract of the meeting held on 19 March 2020 is attached at Appendix A.
- 1.4. The Governance Working Group has also considered how Public Rights of Way and Licensing matters would be dealt with under a committee system model of governance.

### **2. Recommendations**

- 2.1 That full Council be recommended to resolve that:
- 2.2 The Public Rights of Way Committee be a standalone committee.
- 2.3 The General Licensing Sub-Committee and Licensing Act 2003 Sub-Committee be retained to ensure that the Council complies with legislative provisions.

- 2.4 There be a single scrutiny committee, empowered to discharge the statutory scrutiny functions.
- 2.5 The Referral to Council Process at Appendix B be approved.

### **3.0 Background**

- 3.1 At the Governance Working Group held on 6 July 2020, Members considered:

### **3.2 Public Rights of Way Committee**

- 3.2.1 At its meeting on 19 March 2020, the Constitution Committee agreed that a Public Rights of Way Committee would sit as a sub committee of the Highways and Transport Committee, in the new committee system. However, it has since been suggested that this should remain a standalone committee for the following reasons:

- 3.2.2 The majority of matters which are considered by the Public Rights of Way Committee (Public Path Orders – mainly diversions and Definitive Map Modification Orders – ‘claims’ for paths) are not transport or access-related, but are decisions on changes to the rural path network. Most of the Committee decisions relate to the Wildlife and Countryside Act 1981 or Town and Country Planning Act 1990.

- 3.2.3 Members of the Public Rights of Way Committee are specifically trained in complex legislative requirements, in order to deal with the legal orders presented to them, and it is important that such quasi-judicial decisions are taken on an informed basis.

- 3.2.4 The Working Group therefore agreed to recommend to the Constitution Committee that the Public Rights of Way Committee should remain as a standalone committee.

### **3.3 Licensing Act Sub-Committee Structure**

- 3.3.1 The Working Group considered whether or not the various sub-committees of the Licensing Committee should be consolidated when the committee system is introduced.

- 3.3.2 The option of reducing the number of sub-committees from two to one had been considered. However, given the specific nature of the sub-committees it is not possible to comply with two different and conflicting sets of legislation, procedures by consolidating arrangements.

- 3.3.3 Consideration has also been given to the impact of removing the General Licensing Sub-Committee and dividing its powers between officers and the Licensing Committee. However, this option would result in a committee of fifteen Members dealing with matters that are currently dealt with by a sub-committee of five Members. This is not the best use of resources and is not as

efficient as the current model. Furthermore, any additional powers delegated to officers would remove Members from an important decision-making process and applicants may see this change as an erosion of their right to have their application scrutinised by a quasi-judicial body.

- 3.3.4 The Working Group agreed that the Constitution Committee be recommended to retain both the General Licensing Sub-Committee and Licensing Act 2003 Sub-Committee, to ensure that the council complies with legislative provisions.

### **3.4 Scrutiny Function in a Committee System**

- 3.4.1 The Working Group considered the following options for the Council's scrutiny function in a committee system:

- a) to have no bespoke overview and scrutiny committee (thereby meaning that the statutory scrutiny functions would be fulfilled by the service committees);
- b) to have a bespoke overview and scrutiny committee that fulfilled only the three main statutory scrutiny functions; or
- c) to have a specifically prescribed scrutiny function with responsibility for more than just the statutory scrutiny functions.

- 3.4.2 The nature of the scrutiny function is fundamentally different under a committee system form of governance, to that which applies under executive arrangements. Prior to the year 2000, there was no obligation upon local authorities to have an overview and scrutiny function at all. Now, scrutiny must only take place in respect of health, crime and disorder and flood risk management. This can be done either by full Council, or one of its committees. Under the current proposals considered by the Constitution Committee on 19 March 2020, these functions were to be performed by a single scrutiny committee, but could equally be performed by the appropriate service committees.

- 3.4.3 Previously, under a committee system, the committees themselves were responsible for the performance of the service areas within their remit, and it is currently proposed that the six service committees would be responsible for performance monitoring. The committees would also have the power to set up working groups to look at service issues, policy matters, or to undertake specific pieces of work.

- 3.4.5 Working Group Members clarified that, were the Council to establish an overview and scrutiny committee within its committee system structure, it would be included within the formal calendar of meetings and not set up to meet only on an ad hoc basis.

- 3.4.5 The Working Group agreed that the Constitution Committee be recommended to include one overview and scrutiny committee within its proposed committee system structure, which would fulfil the council's statutory scrutiny requirements.

### **3.5 Referral to Council Process**

- 3.5.1 At the meeting of the Governance Working Group on 6 March 2020, it was agreed to recommend to Constitution Committee the creation of a Decision Review Committee, in order to filter any referrals of decisions taken by service committees. It was proposed that the Decision Review Committee would consider referral requests, make recommendations to the service committees where it chose to do so or, exceptionally, refer the matter to full Council for review. This was intended to be a quick process which would avoid all referral requests having to be referred directly to full Council for consideration and would reduce the risk of undue delay to the implementation of decisions.
- 3.5.2 The Constitution Committee on 19 March 2020 decided not to recommend the proposals for a Decision Review Committee to full Council, as it was considered to be an unnecessary addition to the process. Instead, the Committee agreed that referrals should be made direct to full Council and asked the Monitoring Officer to review the process.
- 3.5.3 The Monitoring Officer has since taken the opportunity to review the process. Attached to this report at Appendix B are revised proposals, which were considered by the Governance Working Group on 6 July 2020 and agreed on 17 September 2020.
- 3.5.4 Unless specifically resolved by Council to the contrary, the remaining committees not affected by the change from a Leader and Cabinet model will continue under the proposed new committee system arrangements. A revised Committee structure chart, including all of the proposals outlined above is attached at Appendix C.

## **2 Implications of the Recommendations**

### **4.1 Legal Implications**

- 4.1.2 The ability for the Council to change from one of the permissible forms of governance arrangements of a local authority to another is provided for by Chapter 4 of the Local Government Act 2000 (as amended by the Localism Act 2011). Section 9KC of the Act straightforwardly states that a “resolution of a local authority” (a simple majority) is required in order for the council to make such a change in governance arrangements.
- 4.1.3 The proposed change in governance arrangements would be implemented in May 2021, and any future change in such arrangements, unless by way of a referendum, could not be implemented until May 2026.
- 4.1.4 A resolution passed by the Authority to change from one of the permissible forms of governance arrangements to another will then be implemented only during-

- the first annual meeting of the local authority to be held after the resolution to make the change in governance arrangements is passed, or
- a later annual meeting of the local authority specified in that resolution.

## **4.2 Finance Implications**

- 4.2.1 There are direct costs associated with making the change from one form of governance to another. These costs are associated with redrafting the constitution. There will also be associated costs with the training of members and officers.
- 4.2.2. Member allowances will require further consideration and a separate report with recommendations from the Independent Remuneration Panel will be considered in due course.
- 4.2.3 It is acknowledged that once implemented, one form of governance need not cost more than another.
- 4.2.4 By using every available opportunity to streamline decision-making; use available technology and optimise the officer support arrangements it is intended where possible to contain the cost of running the new system to a minimum with no net increase in resources.

## **4.3 Policy Implications**

- 4.3.1 Any relevant policies will need to be amended to reflect a committee system form of governance.

## **4.4. Equality Implications**

- 4.4.1 The Council's governance arrangements must enable all individuals to engage in the decision making process. No equality implications are identified at this stage.

## **4.5 Human Resources Implications**

- 4.5.1 There are significant human resource implications in relation to training and development. Any staffing issues as a result of moving to a committee system will continue to be considered as the proposals are developed further.

## **4.6 Risk Management Implications**

- 4.6.1 A change to a committee system will introduce a system of decision making that is new to members, officers and partners. Training and briefing will be required to ensure that the transition is smooth and that there is not a delay in decision making.

## **4.7 Rural Communities Implications**

- 4.7.1 There are no direct implications for rural communities.

#### **4.8 Implications for Children & Young People/Cared for Children**

4.8.1 There are no direct implications for children and young people/cared for children.

#### **4.9 Public Health Implications**

4.9.1 There are no direct implications for public health.

#### **4.10 Climate Change Implications**

4.10.1 There are no direct climate change implications.

#### **4.11 Ward Members Affected**

4.11.1 All wards are equally affected.

#### **4.12 Consultation & Engagement**

4.12.1 There is no legal requirement to consult the public on a proposed change to the Council's governance model. Notwithstanding this, the Governance Working Group considered a report at its meeting on 14 October 2019 in relation to consultation and engagement options. The Working Group agreed they did not wish to consult on the proposals. Due to the fact that the Notice of Motion had already been agreed by Council, they did not consider there was any benefit in undertaking public consultation at that stage. Members were keen to ensure that residents and staff were kept updated about the proposals. To this end, an article was published in the November edition of 'The Voice' along with various updates on the centranet for staff.

4.12.2 Three Member Engagement Workshops have taken place to inform the development of these proposals. The feedback from these sessions has been considered by the Working Group.

4.12.3 As soon as practicable after full Council has passed a resolution to change its form of governance arrangements, a public notice of the Council's resolution must appear in one or more newspapers, as detailed in paragraph 10.1.

#### **5.0 Access to Information**

5.1 Previous reports to the Constitution Committee provide the background to the governance review which are available on the Council's website.

#### **6.0 Appendices**

Appendix A – Extract of the Constitution Committee minutes – 19 March 2020

Appendix B – Revised Decision Review Process

Appendix C – Proposed Committee Structure Chart

## 7.0 Contact Information

Any questions relating to this report should be directed to the following officer:

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**CONSTITUTION COMMITTEE MINUTE EXTRACT – 19 MARCH 2020****PROPOSED CHANGE TO THE COUNCIL'S GOVERNANCE ARRANGEMENTS -  
FORMAL RESOLUTION TO MOVE TO A COMMITTEE SYSTEM FORM OF  
GOVERNANCE**

The Committee considered the work of the Governance Working Group, and the proposed introduction of a committee system form of governance, specifically:

1. The design principles of the proposed committee system
2. Proposed service committee structure chart
3. Proposed committee functions
4. Draft Terms of Reference
5. Roles of Leader and Deputy Leader
6. Decision review process
7. Urgent decisions
8. Role and powers of committee and sub-committee chairs

It was confirmed to Members that further constitutional provisions, including the officer scheme of delegation, would be considered by the Constitution Committee at an appropriate time.

Consideration was also given to a recommendation that the Council should cease operating the existing Leader and Cabinet model of governance and implement a committee system model of governance, to take effect from the Annual Council meeting in May 2021.

**RESOLVED**

1. That full Council be recommended to resolve that the Council cease operating the existing Leader and Cabinet model of governance and implement a committee system model of governance, to take effect from the Annual Council meeting in May 2021;
2. That Appendix A to the report, Design Principles, be approved subject to paper copies of agendas being available to Members upon request.
3. That Council be recommended to approve the following, subject to the amendments to the appendices to the report, as detailed below:
  - a. The structure of the service committees (appendices B, C and D to the report); subject to the role of the Scrutiny Committee being considered further by the Governance Working Group.
  - b. Roles of Leader and Deputy Leader (Appendix E to the report); subject to the removal of the power to call extraordinary Council meetings, given the existing procedures in place to deal with this.

- c. Decision Review Process (Appendix F to the report); subject to decisions being referred direct to Council; it being agreed that the Director of Governance and Compliance should have an opportunity to review the proposed criteria and submit them to the Governance Working Group for further consideration and; the proposed requirement for referral of a decision to Council having to be made by two or more political groups be removed.
  - d. Urgency Provisions (Appendix G to the report); subject to the existing provisions of Appendix 4 to the Constitution being incorporated; which deal with urgent decisions made as a consequence of failure to plan appropriately, or work without due regard to timeliness.
  - e. Role and Powers of Committee and Sub Committee Chairs (Appendix H to the report), subject to (paragraph C) being amended to read 'appointments should take into account relevant skills, knowledge, experience and suitability subject to suitable training.
4. That the Director of Governance and Compliance be authorised, in consultation with the Constitution Committee, to prepare such draft constitutional provisions as she considers necessary to give effect to the wishes of the committee, which will be submitted to the Constitution Committee in phases during 2020/21 for recommendation to Council.
5. That the Director of Governance and Compliance be authorised to recommend such constitutional provisions as reflect the developing nature of the progression to a committee system form of governance and best practice.

## Referral of Decisions taken by Service Committees to Council Process

Decisions made by one of the Service Committees, or an officer acting under delegated authority from one of those committees, are published, normally within a period of three working days after the relevant meeting. Unless the decision is urgent, the decision will not be implemented for a period of five working days from the date of publication, during which time any 9 Members of the Council may request with detailed reasons the decision to be referred to full Council for review, subject to meeting the criteria set out below and being validated by the Monitoring Officer:

- Decision is outside the policy/budgetary framework
- Inadequate consultation relating to the decision
- Relevant information not considered
- Insufficient consideration of legal and financial advice
- Viable alternatives not considered
- Justification for the decision open to challenge on the basis of the evidence considered

As part of the validation process, the Monitoring Officer may discuss the request with the lead member signatory, the Chair of the relevant service committee and the Mayor, with a view to any possible options to resolve the issue, without the need for referral to Council.

If validated by the Monitoring Officer the decision will then be referred to a meeting of Council for review, together with a statement of the reasons for the review request. Implementation of the decision shall be held in abeyance pending the conclusion of the process.

Council is to consider the decision called in for review at its next scheduled meeting. In doing so it shall provide an opportunity for a representative of the signatories to the referral request and the Chair of the relevant service committee the opportunity to address the meeting on the subject. Council may either:

- uphold the original decision with or without modifications, in which case it has immediate effect; or
- reject the original decision, and determine the matter itself.

A decision may only be subject to a referral to Council once.

This referral to Council procedure shall not apply at or from any point where the decision being taken is considered to be urgent. The Constitution provides for urgent decisions taken outside of meetings. The definition of an urgent decision states:

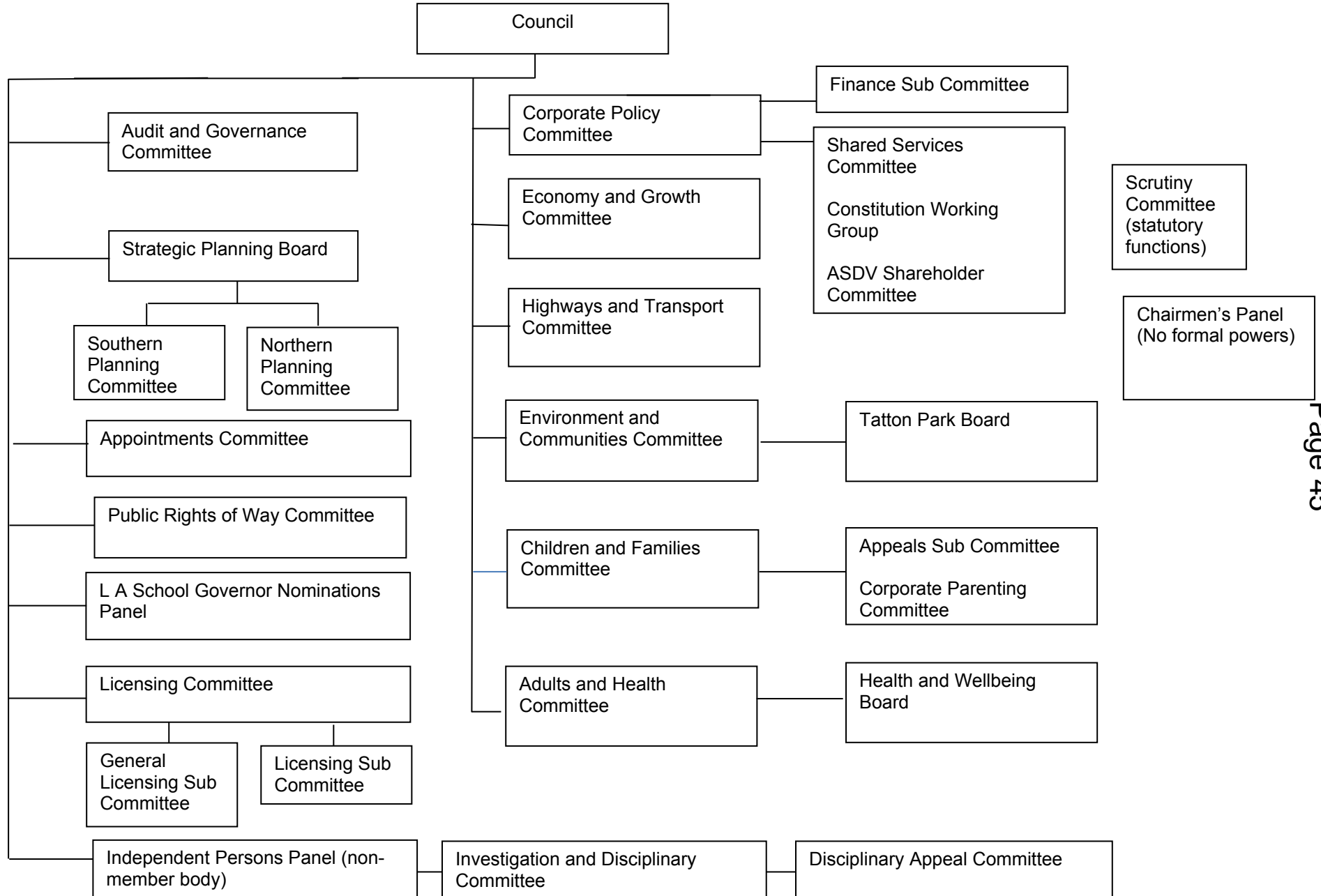
*“A decision will be urgent in the case of: civil emergency, natural or man-made disaster; matter of serious public health; matters regarding safeguarding of people;*

*or where the Council is at risk of serious reputational damage; loss or claims; or any other matters where the Chief Executive has declared that an urgent decision is required.”*

Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

# Preferred Committee Structure

# Appendix C



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