

OPEN

Cheshire and Warrington Joint Committee

8 April 2024

Changes to the name and Articles of Association of Cheshire & Warrington Local Enterprise Partnership and other associated matters

Report of: David Brown, Director of Governance & Compliance,
Cheshire East Council

Report Reference No: CWJC/01/23-24

Ward(s) Affected: All

Significant/Key Decision?	Yes/No	Definition (to be deleted once completed)
Cheshire West and Chester	No	Constitution Page 115.
Warrington	No	Constitution page 41
Cheshire East	No	Constitution Page 78

Purpose of Report

- 1 This report deals with the formalities required to implement the decisions of Warrington Borough Council, Cheshire West & Chester Council and Council of Cheshire East Council ('the Councils'), in February 2024 in relation to the Cheshire & Warrington Local Enterprise Partnership Limited (referred to as 'CWLEP') as set out in the background papers to this report.

Executive Summary

- 2 Following the transfer of local enterprise partnership functions to local authorities from 1 April 2024, the Councils agreed to increase their shareholding in CWLEP from 20% each to 33.3% each.
- 3 The Councils have proposed that CWLEP will be renamed Enterprise Cheshire & Warrington (referred to as 'ECW'), as the Local Enterprise Partnership no longer formally exists.
- 4 To give effect to the Councils' decisions, there is a need to change the Articles of Association of CWLEP, and to appoint new company directors. This report sets out the resolutions needed to give effect to the Councils decisions and to ensure effective governance of ECW by the Councils.

RECOMMENDATIONS

The Joint Committee is recommended to:

1. Note the resignation of the two Class B members and formally thank them for their service to the CWLEP
2. Sign the Consent Form set out at Appendix A
3. Approve and sign the attached resolutions set out at Appendix B which give effect to the decisions made by the Councils
4. Note the resignation of current Directors and formally thank them for their service to the CWLEP.
5. Sign the local authority direction for the appointment of Directors set out at Appendix C.

Increase in Shareholding & Change of Membership

5. The resignation of the two Class B members of the CWLEP means that there are no longer any voting members of the company other than the three local authorities members represented at this Joint Committee. The change of membership has been noted in the register of company members.
6. The Councils agreed to increase their shareholding to 33.3% at their various meetings in February and so the two Class B members will not be replaced. This means that there will no longer be any 'Class A' and 'Class B' members and the Articles of Association of the company should be changed to reflect that the company is now under the sole control of the local authority owners.

7. The Class A members (i.e. the Joint Committee members) should also pass a special resolution to reclassify themselves as 'members' rather than 'Class A members'. This special resolution is set out at Appendix B (resolution no.3). This is because the Companies Act 2006 gives protection where members 'class rights' (essentially, those rights conferred on members which are different as between classes) are being varied or abrogated, and a separate consent is usually required from the members of the affected class to sanction the variation i.e. the change from Class A to Members. Members are therefore requested to sign the written consent set out at Appendix A.

Changes to the Articles

8. The Councils agreed at their respective meetings that changes to the Articles were necessary to ensure that they were fit for the future of the company once it was fully in the ownership of the local authorities. A copy of the Articles showing the revisions is available if required. The resolution for the adoption of the revised Articles is set out at Appendix B (resolution no.2).

Appointment of Directors

9. There is a need for the appointment of new Directors to the company, following the resignation of the existing directors on 7 April 2024. Each Council owner has nominated one of its officers to be a director, in addition to the Chief Executive of the CWLEP. These appointments are set out in the Direction at Appendix C, which members are recommended to sign.
10. Directors must always act in the best interests of the company to which they are appointed. This may lead to a conflict of interest at certain times for a local authority officer or members who is a director of a company e.g. budget setting. The Companies Act 2006 (S175) permits a company's independent directors to authorise a director's conflict of interest if they consider it justifiable (provided the requirements as to quorum and voting are met without the conflicted director taking part).
11. As the CWLEP was incorporated prior to the Companies Act 2006 this power can only be used if the members have previously approved its use by ordinary resolution. The ordinary resolution set out at Appendix B (resolution no.1) deals with this and, if agreed, would allow the Directors to authorise situations where conflicts of interest might arise, provided that proper consideration is given, and the authority is justifiable. The Articles attached at Appendix B also reflect this revision.

Change of Name

12. The Councils recommended that the name of the Company be changed to Enterprise Cheshire & Warrington, to reflect its move into local authority ownership and that the local enterprise partnership, as an entity, no longer exists. The resolution to change the name is set out at Appendix B (resolution no.4). The change of name will not be effective until filed at Companies House and a Certificate of Incorporation will be sent to the company to show its new name.

Reasons for Recommendations

13. The three Councils have all considered this matter in detail (as set out in the background papers) and set up the Joint Committee to act as the Joint Owner of the company. They also recommended to the Joint Committee that it change the name of CWLEP to ECW, and that they agree to the changes to the Articles to ensure that governance of the ECW is effective.
14. The recommendations in this report give effect to the decisions of the Councils. The additional resolution to authorise Directors to resolve any conflicts of interests will aid the good governance of the company model.

Other Options Considered

15. No other options have been considered, as this report gives effect to the decisions of the three Councils.

Implications and Comments

Monitoring Officer/Legal

16. The legal implications are contained within this report.

Section 151 Officer/Finance

17. There are no direct financial implications as a result of this report.

Policy

18. The policy implications for each Council were set out in the background reports listed below.

Equality, Diversity and Inclusion

19. There are no implications.

Human Resources

20. There are no implications.

Risk Management

21. The risk of increasing the share in the CWLEP was considered by each local authority as part of its decision making, as set out in the background reports.

Rural Communities

22. There are no implications.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

23. There are no implications.

Public Health

24. There are no implications.

Climate Change

25. There are no implications.

Access to Information	
Contact Officer:	Deborah Upton, Cheshire East Council Deborah.upton@cheshireeast.gov.uk
Appendices:	A. Consent form - class of members B. Ordinary & Special Resolutions & Articles of Association C. Direction in respect of Directors
Background Papers:	Cheshire East Council report dated 28 February 2024 Warrington Borough Council Cabinet report dated 12 February 2024 Cheshire West & Chester Council report dated 7 February 2024

