

OPEN

Corporate Policy Committee

Thursday 28 November 2024

Changes to the Council's Constitution

Report of: Janet Witkowski, Acting Governance, Compliance and Monitoring Officer

Report Reference No: CPC/50/24-25

Wards Affected: (All Wards);

For Decision or Scrutiny: Decision

Purpose of Report

- 1 The purpose of the report is to recommend proposed changes to the Constitution, as agreed and recommended by the Council's Constitution Working Group (CWG).
- 2 The proposed changes relate to Notices of Motion, the Petitions Scheme and revised Job Descriptions for Leader and Deputy Leader, Chairs and Vice-Chairs and Opposition Spokespersons, significant decisions and electronic voting.

Executive Summary

- 3 The Constitution sets out the governance framework for decision-making within the Council. This provides for the consideration and recommendation for approval, of any proposed changes to the Constitution to Full Council.
- 4 The Council's CWG has received a series of reports detailing proposed changes to the Council's Constitution, and the reasoning for such changes. These related to various matters that are in line with the Council's corporate priorities.

5 After consideration of the proposals, the CWG agreed that they should be recommended to the Corporate Policy Committee for consideration and in turn recommended to Full Council. These proposals relate to the following matters:

- The Council's Petition Scheme.
- Job descriptions for the Leader and Deputy Leader, Chairs and Vice-Chairs and Opposition Spokespersons.
- Amendments to Rules on Notices of Motion.
- Significant Decisions.
- Electronic voting.

RECOMMENDATIONS

That the Corporate Policy Committee recommend to Full Council that:

1. The revised Petition Scheme, as appended to this report at Appendix 1, be approved.
2. The revised Job Descriptions for the Leader and Deputy Leader, Chairs and Vice-Chairs and Opposition Spokespersons, as appended to this report at Appendices 2,3 and 4, be approved.
3. The amendments to the Constitution in relation to rules of Notices of Motion, Significant Decisions and electronic voting as set out in paragraphs 17 to 19, 26 to 28 and 32 to 35 of the report be approved.
4. The Acting Governance, Compliance and Monitoring Officer be given delegated powers to make any necessary changes to the Council's Constitution as she deems are required to implement the decision of Full Council.

Background

6 The Constitution sets out the governance framework for decision making within the council.

7 On 16 July 2024 and 6 November 2024, the Council's Constitution Working Group (CWG) received a series of reports detailing proposed changes to the Council's Constitution.

8 Petitions Scheme

9 The Council's Constitution provides for a procedure for dealing with Petitions and a link to it is provided in [Chapter 7](#). This procedure

provides a process for receipt of Petitions, but lacks clarity in certain areas, including;

- Which committee petitions should be reported to
 - Whether petitions should be listed as an item on the agenda
 - Whether a covering officer report is required
 - The appropriateness of the next steps
 - Whether petitions should just be received, speakers allowed to address the relevant meeting without debate, and the petition be noted.
- 10 As a consequence of certain issues arising in respect of petitions at recent services committee meetings, the CWG agreed that the revised Petition Scheme attached at Appendix 1 should be approved. The revised petition scheme provides clarity in respect of the above matters.
- 11 **Job Descriptions for the Leader and Deputy Leader, Chairs and Vice-Chairs and Opposition Spokespersons.**
- 12 At its meeting held on [27 February 2024](#), Council gave consideration to a report on a Targeted Review of Member Allowances. At that meeting it was agreed that the CWG should review the job descriptions for the Leader and Deputy Leader of the Council, Service Committee Chairs and Vice Chairs and Opposition Spokespersons, and that its recommendations in respect of these job descriptions should then be submitted to the Independent Remuneration Panel.
- 13 Following consideration by the CWG, the reviewed job descriptions are now attached at Appendices 2,3 and 4.
- 14 **Notices of Motion**
- 15 In reviewing the Constitution, the CWG has given further consideration to the Council Procedure Rules regarding notices of motion and, in particular, the power of the Mayor to decide that any motion moved and seconded shall stand referred without discussion to such bodies as the Mayor may determine.
- 16 To ensure that important matters remain before Full Council and to provide further clarity in the Constitution, the CWG recommends that this power should not relate to certain functions, in particular those relating to those that are the sole responsibility of full Council and also motions regarding the confidence in, or otherwise, of the Leader.
- 17 Proposed Amendment - Chapter 3 Part 1 Section 1:
- 18 1.37.1 When a Motion has been moved and seconded the mover and seconder shall not be permitted to speak in support of the Motion, nor

shall there be any debate or vote upon it. The Mayor may then decide (subject to paragraph 1.37.2) that the motion should stand referred without discussion to the appropriate committee for determination. However, if the Mayor, having consulted the Monitoring Officer, considers it conducive to the despatch of business, the motion may be dealt with at the meeting at which it is initially considered.

- 19 1.37.2 No item relating to a matter which is a function that is the responsibility of the full council as set out in Chapter 2 Part 3 paragraph 1.4 to 1.19 or to the confidence in or otherwise of the Leader of the Council, may be referred and must remain the responsibility of and be discharged by the full council.

20 **Significant Decisions**

- 21 Recommendation 8 of the Corporate Peer Challenge Review advised that the Council needs to streamline current decision-making arrangements to avoid siloed working across committees, ensure that Committees are working through effective work programmes, and reduce confusion and lost capacity caused by the current system. This should include consideration of governance structures, schemes of delegation, and report approval arrangements ahead of committee meetings.

- 22 As part of Cheshire East Council's response to the recommendation, it was agreed in the [action plan](#), that all "significant decisions" should be made via a committee or, where delegated to an officer under a committee decision, that they are clearly recorded. It was also agreed that the significant decision threshold be reviewed.

- 23 A significant decision is currently defined in the Council's Constitution as:

- 'a decision which is likely to result in the Council incurring non-routine expenditure which is, or the making of non-routine savings which are, significant having regard to the Council's budget for the service or function to which the decision relates,
- and/or is likely to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the Council.

- 24 For these purposes, savings and expenditure are "significant" if they are equal to or greater than £1 million, unless the context requires otherwise. For clarification, no decision previously approved by the Finance Sub- Committee, and no treasury management decision, shall constitute a Significant Decision'.

- 25 It is proposed that the definition of significant decision, along with the current financial thresholds, be considered as part of the review of the committee system, which will be separately addressed. In the meantime, to ensure that there is clarity around the decision-making process for significant decisions, the following amendments to the Council's Constitution are recommended:
- 26 Chapter 2 Part 2, Paragraph 8 - Significant decisions are **likely** to be taken by Committees and **will ~~may therefore~~** appear on the Council's Forward Plan.
- 27 Chapter 3 Part 2, Paragraph 29 - Public access to records of individual decision. As soon as reasonably practicable after any decision has been made by an officer, he/she will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. **Significant decisions delegated to officers by a committee or Full Council will also be open to inspection.** This does not require the disclosure of exempt or confidential information, or advice from a political adviser or assistant.
- 28 Chapter 6 – Definition of a Significant Decision - A decision, which is likely to result in the Council incurring non-routine expenditure which is, or the making of non-routine savings which are, significant having regard to the Council's budget for the service or function to which the decision relates, and/or is likely to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the Council. For these purposes, savings and expenditure are "significant" if they are equal to or greater than £1 million, unless the context requires otherwise. For clarification, **significant decisions must be made by a Committee, Full Council or delegated to an officer by a Committee or Full Council**, no decision previously approved by the Finance Sub- Committee, and no treasury management decision, shall constitute a Significant Decision.
- 29 **Electronic Voting**
- 30 Due to recent issues relating to the accuracy of the vote at Full Council meetings, it is proposed that an electronic voting system be introduced for Committee and Full Council meetings at a cost of approximately £4,500. The system would allow for members to vote for, against a proposition, or to abstain from a vote and also raise their hand when they wish to speak.

- 31 The proposal would require the following insertions to the Council's Constitution:
- 32 Chapter 3, Part 1, paragraph 1.59 - Voting will be by **electronic means** or by a show of hands.
- 33 Chapter 3, Part 1, paragraph 1.61 - A recorded vote will not be taken if the vote has already begun to be taken **electronically** or by a show of hands.
- 34 Chapter 3, Part 1, Page 109, paragraph 2.31 - Voting at Committee and Sub-Committee meetings will be by **electronic means** or by a show of hands.
- 35 Chapter 3, Part 1, Page 103, paragraph 2.33 - A recorded vote will not be taken if the vote has already begun to be taken by **electronic means** or by a show of hands.
- 36 **Minor and Consequential Changes to the Council's Constitution**
- 37 Members are requested to note that the Acting Monitoring Officer intends to make minor and consequential amendments to the Council's Constitution, under her delegated powers in relation to:
- changes in job titles arising from the recent management restructure.
 - consistency in how in year appointments to Committees, Chairs/Vice Chairs and Outside Organisations are made, (via Group Leader/ Group Administrator notification to the Head of Democratic Services).

Consultation and Engagement

- 38 All proposed changes have been considered and approved for recommendation to committee by the Constitution Working Group or noted in relation to those made by the Monitoring Officer.

Reasons for Recommendations

- 39 To ensure that the Council's Constitution is updated to ensure that it is fit for purpose and that it meets the needs of the Council.

Other Options Considered

- 40 An alternative option would be to leave the constitution unchanged and not achieve the outcomes identified within the reasons for the recommendations.

Option	Impact	Risk
Do nothing	This is not considered to be a suitable alternative option as there needs to be clarity within the constitution. The Constitution is a living document, which needs to be kept under review to ensure that it is fit for purpose and that it meets the needs of the Council.	Failure to achieve the outcomes identified and impacts stated.
Adopt only some of the proposed amendments.	Same as above	Same as above

Implications and Comments

Monitoring Officer/Legal

- 41 The proposed amendments to the Constitution are part of the continuing development of the committee system. Failure to keep the Constitution under review and adapt to the changing needs of the organisation will build in levels of risk into the decision-making process. Those risks may manifest themselves as delay, poor quality decisions or ultimately a challenge to the decision itself.

Section 151 Officer/Finance

- 42 Electronic voting equipment will cost approximately £4,500, which will be met from existing budgets.

Policy

- 43 The recommended changes to the Constitution will, if agreed, result in constitutional change. They will facilitate an open and enabling organisation and ensure that there is transparency in all aspects of council decision making.

An open and enabling organisation

Ensure that there is transparency in all aspects of council decision making. The council to be seen as being a fair open and transparent organisation and able to demonstrate it. To increase local democracy

Equality, Diversity and Inclusion

44 There are no implications arising from this report.

Human Resources

45 There are no implications arising from this report.

Risk Management

46 There are no implications arising from this report.

Rural

47 There are no implications arising from this report.

Communities

48 There are no implications arising from this report.

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

49 There are no implications arising from this report.

Public Health

50 There are no implications arising from this report.

Climate Change

51 There are no implications arising from this report.

Access to Information	
Contact Officer:	Janet Witkowski, Acting Governance, Compliance and Monitoring Officer - Janet.Witkowski@cheshireeast.gov.uk
Appendices:	Appendix 1 - Draft Petitions Procedure

	Appendix 2 – Job Description – Leader and Deputy Appendix 3 – Job Description – Chairs and Vice Chairs Appendix 4 – Job Description – Opposition Spokesperson
Background Papers:	None