

CHESHIRE EAST

COUNCIL

Date of meeting: 20th October 2008
Report of: Interim Monitoring Officer
Title: Proposed changes to the Constitution

1.0 Purpose of Report

- 1.1 To report to Council the recommendations of the Governance and Constitution Committee and to seek Council's agreement upon the Council's Constitution.

2.0 Decision Required

- (1) That the decisions of the Governance and Constitution Committee be noted.
- (2) That the following Constitutional provision be adopted by the Shadow Council as part of Rule 8 of the Constitution, but that this should be reviewed in 6 months' time:

"A Member may ask a Cabinet Member or a Committee Chairman (or in his/her absence the Vice Chairman) a question on any Record of Decision or Minute. The Cabinet Member or the Chairman or in his/her absence the Vice Chairman will respond using their reasonable endeavours to provide a response which addresses the matters raised in reply to the question as put by the Member. The provisions in Procedure Rule 11.4 in relation to replies shall also apply here. There will be no debate on any question, or response under this procedure and no further motions can be moved.

"Where a Member wishes to ask a question on any Part 2 matter before the Council, the question must be given, in writing, to the Council's Monitoring Officer at least one hour before the start of the Council meeting."

- (3) That a Health and Adult Social Care Scrutiny Committee should be appointed to exercise the Council's emerging statutory responsibilities, and with the responsibilities set out in the Appendix to this report.

- (4) That the Health and Adult Social Care Scrutiny Committee should comprise 14 Members, on the basis of a 10:2:1:1 proportionality, but that there should be no co-option of Members to the Committee for the time being.

3.0 Financial Implications for Transition Costs

- 3.1 There are no financial implications for Transition Costs.

4.0 Financial Implications 2009/10 and beyond

- 4.1 There are no financial implications for 2009/10 and beyond.

5.0 Legal Implications

- 5.1 Before the Constitution can be changed, the Council's agreement must be obtained.

6.0 Risk Assessment

- 6.1 No risks arise from the proposed changes to the Constitution.

7.0 Background

- 7.1 One of the responsibilities of the Council's Governance and Constitution Committee is to review the Council's Constitution and to recommend changes to Council.

- 7.2 At the Committee's meeting on 8th September, a number of issues which had arisen in various forums since May 2008 were considered:

- 7.2.1 Whether an officer Code of Conduct should be adopted for the duration of the life of the Shadow Council.

The Committee decided that, in view of the fact that such a small number of staff will be employed during this period, the development of such a Code would not be the best use of resources.

- 7.2.2 Whether a financial threshold should be applied to the definition of "Key Decisions".

The Committee felt that the current statutory definition, which stipulates that Key Decisions are those which are "significant" in terms of expenditure, savings or effects on communities was sufficient for the Shadow period, given that so few operational decisions will be being made. The emerging draft unitary authority Constitution will, however, contain a financial threshold which will take effect from April 2009.

7.2.3 Whether there should be a change in the number of Members which are required to call a special meeting of Council.

The Committee decided that the current number of 8 Members required to call a special meeting was appropriate. However, it was agreed that this should be reviewed in the light of experience.

7.2.4 Time limit on Members speaking at Council and Committee meetings: this is currently 5 minutes (although a protocol may be agreed which allows longer periods at Budget Council).

The Committee decided that the current time-limit is appropriate, given the Chairman's discretionary power to allow a longer period, but that this would be reviewed in the light of experience.

7.2.5 One of the Governance and Constitution Committee's responsibilities is to approve the overall seating plan for Council meetings. A question had previously been raised as to whether this was an appropriate responsibility for the Committee.

The Committee agreed that this responsibility should be retained in case there is any need for a Member decision to be made on seating plan issues.

7.2.6 Confirmation of minutes etc at Council meetings:

Council Procedure Rule 7, pg 82 of the Constitution deals with the way in which the Council meeting confirms the minutes of its last meeting. Only matters relating to the accuracy of the minutes may be raised by way of a motion.

Rule 8 deals with the record of decisions of the Cabinet and minutes of any other committees. Any question about accuracy must be considered and determined by the Cabinet or that committee at its next meeting.

However an issue had arisen as to whether Members should be allowed to raise questions or make comments upon the record of decisions of the Cabinet or minutes of any other committees.

The Committee considered that a recommendation should be made to Council that questions should be allowed upon the record of decisions of Cabinet and minutes of any other committees; these to be put to any Cabinet Member, Chairman or Vice Chairman of the Committee as appropriate.

The Committee recommended that the following Constitutional provision should be adopted by the Shadow Council as part of Rule 8, but that this should be reviewed in 6 months' time:

"A Member may ask a Cabinet Member or a Committee Chairman (or in his/her absence the Vice Chairman) a question on any Record of

Decision or Minute. The Cabinet Member or the Chairman or in his/her absence the Vice Chairman will respond using their reasonable endeavours to provide a response which addresses the matters raised in reply to the question as put by the Member. The provisions in Procedure Rule 11.4 in relation to replies shall also apply here. There will be no debate on any question, or response under this procedure and no further motions can be moved.

“Where a Member wishes to ask a question on any Part 2 matter before the Council, the question must be given, in writing, to the Council’s Monitoring Officer at least one hour before the start of the Council meeting.”

7.2.7 Health and Adult Social Care Scrutiny Committee:

Following the unanimous recommendation of the Council’s Scrutiny Committee, the Governance and Constitution Committee agreed that a separate Health and Adult Social Care Scrutiny Committee should be appointed to exercise the Council’s emerging statutory responsibilities, and with the responsibilities set out in the Appendix to this report.

Furthermore, the Committee recommended that the Health and Adult Social Care Scrutiny Select Committee should comprise 14 Members, on the basis of a 10:2:1:1 proportionality, but that there should be no co-option of Members to the Committee for the time being.

The Committee also agreed that the principle of continuing Joint Scrutiny arrangements of the Cheshire and Wirral Partnership NHS Trust should be supported and that discussions should take place with the authorities concerned with a view to bringing forward detailed proposals.

8.0 Conclusion

- 8.1 Following review by the Governance and Constitution Committee, recommendations are made to Council which propose Constitutional change.

For further information:

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Background Documents:

Documents are available for inspection at:

Cheshire East Shadow Council Support Office
Congleton Borough Council
Westfields
Middlewich Road
Sandbach

Appendix

CHESHIRE EAST COUNCIL HEALTH AND ADULT SOCIAL CARE SCRUTINY COMMITTEE

The Health and Adult Social Care Scrutiny Committee will:

1. fulfil the Health Scrutiny duties falling on the Authority by virtue of the Health and Social Care Act 2001 (consolidated into the NHS Act 2006) and subsequent relevant legislation and Government Guidance;
2. liaise with NHS Trusts on any matter relating to the planning, provision and operation of Health services in East Cheshire, including commenting on the annual “health check” of the performance of those Trusts;
3. respond to any formal consultations undertaken by relevant NHS Trusts on any substantial development or variation in service;
4. participate with other relevant local authorities in joint scrutiny arrangements of NHS Trusts providing cross-border services to East Cheshire residents, in particular the Cheshire and Wirral Partnership Foundation Trust;
5. prepare an annual Work Programme and commission scrutiny reviews to ensure that all sections of East Cheshire’s local communities have equal access to Health services and have an equal chance of a successful outcome from those services;
6. liaise with the Local Involvement Network (LINK) for East Cheshire, commissioning work and receiving reports and recommendations as appropriate;
7. deal with any matter referred by the Department of Health, the Local Involvement Network or by the Council;
8. offer advice to the Cabinet on Key Decisions relating to the operation of the Council’s Adult Social Care functions;
9. receive reports from the Council’s external inspectors on its Adult Social Care responsibilities and to offer advice thereon to the Cabinet;
10. keep under review the Council’s performance management arrangements in relation to its Adult Social Care responsibilities and offer advice as appropriate;
11. deal with any Health or Adult Social Care matter which is the subject of a Call-In, a Councillor Call for Action or Local Petition;

12. provide a regular programme of training and development for all Members and Co-opted Members involved in the work of the Committee;