

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Governance & Constitution Committee**
held on Thursday, 16th April, 2009 at Committee Suite 1, 2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor A Ranfield (Chairman)
Councillor A Kolker (Vice-Chairman)

Councillors D Topping, M Asquith, D Cannon, Mrs S Jones, Mrs G Merry,
A Moran, R Parker, R West and P Whiteley

Substitute

Councillor B Livesley

In attendance

Councillors A Richardson, Mrs L Smetham and A Thwaite

Apologies

Councillor Mrs S Bentley

Officers present

Brian Reed, Democratic Services Manager
Paul Mountford, Democratic Services Officer
Mark Nedderman, Democratic Services Officer
Kate Khan, Solicitor

92 DECLARATIONS OF INTEREST

There were no declarations of interest.

93 PUBLIC SPEAKING TIME/OPEN SESSION

Mr Byron Evans from Crewe attended and asked about the process for making changes to the Constitution and when the Constitution was likely to be available to the public.

At the request of the Chairman, the Officers outlined the process by which changes to the Constitution were made, including the role of the Governance and Constitution Committee in making recommendations to full Council on proposed Constitutional changes. They also indicated that

the Constitution would shortly be available on the Council's website and would be accessible thereafter at libraries and information centres.

94 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the previous meeting held on 9th March 2009 be approved as a correct record.

With regard to Minute 90, Members were informed that a report would be submitted to the next meeting with proposals for the re-appointment of the Task Group on appointments to outside organisations.

95 BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

The Committee considered proposed procedure rules relating to the budget and Policy Framework.

In accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 the Council at its meeting on 24th February 2009 had approved a list of documents which would form part of the Council's Policy Framework requiring approval by full Council.

Regulation 4 of the Regulations provided that Cabinet had overall responsibility for preparing the draft budget, plans and strategies for submission to full Council for consideration.

A set of Budget and Policy Framework Procedure Rules had been drafted to comply with Government Guidance. The adoption of such Rules would ensure that the documents which formed part of the budget and Policy Framework were developed in accordance with legislative requirements. In addition such rules would ensure that there were systems in place for resolving conflict in the setting of the budget or Policy Framework and for dealing with urgent decisions.

RESOLVED

That

- (1) subject to (2) below, the draft Budget and Policy Framework Procedure Rules set out in Appendix B to the report be recommended to Council for adoption and incorporation into the Constitution;
- (2) consideration be given to extending the minimum period for consultation on the budget to six weeks and the Officers be authorised in consultation with the Chairman to make a final determination on the appropriate provision in the draft Rules for recommendation to Council.

96 CABINET DECISION-MAKING ARRANGEMENTS

The Committee considered a report on proposed decision-making powers and procedures relating to individual Members of the Cabinet.

Previous attempts to define individual decision-making powers for Cabinet Members had relied in part to the statutory definition of a Key Decision. It was felt that an alternative approach should be adopted and it was therefore proposed that Cabinet Members should make all executive decisions in respect of their portfolio areas except:

- (a) Decisions already taken by Cabinet or an officer acting under delegated powers.
- (b) Decisions involving a departure from the Council's Budget and Policy Framework or any Cabinet or regulatory committee policy.
- (c) Decisions involving expenditure or savings of £1 million or more.
- (d) Decisions which were significant in terms of their effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the Council.
- (e) Decisions which the Leader wished to be taken by full Cabinet.

PROVIDED THAT all such decisions shall be taken in public and that regard shall be had to the advice of the Borough Solicitor by the decision-maker in interpreting these provisions.

On a related matter, the Council has previously resolved to include the following provision within its Constitution to exclude certain decisions from the definition of a key decision:

"The Council has decided that the letting of any contract by the Council's [Business Services Officer] or the Council's [Policy Officer], which involves the provision of services to, or the purchase of goods and services by, the Council shall be excluded from the definition of a Key Decision where such contracts relate mainly to the internal workings of the authority and do not therefore have a significant impact directly on local communities in the same way as other Key Decisions. Such contracts include advertising, library books, vehicles, consumables, food, gas, electricity and cleaning of Council premises."

On further consideration, this provision was regarded as flawed and it was therefore proposed that it be removed from the Constitution.

The Cabinet on 24 March 2009 had supported the proposals and had also approved arrangements for public decision-making by individual Cabinet Members, details of which had been reported to the Committee for information.

RESOLVED

That Council be recommended that

- (1) the alternative approach in respect of the decision-making powers of individual Cabinet Members be approved;
- (2) the provision within the Constitution excluding the letting of certain contracts from the definition of a key decision be rescinded; and
- (3) the Constitution be amended accordingly.

97 PUBLIC AND MEMBER QUESTIONS AND STATEMENTS AT MEETINGS

The Committee reviewed the arrangements for public and Member questions and statements at Meetings.

The Council on 24th February 2009 had approved the adoption of the new Constitution to take effect from Vesting Day but in doing so had resolved that the issue of questions and statements by Members and the public at meetings be considered further.

Members had before them a report summarising the current provisions relating to Member and public speaking and questions at meetings as set out in the Constitution. The report also contained details of proposals for disapplying those provisions from meetings of Planning, Licensing and Scrutiny bodies.

RESOLVED

That the views of the Cabinet and the Corporate Scrutiny Committee be sought on the issue of Member and public questions and statements at meetings, including the proposals to exclude the existing provisions from the meetings of certain bodies, and the Committee consider the matter further in the light of any advice received.

98 SUBSTITUTION AT PLANNING COMMITTEE

This item was withdrawn.

99 COMMUNITY CALL FOR ACTION

The Committee considered a report outlining new arrangements to allow individual Members to pursue particular problems affecting their wards via overview and scrutiny committees, where other methods of resolution had been exhausted. This

way of empowering ward Members was known as “Councillor Call for Action” (CCfA).

The report set out the principles governing CCfA, indicating the benefits but also emphasising where such an approach would be inappropriate.

Some of the authorities piloting the scheme had adopted a checklist which assisted individual ward Members in resolving issues before it became necessary to involve an overview and scrutiny committee. Such checklists also provided a framework for the authority to manage CCfA and ensured that overview and scrutiny could add value. A suggested checklist for Cheshire East Council was set out in paragraph 11 of the report.

The views of the Corporate Scrutiny Committee were also being sought.

Members felt that overview and scrutiny involvement should be a last resort and that Members should receive the necessary training, information and support to fulfil their roles under CCfA. Members also stressed the need to ensure that the process did not distract the Council from addressing the ‘greater needs and priorities’ within Cheshire East as a whole.

RESOLVED

That subject to the views of the Corporate Scrutiny Committee

- (1) the proposed arrangements for dealing with requests for overview and scrutiny committees to consider matters raised under the Community Call for Action as set out in the report be adopted;
- (2) the Borough Solicitor be requested to draw up a suitable checklist, based on the issues listed in paragraph 11 of the report, to assist Members with requests for Community Call for Action;
- (3) appropriate information and advice be prepared for circulation to all members, outlining the main components of Community call for action; and
- (4) appropriate Member training and awareness sessions be arranged.

100 GOVERNANCE AND CONSTITUTION WORK PLAN

The Committee considered an updated version of its Work Plan.

It had previously been accepted that the timescales within the Work Plan needed to be flexible in order to account for work priorities, changes in legislation etc. The Committee would therefore receive regular updates.

RESOLVED

That the current Work Plan be noted and reviewed further in due course.

The meeting commenced at 2.00 pm and concluded at 3.40 pm

Councillor A Ranfield (Chairman)