

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Wednesday, 15th July, 2015 at West Committee Room - Municipal
Buildings, Earle Street, Crewe, CW1 2BJ

PRESENT

Councillor A Martin (Chairman)
Councillor D Marren (Vice-Chairman)

Councillors G Baxendale, M Beanland, B Burkhill, S Edgar, S Gardner,
S Hogben, D Mahon, R Menlove, D Newton, B Roberts, S Pochin and G Wait

Councillor in Attendance

Councillor A Moran

Officers

Anita Bradley, Head of Legal Services and Monitoring Officer
Brian Reed, Head of Governance and Democratic Services
David Malcolm, Head of Planning (Regulation)
Guy Kilminster, Head of Health Improvement
Phil Badley, Interim Head of HR
Julie Gregory, Lawyer
Rachel Graves, Democratic Services Officer

8 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor N Mannion.

9 DECLARATIONS OF INTEREST

No declarations of interest were made.

10 PUBLIC SPEAKING TIME/OPEN SESSION

Councillor A Moran spoke in relation to Item 6 – Proposed Changes to the Council's Constitution expressing concern about the proposal to reduce the membership numbers on the Planning Committees and the impact upon the proportionality on other.

11 MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting held on 18 June 2015 be approved as a correct record.

12 CHANGES TO OUTSIDE ORGANISATIONS APPOINTMENTS 2011-2015

The Committee considered a report on nominations to Category 2 outside organisations.

Category 2 appointments had been allocated to the Constitution Committee to make. Details of the appointments being considered were detailed in the Schedule attached to the Report.

Appointments would be made for the duration of the Council, which was 2015-2019, although it may sometimes be necessary or desirable for them to be reviewed during that time in order to take into account changes for vacancies that may arise.

RESOLVED: That

- 1 the current approach to appointing to outside organisations be continued and the casual vacancy procedure be used in event of changes in the mid-term period.
- 2 the Schedule of Appointments attached to the Report be approved, and that the appointments run until such time as the Council's representation is reviewed following the election of the new Council in 2019.
- 3 the appointments take immediate effect; and
- 4 notwithstanding (1) above, the Council retain the right to review the representation on any outside organisations at any time, for any reason.

13 PROPOSED CHANGES TO THE COUNCIL'S CONSTITUTION

The Committee considered a report on changes to the Council's Constitution.

The existing Constitution had been in place since the Council's inception in 2009, and whilst having served the Council reasonably well, was now in need of revisions.

The report and appendices set out the proposed changes to the Constitution. The Committee's recommendations would be presented to full Council on 23 July 2015 for approval:

RESOLVED:

1. The Chair and Vice-Chair of the Constitution Committee agree the content and format of the Procurement Engagement Form prior to it being incorporated into the Constitution.

2. It is recommended to Council that:

1. delegated authority be given to the Constitution Committee to make all changes to the Council's Constitution which are not major, subject to the head of Legal Services and Monitoring Officer and Chief Operating Officer (s151 Officer) agreeing that the proposed changes are not major and Council subsequently being informed of the changes. Provided that such changes as are considered by the Committee and agreed by the Head of Legal Services and Monitoring Officer and Chief Operating Officer (s151 Officer) to be major shall be referred to full Council for approval.

2. Monitoring Officer, in consultation with the Chairman and Vice-Chairman of the Constitution Committee, to make such changes to the Council's Constitution which he/she deem to be necessary and which are:

- in the Council's interest
- not major in nature

including, but not limited to, changes:

- amounting to routine revisions
- to provide appropriate clarity
- to correct typographical and other drafting errors
- to reflect new legislation
- to correct inconsistencies in drafting
- to reflect new officer structures and job titles, properly approved through Council processes.

3 in relation to the Planning Committee that:

- (a) the Strategic Planning Board and the Northern and Southern Planning Committees be reduced in size to 10 with a composition of 7:2:1 (Conservative: Labour: Independent) for each Board/Committee.
- (b) the political group representation agreed at the Council's Annual Meeting, and the methods, calculations and conventions used in determining this be amended to reflect the reduced memberships; and
- (c) that any necessary and consequential adjustments be made to the total number of committee places allocated to each political group in order to meet legislative political proportionality requirements, in consultation with the political group leaders, together with any resultant changes in committee places, and

- (d) the operational effectiveness be kept under review.
- 4 amendments are made to the Scheme of Delegation of Officer and Terms of Reference of the Committees, as set out in Appendix 1, and that consequential amendments are made to that Scheme of Delegation of Officer and Terms of Reference of Committees, as set out in Appendix 1 such that Certificates of Lawfulness may only be signed off under delegated powers following consultation with the Head of Legal Services and Monitoring Officer, with the additional amendments of
- in the Strategic Planning Board Terms of Reference the deletion of “This does not include re-applications for extant schemes or detailed applications where an outline consent has been given or removal/variation of condition”
 - in the Northern and Southern Planning Committee Terms of Reference “residential development of 10 – 199 dwellings or between 0.5 and 4ha” be reinstated; the deletion of “This does not include re-applications for extant schemes or detailed applications where an outline consent has been given or removal/variation of condition”, and the deletion of “ (e) All applications for advertisements, tree work, prior approvals, Certificates of Lawfulness and notification.”
- 5 the Protocol on Public Speaking at Planning Committees be amended by increasing speaking time for the Local Parish Council from 3 minutes to 5 minutes to ensure that there is a stronger local voice in the process.
- 6 amendments are made to the Scheme of Delegation of Officers and Terms of Reference of Committees to delegate decision with regard to Neighbourhood Planning, as set out in Appendix 1.
- 7 with regard to Notices of Motion that:
- (a) Notices of Motion will be moved and seconded at Council meetings, without any comment from the movers and seconders, and referred-on for determination by the relevant decision-making body, provided that the existing rules which allow certain Notices of Motion to be debated and disposed of at Council meetings will continue to have effect.
 - (b) that the Head of Legal Services and Monitoring Officer be instructed to make the changes set out in Appendix 2.

- 8 the template agendas set out in Appendix 3 be adopted for use at Annual Council and Council meetings and incorporated into the Constitution.
- 9 In relation to Staffing issues that:
 - (a) the Terms of Reference of the Staffing Committee and the powers of the Chief Executive and Scheme of Delegation to Officers, as set out in Appendix 4 with the additional amendments:
 - (i) Terms of Reference/Appeals –
delete first bullet point “to consider appeals against dismissal from Statutory Chief Officers and Non-Statutory Chief Officer
amend to second bullet point by deleting “at the discretion of the Head of Paid Service in consultation with the Chair of Staffing Committee.”
 - (ii) Scheme of Delegation to Senior Officers – para 1.23
Delete “the advice prior notification of the Head of Human Resources and Organisational Development and.”
Delete “in consultation with the Head of Human Resources and Organisational Development” and insert “the appropriate officer”.
 - (b) the Staff Employment Procedure Rules be amended, as set out in Appendix 4;
 - (c) the powers of the Head of Paid Service in relation to staffing and other matters be amended as set out in Appendix 4;
- 10 the Head of Legal Services and Monitoring Officer be authorised to make such changes to the Constitution as they consider are necessary to give effect to the wishes of the Council in respect of such staffing matters as are considered as the Council meeting of 23 July 2015 in consultation with the Head of Paid Service.
- 11 the proposed changes set out in Appendix 5 (Health and Wellbeing Board) are accepted.
- 12 that paragraph 11(c) below (on page 191 of the Constitution) which permits topical questions be deleted entirely from the Constitution:

“(c) where time permits, questions which are of a topical nature be accepted.”

- 13 that paragraph 11.11 (on page 192 of the Constitution) which deals with the frequency with which questions can be re-submitted, by replacing 3 months with 6 months as set out below:

“11.11 No questions will be allowed which repeat, or are substantially the same as, questions submitted to a meeting of Council during the preceding **6** months.”

- 14 that procedural rule 26.2 (on page 197 of the Constitution), which deals with changes to the approved calendar of meeting to read:

“a meeting of a decision-making body scheduled in the Calendar of Meetings may be cancelled or changed by the Chairman following consultation with the whole membership of the body and with the agreement of a simple majority **those** members of that body **who respond within 2 working days of being notified of the proposed cancellation or change**, provided that such cancellation or change takes place at least five clear working days before the scheduled date of the meeting to enable sufficient public notice to be given.”

- 15 that the existing list of Category 1 organisations in the Constitution be replaced by Appendix 6.

- 16 that the Constitution be amended in accordance with the changes set out in Appendix 9 to effect the removal of the requirement to hold secret ballots from the Council Procedure Rules.

- 17 that the suggested definition of an urgent decision be inserted into the Procedural Rules General Provisions Appendix 4 (page 225) as follows:

“a decision will be urgent if any delay likely to be caused by following the usual procedures would seriously prejudice the Council’s or the Public’s interest. If a decision is deemed an urgent decision caused by a failure to plan appropriately or work without due regard to timeliness, the circumstances giving rise to the need for an urgent decision should be reported to the Audit and Governance Committee on a quarterly basis.”

- 18 that paragraph 6 of the Mayoralty Code of Practice (Constitution page 442) be amended as follows:

“the Mayor should not be appointed as Chairman or Vice-Chairman **or member of any Committee or Sub Committee of the Council **or Cabinet support member or act or be appointed as a Director of any of the Council’s Alternative Service Delivery Vehicles during their term of office.....”****

- 19 that the Audit and Governance Terms of Reference be amended by the inclusion of the following wording as an introductory paragraph in the Constitution at the start of page 109:

“Membership (11)

The Audit and Governance, like all of the Council’s Committees, must be politically balance. However, the success of the Audit Committee depends upon its ability to remain apolitical. It must adopt a non-political approach to its meetings and discussions at all times. Remaining apolitical also places a duty on members not to make inappropriate use of information provided to the Committee for other purposes.

The Committee is composed of 11 members, comprising 10 members of the Council and one independent voting member (a member who is not a Councillor) with the Chairman and Vice-Chairman being appointed at full Council. The co-option of an independent member will help to bring additional knowledge and expertise to the Committee and also reinforce its political neutrality and independence. To ensure the Committee remains focussed on its assurance role any designated substitute must be appropriately trained.”

- 20 that the Constitution be amended to reflect the changes set out below:

- (a) that the following wording be inserted as a new paragraph 2.2 at page 51 (Chapter 4 Management of the Constitution):

“2.2 Once the changes to the Constitution have been formally approved or notified to full Council, the amended version will be published on the Council’s website within one (1) month.”

- (b) that the wording of paragraph 5 (page 52) be amended as follows:

“will **provide an electronic** copy of this Constitution to each Member of the authority upon delivery of that individual’s declaration of acceptance of office on the Member first being elected to Council.”

- 21 that the Constitution be amended to remove references to members’ pensions from the responsibilities of Council and Constitution Committee as follow:

- (a) paragraph 12 of page 56 be amended by removing the wording in bold below:

“12. will approve the Members Allowance Scheme **including any pension provision** for elected Members following advice from the Independent Remuneration Panel.”

- (b) paragraph 7 of page 107 be amended by removing the wording in bold below:

“7. Overseeing and monitoring the Members’ Allowance budget, **including pensions**, and keeping under review the scheme for payment of allowances to Members through the appointment of an Independent Remuneration Panel to advise the Council on the adoption of the scheme and on any proposed amendments,”

- 22 that paragraph 7 of the responsibilities of Cabinet (Constitution page 62) be amended to reflect that Human Resources Policies are approved by Staffing Committee:

“7. **developing**, monitoring and reviewing any Council Corporate personnel and human resources policies.”

- 23 that paragraph 1(b) of the Strategic Planning Board Terms of Reference (Constitution page 88) be amended as follows:

“(b) ~~to vary the number, size and working arrangements of the Planning Committees, to appoint their membership~~ to vary the division of functions and delegations between the Board, the Planning Committees and the Head of Planning & Policy.”

- 24 that paragraph 2(b) of the Strategic Board Terms of Reference (Constitution page 89) be amended as follows:

“(b) 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.”

- 25 that the following consequential amendments to the figures quoted within the Finance Procedure Rules as follows:

B27 change £250,000 to £400,000
B28 change £250,000 to £400,000 and then £100,000 to £250,000 and £250,000 to £400,000 later in paragraph
B29 change £250,000 to £400,000
B32 change £250,000 to £400,000
B34 change £250,000 to £400,000
B47 change £250,000 to £400,000

and the wording of the following be amended

page 278 – take out in consultation with Executive Monitoring Board from A32 third row of table

page 279 - take out via Executive Monitoring Board in third row and take out Executive Monitoring Board in 4th row of table at A36.

- 26 delegated authority be given to the Head of Legal Services and Monitoring Officer to make consequential changes to the Constitution to reflect the change in title from Corporate Leadership Board to Management Group Board.

- 27 that the wording of paragraph 3.2 (Constitution page 30) which relates to Task and Finish Groups by the addition of the working in bold as follows:

“The Committee **which sets up each Task and Finish Group** will appoint Chairmen (and Vice-Chairman, if appropriate) of each **Task and Finish** Group and agree the membership. This must be cross party.”

- 28 that paragraph 4.2 of the Constitution on page 49 Chapter 13 – Finance Contracts and Legal Matters be amended by adding the working in bold as follows:

“4.2 Any contract entered into on behalf of the Council shall be made in accordance with the Council’s Finance Procedure Rules **and Contract Procedure Rules**. In the absence of any authority given to a specific officer **under the Council’s Finance Procedure Rules and Contract Procedure Rules** all such contracts must either be signed by at least the Head of Legal Services or his/her authorised deputy,

plus another of his/her authorised deputies or be made under the common seal of the Council.”

- 29 that the terms of reference of the Macclesfield Local Service Delivery Committee are deleted from the Constitution as following the creation of Macclesfield Town Council this committee and references to it in the Constitution are now obsolete.
- 30 that paragraph 22.1 (Constitution page 196) which relates to the Term of Office, Members of Committees and Sub-Committees, be amended as per the wording in bold below:
- “22.1 Committee and Sub Committee Members will **be appointed by the Council**. The Council may, at any time, dissolve, alter or amend the membership of a Committee or Sub-Committee.”
- 31 that paragraph 28.6 of the Constitution (page 198) which related to the minutes of Committees and sub-committees by replacing 1 hour with 24 hours as shown in bold below:
- “28.6 Where a Member has a question or comment on an exempt, private or confidential Minute, the question or comment must be given in writing to the Monitoring Officer at least **24 hours** before the start of the meeting.”
- 32 that the Constitution be amended in accordance with the changes set in Appendix 7 (Local Choice Functions).
- 33 that the Constitution is amended in accordance with the changes set out in Appendix 8 (Contract Procedure Rules), with the further deletion of the wording “**it is recommended that service departments use an e-tendering portal.**”
- 34 following the deletion of the post of Executive Director Strategic Commissioning, delegated authority be given to the Head of Legal Services and Monitoring Officer to implement the necessary changes to the Constitution to reflect the re-allocation of delegations within the Officer of Delegation Scheme.

The meeting commenced at 10.30 am and concluded at 12.15 pm

Councillor A Martin (Chairman)