

## **Community Governance Review Sub Committee**

---

**Date of Meeting:** 18<sup>th</sup> February 2019

**Report Title:** Community Governance Review: Members' Interests

**Senior Officer:** Daniel Dickinson: Director of Legal Services

---

### **1. Report Summary**

This Report is an overview of the various levels in which Cheshire East Members may engage with the Community Governance Review, the potential Interests which may arise, those parts of the Member Code of Conduct which relate to them and the several measures by which they may be addressed. At this early stage in the Review, the report is for Members' information only.

### **2. Recommendation**

That the Sub-Committee note the contents of this report.

### **3. Background**

On 20<sup>th</sup> September 2018 the Constitution Committee decided to undertake a Borough-wide Community Governance Review, to be driven forward and co-ordinated by its Sub-Committee and commencing as soon as reasonably practicable after the May 2019 elections. Members will be involved in the Review at several levels and requested a report regarding potential conflicts of interest.

### **4. Legal Implications**

Parties aggrieved by a Community Governance Review Order may apply for judicial review on grounds including unfair or biased process or consideration. Risk of challenge may be mitigated by observance of the Council's Code of Conduct and implementation of the several measures available to address conflicts of interest.

## **5. Member Involvement in the Review**

5.1 Potentially, Cheshire East Members may be involved in the Review at one or more of five levels.

5.2 First: sitting at Full Council they will

- consider certain recommendations on key elements of the review made by the Constitution Committee
- decide the extent to which they will give effect to those recommendations and
- make the Cheshire East Community Governance Review Order accordingly
- including in the Order any necessary consequential provisions regarding the transfer of property, funds, responsibilities or liabilities between parishes.

5.3 Secondly: sitting on the Constitution Committee they will

- consider the review and recommendations of the Sub-Committee and
- recommend to Full Council which parish areas, names and electoral arrangements should be retained, which changed, and in what way, including any necessary consequential provisions as indicated above.

5.4 Thirdly: sitting on the Community Governance Review Sub-Committee they will assist in the conducting of a Borough-wide Review

- consulting interested parties and
- recommending to the Constitution Committee whether
  - the areas of existing parishes should be retained, altered or abolished
  - existing parishes should be amalgamated or separated
  - parish names should be changed or retained
  - whether the electoral arrangements of any existing parishes should change
  - what electoral arrangements should apply to any new parishes ie: election years, councillor numbers, the number and boundaries of wards
  - the Local Government Boundary Commission should be asked to make related changes eg: to make borough wards co-terminus with altered parish boundaries.

5.5 Fourthly: if they are Parish Councillors, they may take part in at least three consultation stages, debating and framing Parish consultation responses. Their participation may involve comments, proposals and objections regarding the area and governance arrangements of their own Parish and related changes to adjoining Parishes. As parish areas and electors change, parish precepts may rise or fall. As electoral arrangements change, the number of councillor seats may rise or fall.

5.6 Fifthly, they may have a variety of interests in the Review in their capacity as local residents and members of local community groups.

## **6. The Cheshire East Member Code of Conduct**

- 6.1 The Code governs five types of interests which may arise: disclosable pecuniary interests, personal interests, prejudicial interests, bias and predetermination.
- 6.2 Unless they have a dispensation, Members should take no part in matters in which they have a disclosable pecuniary interest. The definition of disclosable pecuniary interest covers an office carried on for employment or gain.
- 6.3 Members should declare a personal interest in matters likely to affect any body exercising functions of a public nature (ie: a Parish Council) where they are members of that body or in a position of general control or management.
- 6.4 Members need not declare a personal interest in matters affecting their own wellbeing or financial position as long as they (or their family, close associates, employers, partnerships, companies) are not affected to a greater extent than the majority of other Council tax payers, ratepayers, or inhabitants of the electoral division or ward, as the case may be, are affected by the decision. This may cover a rise or fall in precept.
- 6.5 A personal interest will become a prejudicial interest where the matter (ie: the Community Governance Review) affects the financial position of a public body (ie: a Parish Council) and if it is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.
- 6.6 Beyond exercising public speaking rights, Members should take no part in a matter if they are or appear biased or have predetermined a matter. Members are allowed a predisposition: previous actions or statement will not be taken by themselves as proof of predetermination but Members must not approach a decision with their minds made up.
- 6.7 In limited circumstances, the Audit & Governance committee may grant dispensations allowing Members to take part in and vote on matters in which they have disclosable pecuniary interests and prejudicial interests: this does not extend to cases of predetermination.

## **7. Measures Available to Address Conflicts of Interest**

- 7.1 On 29<sup>th</sup> September 2016 the Audit & Governance Committee granted six general dispensations until 28<sup>th</sup> September 2020 for decisions regarding
- Members allowances, payments or indemnities
  - Ceremonial Honours
  - Statutory Sick Pay

- Setting Council Tax or precepts
- Setting Council Tax Reduction Schemes or Local schemes for business rates
- School meals, transport or travelling expenses .

7.2 On 18<sup>th</sup> February 2016 the Audit & Governance Committee delegated power to the Director of Legal Services in consultation with the Committee Chair and Members, to grant for dispensations in relation to disclosable pecuniary interests in five cases

- the number of Members barred from participating would be so great as to impede the transaction of the business
- the number of Members barred from participating would upset the political balance so as to alter the likely outcome of the vote
- dispensation would be in the interests of persons living in the borough
- every Cabinet Member would be barred from participating in an Executive decision
- it would be otherwise appropriate to grant a dispensation.

Any member who believes that they have such an interest should seek advice from the Acting Director of Legal Services.

## **8. In Conclusion**

Work on the Community Governance Review will not begin in earnest until after the May elections. As it progresses towards discussion of parish-specific options and proposals, the Monitoring Officer will consider which combination of

- Monitoring Officer dispensations for disclosable pecuniary interests
- Audit & Governance Committee dispensations for prejudicial interests
- standing, general declarations for all Members, recorded at the outset of Council, Committee and Sub-Committee meetings

supported by

- general Advice Notes to Members with shared roles & Interests
- specific advice to individual Members on their particular circumstances ie:
  - o declaration of personal or prejudicial interests,
  - o declaration of involvement but retention of an open mind
  - o avoidance of participation at particular stages

will best address the circumstances and issues actually arising.

## 9. Contact Information

Any questions relating to this report should be directed to the following officer:

Name: Sheila Dillon [sheila.dillon@cheshireeast.gov.uk](mailto:sheila.dillon@cheshireeast.gov.uk)

Job Title: Planning & Highways Manager