

# CHESHIRE EAST COUNCIL

## Constitution Committee

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<b>Date of Meeting:</b>	24 <sup>th</sup> June 2010
<b>Report of:</b>	Democratic Services Manager
<b>Subject/Title:</b>	Proposed Review of the Constitution

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### **1.0 Report Summary**

- 1.1 To recommend to the Committee that consideration be given to initiating a review of the Council's Constitution.

### **2.0 Decision Requested**

- 2.1 That the Committee

(1) note the report; and

(2) agree the timetable of work for the review of the Constitution as set out in the Appendix.

### **3.0 Wards Affected**

- 3.1 All Council Wards are affected by the Constitution, which has application across the Borough.

### **4.0 Local Ward Members**

- 4.1 All local Ward Members are affected for the reasons set out in paragraph 3.0.

### **5.0 Policy Implications**

- 5.1 The Constitution sets out the procedures by which Council policy is set. Any proposed changes to the Constitution would need to align with the requirements of legislation which often stipulates the Council decision-making route associated with the adoption of policies.

### **6.0 Financial Implications**

- 6.1 There are no financial implications associated with the proposed review.

## **7.0 Legal Implications**

- 7.1 Any changes to the Constitution would need to be agreed by Council, following a recommendation from the Constitution Committee. Proposed changes would need to align with any statutory requirements.

## **8.0 Risk Management**

- 8.1 Subject to appropriate legal consideration, there would appear to be no risks associated with the proposed review of the Constitution. Indeed, the proposed review will provide an opportunity to ensure that all elements of the document are consistent with one another.

## **9.0 Background**

- 9.1 The Constitution is a document of significant size and critical importance to the work of the Council. In its 450 pages, it provides important information about the Council, its Members and officers. It also provides a record of the officer and Member processes which underpin all decisions made by the Council. The rules by which Council, Committee and Cabinet business are conducted are recorded in the Constitution.
- 9.2 This information is not only of great importance to Members, officers and members of the public, in order for them to understand the Council's decision-making processes and rules; it is also of critical importance in directing the way in which decisions are made. Failure to follow the procedural requirements of the Constitution could invalidate decisions made.
- 9.3 The Constitution is published on the Council's website, and is available to all Members. It ensures transparency of decision-making and enables all who are interested in doing so, to check that procedures have been followed properly. Members of the public and other interested parties are able to influence decisions made by reference to the procedures and mechanisms set out in the Constitution.
- 9.4 When an announcement was made in early 2008 that Local Government Reorganisation would take place with effect from 1<sup>st</sup> April 2009, a huge challenge was presented to Members and officers to analyse the decision-making processes and functions of three District authorities and one County authority, and bring these together into a form which would properly serve a unitary authority.
- 9.5 This work was successfully undertaken and Council adopted its first Constitution in time for Vesting Day.
- 9.6 As indicated, this work had to be carried out within a narrow timeframe. Whilst the Constitution is robust and fit for purpose, Council has approved a number of refinements to it since 1<sup>st</sup> April 2009. The Constitution continues to serve the Council well, but now is the time for consideration to be given to a review of the Constitution.

- 9.7 Whilst it would neither be appropriate, nor necessary, to review the whole of the document, the Committee may wish to focus upon key elements of the document. The following items may form the basis of the Committee's approach. They are listed in no particular order:
1. Finance and Contract Procedure Rules (and the way in which these relate to/complement other Constitutional documents)
  2. Council Procedure Rules (these have been subject to the majority of changes since Vesting Day and are probably in need of little attention)
  3. Cabinet Procedure Rules
  4. Scrutiny Procedure Rules
  5. Staff Employment Procedure Rules
  6. Key Decision provisions
  7. Responsibilities of Individual Cabinet Members (there may be some benefit in refining the functions allocated under each Portfolio to remove any uncertainty as to where decision-making responsibilities lie).
- 9.8 Even if the Committee chooses to restrict its review to the limited range of areas listed above, this will still present a significant burden of work for Members and officers to deal with.
- 9.9 It is therefore suggested that the work be reasonably apportioned across the forthcoming meetings of the Committee allowing, of course, time before the meeting in question for the officers to conduct research and draft suggested constitutional provisions.
- 9.10 Members will understand that detailed analysis and constitutional work will place demands on Democratic Services, Legal Services and service department officer time. It must be recognised that, occasionally, timescales will slip and officers would ask that the Committee recognises this to be the case. For other reasons, it may be desirable to bring-forward certain work in order to address specific issues which might arise. Again, if the Committee is willing to be flexible in its approach, officers would appreciate it.
- 9.11 The Appendix to this report is a suggested timetable of work which, if the Committee considers appropriate in approach, can form the basis of the proposed task over the remainder of the municipal year.
- 9.12 It is suggested that where, for example, a decision-making or other body would be affected by proposed constitutional changes, that body should be consulted prior to the Constitution Committee giving consideration to those changes. Consultation could take place formally, through the body itself, or informally eg via the Scrutiny Chairs meeting. Indeed, such a body might have particular requests and suggestions which the Constitution Committee should take into account before making recommendations to Council. Suggested consultations are built into the Appendix.

#### **10.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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## Appendix

Meeting date	Material to be reviewed	Comments
30/09/10	Council Procedure Rules	It may be appropriate to seek the views of the Corporate Scrutiny Committee/Scrutiny Chairs/Cabinet prior to a report being made to the Constitution Committee
18/11/09	Cabinet Procedure Rules	Cabinet and the Corporate Scrutiny Committee should be consulted prior to the meeting of the Constitution Committee
	Key Decision Provisions	Cabinet and the Corporate Scrutiny Committee should be consulted prior to the meeting of the Constitution Committee
	Responsibilities of Individual Cabinet Members	Cabinet and the Corporate Scrutiny Committee should be consulted prior to the meeting of the Constitution Committee
27/01/10	Finance and Contract Procedure Rules	This is likely to be a complex area in view of the bulk of Rules in question (approximately 90 pages).
	Scrutiny Procedure Rules	Corporate Scrutiny Committee/Scrutiny Chairs need to be consulted
24/03/10	Staff Employment Procedure Rules	