

Council

Date of Meeting:	22 June 2021
Report Title:	Constitutional Update to Implement the Committee System
Report of:	Director of Governance and Compliance
Ward(s) Affected:	All Wards

1. Executive Summary

- 1.1. This report is to inform Council of the editorial and consequential changes and to seek permission for changes which are reserved for full council. To provide delegated authority to the Monitoring Officer to make all required changes to the constitution to reflect any decision of full Council on member remuneration.
- 1.2. The Constitution and previous delegations from full Council have permitted the Monitoring Officer to adjust the constitution to facilitate the transition to the Committee system. However, certain changes are specifically reserved to full council. The Monitoring Officer is only able to make typographical and inconsequential changes to the terms of reference of a committee of full council. Any significant or substantive change which may vary the remit of any committee must be approved by full Council.

2. Recommendations

- 2.1. That Council is recommended to:
 - 2.1.1. Agree the revised text of the constitution as set out in the appendix Chapters 1, 2 and 3.
 - 2.1.2. Require the Monitoring Officer to all necessary steps to update Chapter 5 Member Allowances as soon as reasonably practicable following approval of any allowance scheme at full council.

3. Background

- 3.1. On the 4th May 2021, the Council held the Annual General Meeting which commenced the operation of the committee system.
- 3.2. On the 19 April 2021 Council approved the draft Constitution to give effect to the Committee System.
- 3.3. The development of the Constitution has continued and this update falls into three sections.
 - 1) Editorial amendments and corrections which fall directly to the Monitoring Officer but must be reported to Council
 - 2) Changes that are reserved to full Council, such as amendments to committee terms of reference
 - 3) Substantive insertions such as Chapter 5 Member Remuneration that is awaiting approval by full council.
- 3.4. To assist members in identifying the changes a 'tracked changed' version of the Constitution has been provided digitally and is available to all members and the public. A printed version has not been provided due to the duplication and volume of paper required. Members kind attention is directed as follows:
- 3.5. Chapter 1 minor inconsequential changes only.
- 3.6. Chapter 2 as revised incorporates various minor amendments and editorial revisions.
- 3.7. The Terms of Reference for the following committees have also been amended for editorial consistency or in a further attempt to refine the budget and staff alignment.
 - i) Environment and Communities Committee, amendment to wording to aid clarity
 - ii) Economy and Growth Committee, to allow for routine property transactions within the delegations provided by the Financial Procedure Rules and a consolidation of some listed functions.
 - iii) Strategic Planning to clarify policy recommendations to full council is via the service committee, not the regulatory function which is a consultee.
 - iv) Highways has also consolidated some of the listed functions.
 - v) Editorial change to Audit and Governance hearing sub-committee
 - vi) Children and Families Committee and Health and Adults Committee have revisions at the request of the directorates. Primarily these are

to reflect the 'on the ground' allocation of task amongst Heads of Service which changes the description within the Terms of Reference. This is a separating out to listed functions. These are not substantive but may aid understanding. Substantive changes relate to commissioning, previously elements of service commissioning were aligned to the majority budget. The Directors are recommending changes for example domestic violence commissioning is repeated in both committee terms of reference.

- vii) The reference to children and commission has been removed from the Adults Committee. Consideration is being given to the resolution of responsibility for communities and the interaction between the environmental and the welfare considerations.
- 3.8. Changes to the scheme of delegation from the previous constitutional provision to further restrict delegation under para 34 Chapter 2 part 5 on the recommendation of the Constitution Committee 29 April 2021. There are minor editorial changes to delegations including the corrections relating to Chief Education Officer.
- 3.9. Delegation to the Monitoring Officer at Chapter 2 paragraph 60.1 has been amended to remove duplication at 60.2 and to insert the limitations from the finance table at Chapter 3 part 3 page 43.
- 3.10. Budget Procedure Rules to add clarity to the control mechanisms and to specifically articulate the need to consult the Chief Financial Officer to ensure statutory and regulatory compliance. Tables at Chapter 3 part 3. The removal of potential duplication of reporting on virements by removing the requirement for service committee and finance subcommittee to approve changes and to clearly delegate responsibility to the finance subcommittee.
- 3.11. Financial procedure rules have minor consequential amendments, primarily reflecting the underlying change of the financial management system and links in the constitution.
- 3.12. Contract procedure rules update to the wording around transition from EU procurement to domestic provisions.
- 3.13. On the 8 June the Corporate Policy Committee accepted a late amendment to provide for editorial consistency at Chapter 3 part 4 paragraph 6.23 and a minor rewording to paragraph 8 of chapter 2 part 2 for clarity.
- 3.14. The Corporate Policy Committee also appointed a Constitution Working Group and indicated they would like the working group to consider various matters including schemes of delegation.

4. Constitution

4.1 The Constitution is being completed in 2 phases. Phase 1 to give effect to any necessary changes to implement the Committee style of governance and Phase 2 is the review of all Codes and Protocols.

4.2 Phase 1 was structured as follows:

Version 1 – 6 April 2021 Constitution Committee

Version 2 - 19 April 2021 Full Council.

Version 3 – 29 April 2021 Constitution Committee

Version 4 – 12 May 2021 Annual General Meeting

The expiration of the virtual meeting regulations required the bringing forward of the Annual General Meeting to the 4 May 2021 and it was not possible to consider version 4.

This is the first Council meeting after the AGM and version 4 is now available for approval.

This is the version that is intended to remain operative until the review requested by full council in November 2021.

5. Implications

5.1. Legal Implications

5.1.1. The proposed amendments are predominately editorial rather than substantive. Some changes require approval of full council such as the editorial amendments to terms of reference.

5.2. Finance Implications

5.2.1. There are no direct cost implications arising from the amendments but the commissioning arrangements between Adults and the Children's Committee will require monitoring.

5.3. Equality Implications

5.3.1. No Equality Impact Assessment has been completed but the accessibility and intelligibility the constitution has remained at the forefront of the drafting process.

5.4. Human Resources Implications

5.4.1. There are no direct implications for human resources

5.5. Risk Management Implications

5.5.1. This version of the constitution represents the final version that was due to be approved at annual council but following changes to virtual meeting provisions has been delayed until the next available meeting. This version will be reviewed in November 2021.

5.6. Rural Communities Implications

5.6.1. There are no direct implications for rural communities.

5.7. Implications for Children & Young People

5.7.1. There are no direct implications for children and young people.

5.8. Public Health Implications

5.8.1. There are no direct implications for public health.

Access to Information	
Contact Officer:	David Brown, David.C.Brown@cheshireeast.gov.uk 01270 685999
Appendices:	Chapters 1-3 of the constitution, showing amendments as tracked changes
Background Papers:	Additional information is available to members from the council's committee system sharepoint site.