

# CHESHIRE EAST COUNCIL

## Constitution Committee

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**Date of Meeting:** 30<sup>th</sup> September 2010  
**Report of:** Democratic Services Manager  
**Subject/Title:** Review of the Constitution

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### **1.0 Report Summary**

- 1.1 To recommend proposed changes to the Council and Committee Procedures as part of the review of the Council's Constitution.

### **2.0 Decision Requested**

That the Committee consider the proposals set out in the report, together with any other matters raised by Members, and where it considers appropriate, make recommendations to Council

### **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 There would appear to be no risks associated with this element of review of the Constitution. 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 The preparation of the Council's existing Constitution had to be carried out within a narrow timeframe but the Constitution is robust and fit for purpose. The Council has approved a number of refinements to it was originally approved. The Constitution continues to serve the Council well, but the Committee agreed at its last meeting that a review of the Constitution should take place. It agreed a schedule to help manage the process.
- 9.7 The Committee agreed that it would consider Council and Committee Procedure Rules at this meeting. Cabinet Members and Directors have been consulted and no specific matters have been raised.
- 9.8 Democratic Services Officers have identified the following issues:-
1. The Constitution is silent on the specific requirements relating to the Local Government Act in relation to timescales for holding the Annual Meeting of Council.

Set out below is a proposal.

## **ANNUAL MEETING OF THE COUNCIL**

### **Timing and business**

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May on a date the Council will decide at or before their last meeting prior to the Annual General Meeting. In the absence of a decision or statutory provision to the contrary the day will be the third Thursday in May.

The annual meeting will:

- (i) elect a person to preside if the Mayor is not present;
  - (ii) elect the Mayor;
  - (iii) elect the Deputy Mayor;
  - (iv) approve as a correct record and sign the minutes of the last meeting;
  - (v) receive any communications from the Mayor;
  - (vi) receive any declarations of interest from members;
  - (vii) appoint the Overview and Scrutiny Committees, the Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions;
  - (viii) consider any business set out in the notice convening the meeting.
2. The Constitution is silent on Order of Business for ordinary Council meetings. This should be listed so that members, officers and the public have certainty.

Set out below is a proposal.

Council will:

- (i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (ii) approve as a correct record and sign the minutes of the last meeting;
- (iii) receive any communications from the Mayor;

- (iv) receive any declarations of interest from members;
- (v) deal with any business outstanding from the previous Council meeting;
- (vi) receive questions from the public;
- (vii) receive any recommendations from the Cabinet or any Council Committee;
- (viii) receive questions from the public;
- (ix) consider any motions moved without notice;
- (x) consider any motions;
- (xi) consider any urgent items.

3. The Constitution is silent on the control of agenda items. The agreed arrangements for pre-agenda meetings should be reflected in the Constitution. These provide for the Chairman or, in his absence, the Vice-Chairman to settle committee agendas.

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

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

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