

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 18th November 2010
Report of: Democratic Services Manager
Subject/Title: Review of the Constitution

1.0 Report Summary

- 1.1 To consider the next stage in the review of the Council's Constitution, with particular regard to executive arrangements.

2.0 Recommendation

That the Committee consider the proposals set out in the report, together with any other matters raised by Members.

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.
- 9.5 The Committee agreed that it would consider Cabinet and Executive Procedure Rules, Key Decision Provisions and Responsibilities of Individual Cabinet Members. Cabinet Members and Directors have yet to be been consulted and guidance is sought from the Committee on the way forward.
- 9.6 Democratic Services Officers have identified the following issues:-
1. The Constitution contains both Executive Procedure Rules (pages 183 – 188) and Cabinet Procedure Rules (pages 215 – 220). Both contain similar or duplicate information and it is recommended that a consolidated Cabinet Procedure Rules Section is produced for consultation initially with the Cabinet.

2. The Constitution uses the statutory definition of a Key Decision. This is set out in the Constitution as follows:-

A key decision" means an executive decision which, is likely

(a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or

(b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

- 9.6 The Constitution requires that all matters that the Leader has reason to believe will be a Key Decision to be published in the Forward Plan. Rule 13.2.1 sets out the minimum requirements for the information to be published in the Plan and the style and content of the Plan has been reviewed recently. However the Overview and Scrutiny Chairmen have commented that the Forward Plan does not give the level of detail required to assist them and the public in understanding the decisions to be made. The Council may wish to continue to use the statutory definition of a Key Decision but consultation should take place with the Cabinet on:-

- the form and presentation of the Forward Plan.
- Whether a threshold should be used to define the financial aspect of significance
- Whether the role of the Forward Plan should be expanded to include all items coming forward, and not simply key decisions

- 9.7 The Responsibilities of Individual Cabinet Members are determined by the Leader and these have been reviewed on a regular basis. The Constitution allows decision making by Individual Cabinet Members in public and general provisions have been made on their powers (page 78 of the Constitution refers). Supplementary guidance for decision making by Individual Cabinet Members for both officers and Portfolio holders is required to provide a consistent approach in each Portfolio. Research with neighbouring Councils should be undertaken on the format used for decision making by Individual Cabinet Members and consultation undertaken with the Cabinet and Corporate Management Team on any revisions that might be needed for Cheshire East.

- 9.8 At its next meeting the Committee is scheduled to review Finance and Contract Procedure Rules and an Officer Working Group has been established.

10.0 Access to Information

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

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