

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Thursday, 19th September, 2013 at Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor A Martin (Chairman)
Councillor D Marren (Vice-Chairman)

Councillors C Andrew, G Baxendale, P Groves, S Hogben, S Jones,
R Menlove, B Murphy, D Newton, P Whiteley and M J Simon (for Cllr Livesley)

Officers

Brian Reed, Head of Governance and Democratic Services
Suki Binjal, Interim Head of Legal Services and Monitoring Officer
Tracey Bettaney, Public Protection and Health Manager
Martin Smith, Manager of Chief Executive's Office
Paul Mountford, Democratic Services Officer

Apologies

Councillors W Livesley, A Moran and G Wait

6 DECLARATIONS OF INTEREST

There were no declarations of interest.

7 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

8 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 5th June 2013 be approved as a correct record.

9 TERMS OF REFERENCE OF THE CIVIC SUB-COMMITTEE

The Committee considered whether the terms of reference of the Civic Sub-Committee should be reviewed.

The Sub-Committee had been appointed by the former Governance and Constitution Committee in 2009 to consider and make recommendations on the approach to the election of the Mayor and Deputy Mayor and the adoption of a Mayoral Code of Practice. The Sub-Committee was given an

ongoing role in respect of the election of the Mayor and Deputy Mayor each year, utilising the approach adopted by Council.

The Constitution Committee had subsequently added additional responsibilities to the Sub-Committee's terms of reference which were now as follows:

- reviewing and making recommendations to the Constitution Committee on the Mayoralty, including the Mayoral Code of Practice;
- reviewing and making recommendations to the Constitution Committee on all matters relating to Honorary Aldermen and Freemen, including upon the benefits, rights and privileges to which they should be entitled;
- determining all matters relating to nationally significant events except for those matters which the Sub-Committee considers it appropriate to refer to the Constitution Committee for determination; and
- reviewing and making recommendations to the Constitution Committee on civic matters such as the Council's flag flying policy and civic regalia.

At a recent Council meeting, it was commented that it was perhaps time for the terms of reference of the Civic-Sub Committee to be reviewed.

RESOLVED

That the Constitution Working Group be asked to review the Civic Sub-Committee's terms of reference and report to the Committee.

10 REVIEW OF POWERS AND RESPONSIBILITIES OF OFFICERS

The Committee had appointed a member working group to consider the officer scheme of delegation and report back with a recommended revised scheme. The purpose was not to recommend the delegation of additional powers to officers but to introduce greater transparency and member involvement in delegated decision-making.

The draft document was attached as Appendix A to the report.

It was noted that the delegations to the Director of Public Health had been approved by Council on 28th February 2013 and were awaiting review by the member working group.

The member working group had conducted its review against the background of a restructuring of the Council's senior management. That restructuring was ongoing and as yet there was insufficient detail available

to incorporate it into the revised scheme of delegation which therefore reflected the old structure.

Councillor Marren, the Chairman of the member working group, asked the Committee to defer consideration of the revised scheme until he had been able to discuss it with the Leader to determine whether the enhancements to the scheme had met his expectations for increasing member involvement.

RESOLVED

That consideration of the revised scheme of delegation be deferred and a special meeting of the Committee be held before the next Council meeting to enable the Committee to consider the scheme and make recommendations to Council.

11 SCHEME OF DELEGATION FOR THE IMPLEMENTATION OF THE SCRAP METAL DEALERS ACT 2013

The Committee considered a proposed scheme of delegation for the Implementation of the Scrap Metal Dealers Act 2013 which would be coming into force on 1st October 2013.

The Act was designed to provide a more robust scheme for monitoring the scrap metal industry. A scheme of delegation needed to be put in place to allow for full implementation of the Act by the time the first applications under it were made to the Council.

Decisions on fees and charges and on a policy needed to be made by the Licensing Committee, which was due to consider the matter at its meeting on 30th September.

RESOLVED

That

- (1) subject to the detail being worked up and approved by the Licensing Committee on 30th September, Council be recommended that:
 - (a) in so far as it is necessary as a matter of local choice, this function be specified as a non-executive function; and
 - (b) procedures and a scheme of delegation be set up to implement the Scrap Metal Dealers Act 2013 and to determine applications for licenses under the Act, taking account of the following principles:
 - policy is delegated to the Licensing Committee
 - the ability to set fees and charges is delegated to the Licensing Committee

- a member decision making body (e.g. a licensing sub-committee) shall determine any applications where the applicant has indicated he/she is taking advantage of their opportunity for a hearing (i.e. after a notice has been given under Section 7 of the Act by the licensing authority stating it proposes to refuse the application, the applicant may ask for a hearing and the opportunity to make written or oral representations)
- a member decision making body only may initiate a revocation of a licence.
- a member decision making body only may impose conditions on a licence.
- An officer should be empowered to make decisions in respect of approvals of licences and may refuse a licence in circumstances where the applicant has not expressed the wish to make representations within the specified time after a notice has been served under Section 7 stating the licensing authority proposes to refuse the application.

(2) Council be recommended to authorise the Interim Head of Legal Services and Monitoring Officer to make appropriate changes to the Constitution following the meeting of the Licensing Committee.

12 WORK PROGRAMME

The Committee considered a report summarising its work programme to date, including progress with various work streams:

Review of Officer Scheme of Delegation

The member working group appointed to review the scheme of delegation had now submitted a revised scheme for the Committee's consideration as discussed earlier in the meeting.

Frequency of Meetings

The Committee at its meeting on 24th January 2013 had considered whether the frequency of the Council's meetings should be reviewed. The officers had been asked to submit a report to the Committee's meeting on 19th September 2013 following further detailed work, and having allowed time for the new scrutiny committees and policy development groups to settle in.

It had not been possible to bring a report back to the Committee at this time because the new scrutiny committees and policy development groups were still settling in, and it was now considered appropriate in the light of experience to review the scrutiny and policy development arrangements. The outcome of such a review would help inform the report back on frequency of meetings. The Head of Governance and Democratic Services hoped to be able to bring a report to the Committee's meeting on 21st November.

Policy Development Groups and Scrutiny Committees

The new structure of policy development groups and scrutiny committees was still settling in. However, it was now considered appropriate to review the arrangements in the light of experience to date. It was proposed that a member working group be appointed to conduct the review and that the group whips be asked by the Head of Governance and Democratic Services to submit the names of their nominated members to the working group.

Transparency

The member working group appointed to review the scheme of delegation had now completed that work and a meeting of the working group would shortly be convened to consider the issue of transparency and openness.

Size and Structure of the Constitution

The officers had been undertaking two separate streams of work which would be co-ordinated with a view to submitting proposals for the Committee's consideration in due course.

Review of the Procedure Rules

At its meeting on 5th June 2013, the Committee had agreed that a general review of the various procedure rules within the Constitution would be beneficial. This review would begin when resources allowed and members had determined the means by which it would be conducted.

Notice of Motion – Staffing Committee Terms of Reference

The Head of Human Resources would be submitting a report to the Committee's meeting on 21st November 2013.

RESOLVED

That

- (1) the current progress with the various work streams be noted;
- (2) a full report on the frequency of meetings, including the related issues identified in the report, be submitted to the Committee's meeting on 21st November 2013;
- (3) a member working group be appointed, the size and composition to be determined, to commence the review of the scrutiny and policy development group structure; the group whips be asked to submit to the Head of Governance and Democratic Services the names of their nominated members to the working group; and the working group be

asked to seek support and advice from an independent body such as the Centre for Public Scrutiny.

The meeting commenced at 2.00 pm and concluded at 2.55 pm

Councillor A Martin (Chairman)