

# Constitution Committee

## Agenda

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**Date:** Friday, 26th April, 2013  
**Time:** 10.00 am  
**Venue:** West Committee Room - Municipal Buildings, Earle Street,  
Crewe, CW1 2BJ

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the meeting. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

4. **Minutes of Previous meeting** (Pages 1 - 4)

To approve the minutes of the meeting held on 24th January 2013.

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**Contact:** Paul Mountford, Democratic Services Officer  
**Tel:** 01270 686472  
**E-Mail:** paul.mountford@cheshireeast.gov.uk

5. **Request from Styal Parish Council for change of Borough Ward Name** (Pages 5 - 6)

To consider a request from Styal Parish Council that the Borough Ward name of Wilmslow Lacey Green be amended to include Styal in the title.

6. **New Outside Organisation - The Sandbach Traders and Retailers Association and Vacancy on Board of Governors for the King's School, Macclesfield** (Pages 7 - 14)

To consider a request by the Sandbach Traders and Retailers Association to be added to the list of approved outside organisations, and for an appointment to be made to the Association; and to consider an appointment to the King's School, Macclesfield to fill a vacancy arising following the recent resignation of Councillor David Neilson.

7. **Accrual of Powers and Duties: Officer Delegation Scheme** (Pages 15 - 18)

To consider a proposal that all existing officer delegations remain effective pending the completion of the current senior management review.

8. **Macclesfield Local Service Delivery Committee - Terms of Reference** (Pages 19 - 34)

To consider a response to a request from Macclesfield local members for changes to be made to the terms of reference of the Macclesfield Local Service Delivery Committee.

**THERE ARE NO PART 2 ITEMS**

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Constitution Committee**  
held on Thursday, 24th January, 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, L Brown, P Groves, S Hogben, A Moran,  
B Murphy, D Newton, G Wait and P Whiteley

**Officers**

Mike Rowan, Interim Borough Solicitor  
Brian Reed, Democratic and Registration Services Manager  
Paul Jones, Democratic Services Team Manager  
Julie Openshaw, Deputy Monitoring Officer  
Paul Mountford, Democratic Services Officer

**Apologies**

Councillors W Livesley

The Committee was informed that following his recent appointment to the Cabinet, Councillor David Topping was no longer a member of the Committee. The vacancy would be filled following consultation with the relevant Group Whip.

**40 DECLARATIONS OF INTEREST**

Councillors C Andrew and L Brown declared non-pecuniary interests in the Make It Macclesfield Forum.

**41 PUBLIC SPEAKING TIME/OPEN SESSION**

There were no members of the public present.

**42 MINUTES OF PREVIOUS MEETING**

With regard to Minute 34 relating to a Notice of Motion on confidentiality, it was noted that the Government was consulting on proposed regulations to make compliance with its Code of Recommended Practice on transparency mandatory. It was considered appropriate to await an announcement from Government before reporting back to the Committee.

**RESOLVED**

That the minutes of the meeting held on 26<sup>th</sup> November 2012 be approved as a correct record.

**43 QUESTIONS AT CABINET**

At the request of the Leader of the Council, the Committee considered a proposed provision for questions to be put to Cabinet members at Cabinet meetings by members of the Council.

The report set out proposals for a change to the Procedure Rules, which would allow a period of 20 minutes for questions to be put to Cabinet members by members of the Council at Cabinet meetings. Notice of such questions would not need to be given in advance of the meeting.

The Rules previously agreed by Council, which applied to questions at Council, would be adapted appropriately for the purposes of questions to Cabinet members.

**RESOLVED**

That subject to the removal of the proposed provision that members should give at least one working day's notice of their intention to ask a question at Cabinet meetings and provide an indication of the subject matter, it be recommended to Council that the draft provisions referred to in paragraphs 8.4 & 8.5 of the report be adopted and that the Interim Borough Solicitor be authorised to make such changes to the Constitution as he considers are necessary to give effect to the wishes of Council.

**44 MACCLESFIELD MEMBERS FORUM AND THE MACCLESFIELD LOCAL SERVICE DELIVERY COMMITTEE**

The Committee considered a request from Members representing the unparished area of Macclesfield that a Macclesfield Members Forum be established pending the outcome of the Community Governance Review for Macclesfield.

Macclesfield Members currently felt they did not have a collective voice to make representations to the Council concerning issues affecting Macclesfield residents or the public services provided to them. They believed that the current Local Service Delivery Committee terms of reference precluded them from discussing wider issues relating to Macclesfield.

**RESOLVED**

That the Committee receive a further report at its next meeting, reviewing the terms of reference of the Macclesfield Local Service Delivery

Committee following informal consultation with members of that Committee.

#### **45 FREQUENCY OF MEETINGS**

The Committee considered a report on whether the frequency of the Council's meetings should be reviewed.

The calendar of Council meetings showed that Council members attended around 220 formal meetings each year. At a time when elected members were heavily engaged with constituency and other work, and when efficiencies needed to be made, the Council needed to question whether so many meetings were necessary and whether, instead, their frequency could be changed.

A brief snapshot had been taken of the frequency of meetings held by 15 comparator authorities. More detailed analysis of the information from other authorities would illustrate more accurately whether Cheshire East Council held more meetings than others, but the initial snapshot appeared to suggest that it did.

The report considered the potential benefits and risks of holding fewer meetings.

Whilst there was support in principle for a review of the frequency of meetings, it was suggested that the officers undertake more detailed work to assess the scope for and implications of any reduction in the frequency of meetings and to allow the new scrutiny committees and policy development groups time to settle in.

The January 2013 meeting of the Constitution Committee would normally consider and make recommendations to Council on the draft calendar of meetings for 2013/14. A draft calendar had been prepared and circulated with the agenda. Any proposed review of the frequency of meetings would delay the usual process of adoption of the Calendar of meetings and would result in a calendar of meetings not being agreed until the April meeting of Council.

#### **RESOLVED**

That

- (1) the officers submit a further report to the Committee's meeting on 19<sup>th</sup> September 2013 following further detailed work, and having allowed time for the new scrutiny committees and policy groups to settle in; and
- (2) in the meantime, Council be recommended to approve the draft calendar of meetings for 2013/14.

**46 SCHEME OF DELEGATION FOR DIRECTOR OF PUBLIC HEALTH**

The Committee considered a proposed scheme of delegation for the Director of Public Health.

In advance of the transfer of public health responsibilities to Local authority control on 1<sup>st</sup> April 2013, the Council needed to amend its scheme of delegation to ensure that the Director of Public Health was empowered to undertake his or her role.

The draft scheme of delegation was attached at Appendix 1 to the report.

**RESOLVED**

That the proposed draft scheme of delegation for the Director of Public Health be recommended to Council for adoption pending a further review by the Scheme of Delegation Member Working Group.

**47 REVIEW OF POWERS AND RESPONSIBILITIES OF OFFICERS**

This item was withdrawn.

The meeting commenced at 2.00 pm and concluded at 4.14 pm

Councillor A Martin (Chairman)

## CHESHIRE EAST COUNCIL

### Constitution Committee

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**Date of Meeting:** 26<sup>th</sup> April 2013  
**Report of:** Head of Democratic Services and Governance  
**Subject/Title:** Request from Styal Parish Council for change of Borough Ward Name

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#### **1.0 Report Summary**

- 1.1 The Council is in receipt of a letter from Styal Parish Council dated 26<sup>th</sup> February 2013 requesting that the Borough Ward name of Wilmslow Lacey Green be amended to include Styal in the title.

#### **2.0 Recommendation**

- 2.1 The Constitution Committee is recommended to note the request from Styal Parish Council, but to resolve that no action be taken.

#### **3.0 Wards Affected**

- 3.1 Wilmslow Lacey Green

#### **4.0 Local Ward Members**

- 4.1 As above.

#### **5.0 Policy Implications**

- 5.1 None.

#### **6.0 Financial Implications**

- 6.1 There would be an administrative cost to carry out consultation with the electors in the ward and to arrange a specially convened Council meeting. This cost, for which there is no budget, could be multiplied if other Parish Councils seek similar changes.

#### **7.0 Legal Implications**

- 7.1 Under section 59 of the Local Government and Public Involvement in Health Act 2007, Cheshire East Council can resolve to make a ward name change. The resolution must be passed at a specially convened Council meeting held for that purpose and must have been the subject of consultation. The resolution must be passed by a majority of at least two thirds of the members voting on it. Additionally, the consent of the Boundary Commission for England must be

obtained, since the current ward name was put in place by Order by the Commission in the last five years (The Cheshire East Review was completed in 2010).

## **8.0 Risk Management**

- 8.1 There is a possibility that further requests for ward name changes could be made by residents or organisations in other Borough Wards. A decision to change the ward name for Wilmslow Lacey Green could set a precedent which would then make other requests received difficult to decline. This would require additional workload and further use of Council Resources, given that Wilmslow Lacey Green is only one of fifty-two wards in Cheshire East.

## **9.0 Background**

- 9.1 Styal Parish Council has stated that the reason for the request is that:

*“The Lacey Green area is an urban area and does not reflect the village status of Styal. Also, that Styal village has large areas of farmland and is unique in that a number of residents live on the National Trust Quarry Bank Mill Estate. The centre of the village has only one shop and a few small cottage businesses and that there is a stark contrast between Styal and a large conurbation”.*

- 9.2 There are currently 3555 electors in the Wilmslow Lacey Green Ward, of which 541 are electors in the parish of Styal.
- 9.3 The Local Authority must not pass a resolution to change a ward name unless it has taken reasonable steps to consult persons as it considers appropriate on the proposed name.
- 9.4 A Boundary Commission Review of all the Borough Wards was completed in 2010 and elections, based on the 52 new Wards, were held in May 2011.
- 9.5 The Committee may consider that little time has passed since 2011 to necessitate a further review and change of Ward name. In addition the Committee needs to consider the reasons cited for the request and determine whether this provides a strong enough justification for the request to be considered.

## **10.0 Access to Information**

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

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## CHESHIRE EAST COUNCIL

### Constitution Committee

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<b>Date of Meeting:</b>	26 <sup>th</sup> April 2013
<b>Report of:</b>	Head of Democratic Services and Governance
<b>Subject/Title:</b>	New Outside Organisation – The Sandbach Traders and Retailers Association and Vacancy on Board of Governors for the King's School, Macclesfield

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#### 1.0 Report Summary

- 1.1 This report informs the Constitution Committee of a new outside organisation, the Sandbach Traders and Retailers Association (STAR), which has asked to be added to the list of approved Outside Organisations, and of an appointment to be made to it.
- 1.2 An appointment also needs to be made to the King's School, Macclesfield, to fill a vacancy arising following the recent resignation of Councillor David Neilson.

#### 2.0 Recommendations

- 2.1 That
  - (1) approval be given to the recommendation of the Outside Organisations Sub-Committee that Sandbach Traders and Retailers Association be added to the list of Category 2 Outside Organisations, and Councillor Barry Moran be appointed as this Council's representative; and
  - (2) consideration be given to nominations for appointment to the Board of Governors of the King's School, Macclesfield, and an appointment be made to fill the current vacancy.

#### 3.0 Reasons for a Recommendations

- 3.1 It is important for Cheshire East Council to appoint Members to outside organisations to ensure that it continues to represent the interests of the Authority and the wider community.

#### 4.0 Wards Affected

- 4.1 Sandbach Elworth, Sandbach Ettiley Heath and Wheelock, Sandbach Heath and East, Sandbach Town, Macclesfield Central, Macclesfield East, Macclesfield Hurdsfield, Macclesfield South, Macclesfield Tytherington and Macclesfield West and Ivy.

**5.0 Local Ward Members**

- 5.1 Cllrs Gill Merry, Gail Wait, Sam Corcoran, Barry Moran, Ken Edwards, Janet Jackson, David Neilson, Damien Druce, Laura Jeuda, Brendan Murphy, Lloyd Roberts, Carolyn Andrew and Alift Harewood.

**6.0 Policy Implications**

- 6.1 None identified.

**7.0 Financial Implications**

- 7.1 None identified.

**8.0 Legal Implications**

- 8.1 Whilst membership of outside bodies carries with it the potential for personal liability for elected Members undertaking such roles as ancillary to their status as a Councillor, particularly in respect of trusteeships, Cheshire East Borough Council has already resolved to put in place for elected Members the maximum indemnity which is allowed by law.
- 8.2 Section 111 of the Local Government Act 1972 empowers local authorities to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions, and Section 2 of the Local Government Act 2000 empowers them to do anything they consider likely to achieve the object of the promotion of the economic, social or environmental well-being of their area. Pending the coming into force of the general power of competence in the Localism Act 2011, which will be on a date yet to be announced, either or both of these existing powers would normally be the authority for appointing Members to outside bodies and/or selecting the bodies to which they are to be appointed

**9.0 Risk Management**

No risks identified.

**10.0 Background**

- 10.1 The Constitution Committee is asked to approve the addition of the newly formed Sandbach Traders and Retailers Association (STAR) to the list of approved Outside Organisations to which it appoints, following consideration of the request by the Outside Organisations Sub-Committee.

- 10.2 STAR has been set up to represent the business and commercial viewpoint to regulatory and statutory bodies, and to ensure that local authorities pay proper regard to the consequences of decisions that affect the tourist industry, retailers, catering, industry and professionals. A full copy of the Constitution and rules of STAR are appended to this report for information.
- 10.3 In accordance with the procedure previously agreed by the Constitution Committee for the addition of new organisations to the approved list, the Outside Organisations Sub-Committee considered the request from STAR. The procedure and criteria taken into account are given in paragraphs 10.6 and 10.7 below. In summary it had to consider:
- (a) if the outside organisation should be added to the list of approved organisations;
  - (b) if “yes” to (a), to which category should it be added? (Category 1 – Cabinet appoints; Category 2 – the Constitution Committee appoints); and
  - (c) if it was recommended as a Category 2, the Sub-Committee could consider making nominations.
- 10.4 The Sub-Committee considered the request at its meeting on 20 March 2013 and was satisfied that the organisation fulfilled (c) and (e) of the criteria and that the Constitution Committee should be recommended to add it to the list of Category 2 Organisations. In addition it supported the request from STAR that Councillor Barry Moran should be the Councils representative. Councillor Moran has been attending meetings of STAR as a Ward Member on an informal basis and has he has indicated that he would be happy to be the Councils representative.
- 10.5 A vacancy has arisen on the Board of Governors of the King's School following the recent resignation of Councillor David Neilson. In accordance with the established Casual Vacancy Procedure the Leader of the relevant political group, the Liberal Democrat Group, was asked to provide a replacement. As that Group did not, however, wish to provide a replacement at this time the remaining political groups have been consulted. To date the following nominations have been received and the Committee are requested to make an appointment.
- Conservative Group – Councillor Louise Brown
  - Independent Group – Councillor Brendan Murphy

#### 10.6 **Procedure**

The following procedure for considering new requests was approved by the Constitution Committee on 24 March 2011.

- (i) All new requests for representation on an outside organisation are to be considered by the Sub-Committee which will apply the appointments criteria to decide whether the organisation should be added to the list of approved organisations.
- (ii) If the organisation is considered appropriate for inclusion, the Sub-Committee will then decide which category is the most appropriate, again by applying the approved criteria. (Category 1 comprises those organisations which are regarded as top level strategic bodies to which the Cabinet appoints and Category 2 comprises all other approved outside bodies to which the Constitution Committee appoints.)
- (iii) If the Sub-Committee determines that it should be a Category 1 organisation, the matter will be referred to the Cabinet which will (a) decide whether it wishes to add the organisation to the list of Category 1 organisations; (b) if so, determine the Council's representation on the organisation as appropriate; or (c) if not wishing to approve its inclusion, the matter will be referred back to the Constitution Committee to consider for inclusion as a Category 2, or for rejection.
- (iv) If the Sub-Committee determines that it should be a Category 2 organisation, the Sub-Committee will recommend the organisation's inclusion on the list of approved organisations and will submit nominations to the Constitution Committee.

## 10.7 Criteria

The following are the approved criteria for consideration when adding organisations to the approved list and when making appointments to those organisations.

### i. Criteria for making an appointment

#### (a) The Appointment is a Statutory Requirement

There will be a limited number of bodies to which the Authority is required to appoint but "statutory requirement" should be included as a criterion. Examples include the Police Authority and Fire Authority.

#### (b) Appointment Allows the Authority to Influence Policy at National or Regional Level

This will apply to those organisations which give the Authority a voice at national or regional level and enables it to influence high-level policy decisions. Examples will include the Local Government Association and the North-West Employers Organisation.

**(c) Appointment Assists the Authority to Deliver its Strategic Objectives and Priorities**

This is a key part of any appointment system, where it can be demonstrated that the appointment will make a direct or significant contribution to the Authority's strategic objectives, in particular the Corporate Plan.

**(d) Appointment is to an Organisation which Receives Major Funding from the Authority or Provides Key Public Services**

Representation will ensure that the organisation uses its funding properly and develops in a way which the Authority considers appropriate.

Those organisations which provide key public services, for example Housing Trusts, are often created by a local authority which reserves the right to place Members on the organisation's Board.

**(e) Where an approved organisation is ward-specific, the Member appointed should be an appropriate Ward Member.**

In Wards where there is more than one Member, it will be for those Ward Members themselves to agree on the nomination. In the event of no agreement being reached, the Constitution Committee will make the decision.

**ii. Criteria for declining to make Appointment**

In rare cases, it may not be appropriate to appoint to an outside organisation; for example, where there are significant cost or resource implications for the Authority when balanced against the benefits. These will be determined as and when the situation arises.

**iii. Issues for Consideration in Making Appointments**

In addition to adopting the approved criteria, the following should be taken into account -

○ **Political Proportionality**

When making appointments to outside organisations, there is no requirement to adopt the rules of proportionality, but there are some organisations where it is appropriate for the leading political group to take the places. These will, for the most part, be those organisations identified as Category 1.

Political proportionality is used as a starting point only by the Outside Organisations Sub-Committee to enable a fair distribution of places.

○ **Continuity/Members' Interests**

Continuity of representation can be important to outside organisations. Even where the organisation's constitution stipulates a term of office of 12 months only, the representative can build up expertise and

experience which can be a loss to that organisation if a new representative is appointed after expiry of the term of office. For this reason, where possible, and provided the representative is willing to continue to serve, consideration should be given to re-appointing the same Member, if appropriate. This could depend on, for example, where elections may change the political balance or it may be appropriate to provide opportunities for newly-elected councillors to serve on organisations which reflect their interests.

Note: Following the elections in May 2011, all appointments are for the life of the Council.

○ **Potential Conflict**

Members will need to consider, when being appointed, that in taking up a formal position within an incorporated body - as director or trustee – the Member will be under a legal duty to act in the best interests of that outside body, notwithstanding the fact that he/she is there as a representative of the Authority. That duty will override a Member's duties to the Authority or the Council-tax payers it serves. It is also worth noting that where a matter is raised by the outside organisation relating to its relationship with the Authority, it is likely to give rise to a conflict of interest for the Member representative who will usually be required to absent him/herself from the meeting during the discussion. A dual-mandated role may therefore be problematic and out-weigh any perceived benefits for either the organisation or the Authority. In these circumstances, the Member may take the view that he/she should not take up the appointment. As this would apply to any councillor appointed in these circumstances, a review of representation, for that particular organisation, would need to be undertaken.

## **11.0 Access to Information**

The background reports can be inspected by contacting the report Author:

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## Constitution & Rules

### Sandbach Traders and Retailers

#### 1. Name

The name of Sandbach traders and retailers shall be "STAR"

#### 2. Aims And Objectives

The aims and objects of STAR shall be:-

- (A) STAR exists to act on behalf of its members at a collective and individual level,
- (B) STAR will represent the business and commercial viewpoint to regulatory and statutory bodies,
- (C) To watch the proceedings of the local authorities in order that proper regard may be paid to the consequences of decisions that affects the tourist industry, retailers, catering, industry and professionals,
- (D) To endeavour to secure adequate representation on the governing bodies of the area,
- (E) To enter into friendly co-operation with other organisations whose objects are the advancement of the amenities of the area?
- (F) To discuss matters of mutual interest and to solidify such interest by united action where necessary.
- (G) To support training and development which will enhance the activities of the members businesses.
- (H) STAR will seek to develop the potential of Sandbach environmentally, socially and economically.
- (I) To encourage members to provide a high standard of service.
- (J) To achieve quick and effective communication between members.
  
- (K) To develop strategies and action plans to promote and market Sandbach Town as a shopping, visitor and tourist destination.
  
- (L) To develop and work with partnerships and other organisations to promote the aims/objectives of STAR
  
- (M) To be an active member of Sandbach Partnership.

#### 3. Territorial Area

The area covered by the STAR is that of the boundaries of the Sandbach Town Council.

#### 4. Membership

Full membership of STAR shall be open to all businesses (i.e. retailers, trade, professions, tourist outlets, caterers etc) whose income is derived from within the boundary.  
Membership shall be registered via a completed application form.

Other bodies shall also have one non-voting and non fee paying member.

An honorary president shall be elected.

#### 5. Membership Fees

The membership fee shall be fixed at the Annual General Meeting and will become due each year on the first of April, except for those new members who have joined within the preceding 12 months and who have paid their first year's membership fee. Members in arrears of ANY APPLICABLE subscriptions for six months will be deprived of membership.

#### 6. Officers

There shall be 4 officers of STAR which will be the Chairman, Vice Chairman, Secretary and



Treasurer .There shall be up to 12 committee members. Any additional members can be co-opted onto the committee.

The officers and members of the committee may offer themselves for re-election without further nomination provided written notice of such intention is notified to the secretary at least fourteen days prior to the Annual General Meeting with two signatures of paid up members.

#### **7. Annual General Meeting**

The Annual General Meeting of STAR shall be held not later than the 31st March each year.

General Meetings shall be held at least fourteen days prior to the AGM.

Twenty one days notice is to be given of the AGM.

Voting at all meetings shall be by members attending, and each establishment shall be entitled to one vote per subscription paid.

#### **8. Quorum**

A quorum shall be two officers and at least three members.

#### **9. Finances**

All subscriptions and other income shall be paid into the appointed Bank or Building Society Account. The reasonable expenses of the Chairman, Secretary and Treasurer incurred in carrying out their office shall be met from the funds. The parameters of such expenses shall be agreed in advance by the Committee

The financial year shall end on the 31st March each year.

Accounts shall be audited by an independent auditor chosen by the committee.

#### **10. Duties of Officers**

THE CHAIRMAN shall preside at all meetings of the Chamber and shall perform such duties as ordinarily pertain to the office. (The Chairman and chairman of sub committees where votes are tied will have the casting vote.)

THE SECRETARY shall keep all records of meetings; issue all notices in respect of meetings and shall perform such duties as usually pertain to office of secretary including keeping up to date membership records, if no membership secretary.

THE TREASURER shall have custody of all STAR funds and account for them to the officers and full members on request. The annual accounts shall be presented to members at the AGM and shall perform other duties as would normally pertain to the office of Treasurer.

THE VICE CHAIRMAN shall deputize for the Chairman at their request and support the Chairman in performing his duties.

Working groups can be set up to promote the organisation and events, working with partners from other sectors.

#### **11. Meetings**

Meetings are open to members. Guests may be invited by prior arrangement with the Chairman.

#### **12. Data Protection**

Member's details, in relation to the Application form are removed from our files no later than 12 months after expiry of membership.

#### **13. Alterations to the Rules**

These rules or any part of them may be revised, rescinded or changed at the AGM or at an Extraordinary General Meeting and approved by a two third majority of those present. Fourteen days notice must be given of any proposed changes.

#### **14. Disrepute**

Any officer or member who brings the organisation into disrepute will appear before a group of representatives from the committee who will have the power to recommend expulsion from the committee or such actions as deemed appropriate.



## **CHESHIRE EAST COUNCIL**

### **Constitution Committee**

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<b>Date of Meeting:</b>	26 <sup>th</sup> April 2013
<b>Report of:</b>	Head of Democratic Services and Governance
<b>Subject/Title:</b>	Accrual of Powers and Duties: Officer Delegation Scheme

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#### **1.0 Report Summary**

- 1.1 To propose that all existing officer delegations remain effective pending the completion of the senior management review.

#### **2.0 Recommendations**

That

- (1) in order to ensure that the Council's decision-making arrangements properly reflect the emerging officer structure under the management review, Council be recommended to approve that all existing delegations shall remain effective and shall accrue to the relevant post holders as appropriate; and
- (2) the Scheme of Delegation Member Working Group continue to review the Officer Delegation Scheme, having regard to the new management structure and the move to a commissioning Council.

#### **3.0 Reasons for Recommendation**

- 3.1 The Officer Delegation Scheme is contained within Part 3 of the Council's Constitution – Responsibility for Functions. The proposed accrual of delegations will ensure that officers act lawfully.

#### **4.0 Wards Affected**

- 4.1 Not applicable.

#### **5.0 Local Ward Members**

- 5.1 Not applicable.

#### **6.0 Policy Implications**

- 6.1 No direct policy implications are identified.

#### **7.0 Financial Implications**

- 7.1 None identified.

## **8.0 Legal Implications**

- 8.1 Any changes to the Constitution need to be agreed by the Council following a recommendation from the Constitution Committee. Such changes also need to comply with the relevant statutory requirements.

## **9.0 Risk Management**

- 9.1 The Council has robust systems of internal control to ensure that officers use their delegations in accordance with the requirements of the Constitution. The authority which is sought from Council, upon the recommendation of the Committee, will remove the risk of officers appointed to new posts inadvertently seeking to exercise authority which applied under the existing officer delegation scheme.

## **10.0 Background and Options**

- 10.1 As authorised by Council, a management review is now taking place, the first appointments under the review having already been made. The Council's Constitution, including the officer delegation scheme, currently reflects the pre-review officer structure. Therefore, authority is sought from Council, upon the recommendation of the Constitution Committee, which will ensure that any delegations exercised by officers appointed to new posts under the management review, are exercised with the full authority of Council.
- 10.2 This report therefore seeks authority for any officer, appointed to a new post under the emerging Council officer structure, to have the power to take action under the officer delegation scheme in accordance with the new job responsibilities which fall within their appointed role; such powers to be limited to those which applied under the pre-review officer delegation scheme.
- 10.3 A Scheme of Delegation Member Working Group has already been appointed to review and amend the existing officer scheme of delegation and to make appropriate recommendations to the Constitution Committee on the powers and responsibilities of officers. The Group has been meeting and is in the process of formulating a number of proposed changes to the officer delegation scheme.
- 10.3 It will be necessary for the Working Group to continue to review the Officer Delegation Scheme, in the light of the emerging Council structure before concluding its recommendations.
- 10.4 As appointments are made to the new structure it will be important to ensure that the officers have the appropriate powers and duties to fulfil their responsibilities. It is therefore proposed that pending the completion of the Management Review, all existing delegations shall remain effective and shall accrue to the relevant post holders as appropriate.

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer. There are no specific background documents.

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## CHESHIRE EAST COUNCIL

### Constitution Committee

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<b>Date of Meeting:</b>	26 <sup>th</sup> April 2013
<b>Report of:</b>	Democratic and Registration Services Manager
<b>Subject/Title:</b>	Macclesfield Local Service Delivery Committee – Terms of Reference

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#### **1.0 Report Summary**

- 1.1 This report responds to a request from Macclesfield local members for changes to be made to the terms of reference of the Macclesfield Local Service Delivery Committee.

#### **2.0 Recommendations**

- 2.1 That

- (1) the Committee consider the proposal put forward by the local Members and resolve to take no further action in respect of any proposed changes to the Macclesfield Local Service Delivery Committee terms of reference, pending the outcome of the planned Community Governance Review for Macclesfield, thereby leaving the existing terms of reference of the Committee unchanged; and
- (2) in the light of paragraph 9.9 of the report, the Macclesfield Local Members' Briefing meetings continue on a regular basis, for the interim period pending the outcome of the community governance review, covering all relevant areas on a briefing/consultation basis.

#### **3.0 Wards Affected**

- 3.1 Details of the affected wards are set out in the report to the Committee which met on 24<sup>th</sup> January, which is appended to this report as Appendix B.

#### **4.0 Local Ward Members**

- 4.1 Cllrs Andrew, Harewood, L Brown, Hardy, Jeuda, Druce, K Edwards, Jackson, Murphy, Roberts, Neilson.

#### **5.0 Policy Implications**

- 5.1 Any change to the terms of reference of the Macclesfield Local Service Delivery Committee would need to be agreed by Council and incorporated in the Constitution.

## **6.0 Financial Implications**

- 6.1 There are no direct financial implications.

## **7.0 Legal Implications**

- 7.1 The Local Service Delivery Committee for Macclesfield (as for Crewe) was set up in 2010 for the unparished part of Macclesfield as part of a wider decision to plan for the empowerment of local communities and with the possibility of a future Community Governance Review for Macclesfield in mind. Section 101 of the Local Government Act 1972 was relied upon as the power to establish the LSDC, as it allows a local authority to arrange for the discharge of any of its functions by a committee. The current terms of reference are contained in the appendix to this report.

- 7.2 The proposal put forward by local Members in Macclesfield is now to establish a “consultative body” with the terms of reference as outlined elsewhere in this report. The proposal is that the body would have the “status of a town or Parish Council” solely for the purposes of consultation on matters affecting the unparished area, and should be accorded the “discretionary rights and privileges” the Council gives to Town and Parish Councils within Cheshire East, in terms of expressing views formally on local matters to Cheshire East Council.

- 7.3 However, the Council has no legal power to recognise any body that lacks the legal status of a Town or Parish Council as possessing that status.

- 7.4 Furthermore, the Council has no legal power to recognise a body as a de facto Town/Parish Council, in advance of a statutory process, by Community Governance Review, to determine whether, and if so in what way, an actual Town /Parish Council ought to be established.

- 7.5 There are already measures in place for local people to be involved in planning decisions, so the current lack of a body with Town/Parish status as a designated consultee does not deprive the residents of Macclesfield of the opportunity to support/object to planning applications. It is the case also that the current LSDC meetings are public, so members of the public interested in its work can attend and speak at meetings. In addition they also have the right to consult their local Councillor if they consider that there is a matter within the LSDC’s terms of reference that has not been addressed, but ought to be raised and debated at a meeting.

## **8.0 Risk Management**

- 8.1 Members would need to consider whether, if the proposals put forward by the Macclesfield local members were agreed, this might create a precedent for other areas in the Borough, whose members may feel that they too should have the benefit of similar arrangements.

- 8.2 Other risks are also identified in the following paragraphs of this report.

## **9.0 Background and Options**

- 9.1 A report was made to the meeting of the Committee on 24<sup>th</sup> January 2013, in order for consideration to be given to an informal request from members representing the unparished area of Macclesfield, that a consultative body should be established to represent the views of the residents of the Town in respect of decisions which may be made by the Council and which would affect them.
- 9.2 In response to the request, the Committee resolved that it should receive a further report, reviewing the terms of reference of the Macclesfield Local Service Delivery Committee, following informal consultation with members of that Committee.
- 9.3 This report informs the Committee of the outcome of the consultation.
- 9.4 Following the meeting of the Committee, a number of local Macclesfield members agreed proposed terms of reference which they would like to see as a replacement for those which currently apply to the Local Service Delivery Committee. Their proposed terms of reference are appended to this report as Appendix A. The existing terms of reference are appended to the report as part of Appendix B.
- 9.5 It can be seen that the proposed terms of reference, if agreed, would significantly expand the role of the Local Service Delivery Committee, which was set up exclusively to review and make recommendations on delivery of services and transfer of assets in the unparished area in accordance with Council policy, and on any special expense levy.
- 9.6 The proposed terms of reference place heavy emphasis on the creation of a parish council which, of course, is just one of the options which might flow from the planned Community Governance Review process for Macclesfield. The question must, therefore, be asked as to what would happen to the Local Service Delivery Committee, with expanded terms of reference, if a parish council was not created. Would it be assumed that the Committee would continue to function on this basis for an indefinite period?
- 9.7 The proposed terms of reference would also appear to afford the Local Service Delivery Committee the status of parish council, giving the Committee the rights which a parish council would normally enjoy, for example, as consultee on planning applications. The Local Service Delivery Committee cannot have such status and, given the proposed “competencies” set out in paragraphs 4 and 5 of Appendix A, there could be significant risks in the Committee being regarded, to all intents and purposes, as an “interim Parish Council”, even though it cannot undertake such functions.
- 9.8 The proposed terms of reference go further, in seeking to give the Local Service Delivery Committee the right to involve itself in the preparations for devolution of services and transfer of assets in the event that the creation of a parish council is the outcome of the Community Governance Review. This

would appear to be the responsibility of the Community Governance Review Sub-Committee, which performed this function in connection with the creation of Crewe Parish Council.

- 9.9 The Committee should also be mindful of the existence of the Macclesfield Local Members' Briefing: an informal briefing mechanism for the Members of the unparished area of Macclesfield, and for those of the surrounding Borough Wards. This, whilst not being a formal consultative body, was (and could be) a voice for local Members during the period up to the conclusion of the Community Governance Review. However, the Briefing meeting always was an informal arrangement, which was established around three years ago, to deal with economic development and regeneration issues.

## **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 A

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**Following consultations with Macclesfield Members and in the light of the Committee previous discussion, Cllr Murphy has drafted the following text for the Committee's consideration.**

### **MACCLESFIELD LOCAL SERVICES COMMITTEE**

#### **FUNCTION & STATUS:**

The function of the committee is to provide an interactive communication channel between Cheshire East Council and the elected representatives of the unparished area of Macclesfield, pending the creation of a directly elected parish/town council or equivalent alternative.

Its status shall be that of Town or Parish Council for the purposes of consultation on matters affecting the unparished area and, when and where appropriate; it shall be the principal representative of the Council and shall be accorded the discretionary rights and privileges that the Council gives to Parish and Town Councils within Cheshire East.

#### **COMPETENCIES**

Its competencies are:

1. To monitor the delivery and effectiveness of services provided by the Council to the residents and other stakeholders in the unparished area of Macclesfield.
2. To advise and make recommendations to the Cabinet on issues and needs within the unparished area of Macclesfield.
3. To be the Council's principal consultee in matters and decisions relating exclusively to the unparished area of Macclesfield and this shall include the rights of a "statutory consultee" in relation to planning matters, the closure of facilities, and the terminations of services.
4. To liaise and cooperate with local organisations – voluntary, statutory or commercial – in pursuing the well being of the unparished area.
5. To nominate, from within its membership, representative(s) to serve on local bodies when invited to do so by local bodies.
6. In the event of a decision to establish a Town or Parish Council (or alternative equivalent) for the unparished area of Macclesfield, to advise and liaise with the Council on preparatory measures required for the devolution of service

provision and/or the transfer of assets in accordance with the Council's policy for local service delivery arrangements.

7. If and when appropriate, to consider and review the cost implications of both the delivery of services and the delivery of assets within the unparished area in accordance with the policy for Local service delivery arrangements, and to make recommendations to the Cabinet
8. To make recommendations to the Cabinet on the level of service of service provision
9. If and when appropriate, to consider and accordingly make recommendations to the Cabinet with regard to the necessity for and amount of any "special expense levy" being or likely to be imposed on the unparished area.

END

# **CHESHIRE EAST COUNCIL**

## **Constitution Committee**

**Date of Meeting:** 24<sup>th</sup> January 2013  
**Report of:** Interim Borough Solicitor  
**Subject/Title:** Macclesfield Members Forum and the Macclesfield Local Service Delivery Committee

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### **1.0 Report Summary**

- 1.1 The Committee is asked to give consideration to a request from the members representing the unparished area of Macclesfield to establish a Macclesfield Members Forum pending the outcome of the Community Governance Review for Macclesfield.

### **2.0 Recommendation**

- 2.1 In considering the request referred to in this report, the Committee takes a view on whether acceding to the request would set a difficult precedent for other areas of Cheshire East and whether it is appropriate to take action of this kind at this point considering that the Macclesfield Community Governance Review is about to start.

### **3.0 Wards Affected**

All Macclesfield Members.

The unparished areas of Macclesfield are:

Macclesfield West and Ivy  
Macclesfield Hurdsfield  
Broken Cross and Upton  
Macclesfield South  
Macclesfield Central  
Macclesfield Tytherington  
Macclesfield East

### **4.0 Local Ward Members**

Cllrs Andrew, Harewood, Boston, L Brown, Hardy, Jeuda, Druce, K Edwards, Jackson, Murphy, Roberts, Neilson.

## **5.0 Policy Implications**

5.1 Not applicable.

## **6.0 Financial Implications**

6.1 There are potential implications arising from the proposal in terms of officer support and operating costs associated with the establishment of any Forum, for which no provision exists.

## **7.0 Legal Implications**

7.1 Any arrangements for a Forum would need to be developed and included in the Constitution, which would need to be agreed by Council, following a recommendation of the Committee.

## **8.0 Management**

**Risk**

8.1 No risks would appear to arise from the proposals contained in this report.

## **9.0 Background and Options**

9.1 At the meeting of Cabinet on the 19 July 2010, Members approved an initial report entitled "Local Service Delivery (Town and Parish Councils)" which set out the Council's ambitions to transfer services and devolve functions to Town and Parish Councils, to allow them to be delivered at a local level. It was envisaged that this would have a number advantages, including enabling the new unitary Council to concentrate on its core business, to harmonise approaches from Legacy Councils, to resolve the issue of "double taxation, and to generate long term savings for the new Council. It was recognised that structures to support this transfer would need to be established, on an interim basis, in the unparished areas of Crewe and Macclesfield, where devolution to a local council was not possible. On the recommendation of the Constitution Committee, Local Service Delivery Committees were established for both areas by full Council for this sole purpose.

9.2 Given that the Council has now resolved that a Parish Council in Crewe will now be established the Crewe Local Service Delivery Committee has completed its work.

9.3 The Macclesfield Local Service Delivery Committee has held several meetings recently to consider the way forward pending the outcome of the Community Governance Review for Macclesfield.

9.4 At an informal briefing meeting of the Macclesfield Members on 17 December 2012 the Members agreed to make a request to the Constitution Committee that a consultative body, made up of the elected Borough Councillors from the unparished area of Macclesfield, be established immediately, to represent the views of residents of the town concerning any decisions being made by

Cheshire East Council that affect them, until the Community Governance Review for Macclesfield has been completed.

- 9.5 A timetable for Stage 1 of the Macclesfield CGR was approved by the Community Governance Review Sub-Committee at a meeting on 4 September 2012 (Appendix B). The full review process is expected to begin this month and will then take 12 months after which the chosen governance arrangements will be put in place. These governance arrangements would supersede any role the interim consultative body would have.
- 9.6 Macclesfield Members currently feel they do not have a collective voice to make representations to the Council concerning issues affecting Macclesfield residents or the public services provided to them. They believe that the current Local Service Delivery Committee (LSDC) Terms of Reference (Appendix A) preclude Members from discussing wider issues relating to Macclesfield.
- 9.7 However, as well as the Local Service Delivery Committee there are other bodies which cover the unparished area and include some Borough Councillors as members. The Macclesfield Local Area Partnership (LAP) is made up of several organisations including housing trusts, police and fire services, health and education representatives and other community groups. The Council is represented on the LAP Area Management Group by Councillor Lesley Smetham. The LAP Area includes the unparished area of Macclesfield as well as surrounding towns and parishes such as Bollington, Siddington and Gawsorth. Its role is to improve services, ensure people influence decision-making and to actively engage and empower communities. Appendix C shows the LAP's terms of reference.
- 9.8 "Make it Macclesfield" is a forum which operates in the Macclesfield area with the purpose of regenerating the economy of Macclesfield and making it a vibrant town. The Forum is a partnership/consortium of private sector individuals from various sectors of the local community with support from the Council and other organisations such as Cheshire Peaks and Plains Housing Trust.
- 9.9 The "Make It Macclesfield" Forum has developed various sub-groups that focus on a variety of key areas in regeneration. In each of these sub-groups and on the Forum there is Council Representation as follows:
- Make it Macclesfield Forum – Cllrs Janet Jackson, Damien Druce and David Neilson.
  - Communications and Visitor Economy – Cllrs Alift Harewood, Jamie Macrae, Lesley Smetham and David Neilson.
  - Finance and Funding – Cllrs Louise Brown and Martin Hardy.
  - Town Centre Regeneration – Cllrs Janet Jackson and Jamie Macrae.
  - Property Owners – Cllr Damien Druce.
  - Wider Economy & Inward Investment – Cllr Brendan Murphy.
  - Heritage & Culture – Cllrs Laura Jeuda and Carolyn Andrew.
  - Silk Qtr Development – Cllr Janet Jackson

- 9.10 All Macclesfield Members are democratically accountable to the residents of the town and were in agreement that they wanted a democratically accountable consultative body to represent Macclesfield residents regarding the work of the Council; until such a time as the Macclesfield Community Governance Review (CGR) has been completed and governance arrangements chosen by the electorate could be put in place.

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

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

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## **LOCAL SERVICE DELIVERY COMMITTEES**

The Council has appointed the following Committees for the unparished parts of Crewe and Macclesfield respectively:

### **Local Service Delivery Committee (Crewe)**

11 Members, comprising the local ward members for the unparished part of Crewe

### **Local Service Delivery Committee (Macclesfield)**

12 Members, comprising the local ward members for the unparished part of Macclesfield

The Committees' terms of reference are:

- To consider and review the delivery of services and the transfer of assets within the relevant unparished area in accordance with the Council's Policy for Local Service Delivery Arrangements, namely the transfer of assets and the devolution of local services to Town and Parish Councils within the Cheshire East area.
- To consider and review the cost implications of both the delivery of services and the transfer of assets within the relevant unparished area in accordance with the Council's Policy for Local Service Delivery arrangements.
- To make recommendations to Cabinet on the level of service provision for those services and/or assets being considered as part of the Local Service Delivery arrangements within the relevant unparished area.
- To consider and make recommendations to Cabinet on any necessity for, and the amount of, a special expense levy in the relevant unparished area to represent the cost of the Local Service Delivery arrangements and to ensure consistency with the arrangements in the Parished areas.





## Appendix B

### MACCLESFIELD COMMUNITY GOVERNANCE REVIEW - PROJECT PLAN

Task/activity		Decision-making process	Date
<b>Officer Project Team</b>	<b>Officer Responsible</b>	<b>Community Governance Review Sub Committee meetings</b>	w/c 7 January 2013
Guidance summary Project Plan  Map of Review Area  Electorate figures  Options appraisal (As per Crewe CGR)  Prepare consultation leaflet  Update Website  Electoral arrangements - initial views size/warding  Consultation – Full list of consultees and		Consider summary of CGR guidance  Approve Review Process / project plan Agree consultation methods  Agree list of consultees  Identify and evaluate options for the review Formulate Leaflet to consultees and electors  Agree arrangements for public meetings	

Task/activity		Decision-making process	Date
contact details			
2 x Public notices prepared for public meetings and for commencement of the Review			
Arrange public meetings			
Arrange printing for postal ballot			
		<b>Constitution Committee</b>	24 January 2013
Publish Public Notice giving details of public meetings			21/1/2013 – Media Release 28/1/2013 – Public Notice in press <i>(commencing 2 weeks before public meetings held)</i>
Public Meetings		Series of meetings held across Unparished Area	w/c 11 February 2013
Further public engagement / publicity co-ordinated with assistance from Communications Team and LSP Manager			February 2012

Task/activity		Decision-making process	Date
Publicity for 1 <sup>st</sup> stage consultation with stakeholders  Publish Notice			25/2/2013  <i>(Two weeks before consultation starts)</i>
Comments / submissions invited from interested parties on Options (4 week consultation period)		<b>Consultation Period (stage 1)</b>	11/3/2013 – 1/4/2013
All submissions / comments considered and evaluated.  Collate representations			Monday 1/4/2013
		<b>Community Governance Review Sub Committee meeting</b>  Consider outcomes from stage 1 consultation  Agree Stage 2 Consultation	w/c 15/4/2013

**Macclesfield Local Area Partnership****Macclesfield Area Management Group****Terms of Reference****Purpose:**

To focus collective effort on what really matters, delivering improved outcomes for local people and places. To improve local services, ensure people influence decision making and to actively engage and empower communities.

**Key Roles:**

- Develop and implement an Area Plan on guidance of the Area Assembly, which contributes to Ambition for All (Sustainable Community Strategy).
- Ensure actions meet the needs identified in the Area Plan and are evidence based and performance managed.
- Develop appropriate responses to local priorities identified by the Area Assembly and other community engagement mechanisms.
- Unblock situations and enable joint problem-solving which turbo-charges local solutions.
- Develop and deliver specific localised projects and initiatives, as identified by the Area Assembly, Area Management Group, PACE Executive.
- Commission projects or services to meet local priorities, through shared resources and budgets and/or external funding.
- Build partnerships and inter-agency working with local public, private, voluntary and community organisations.
- Influence the development and delivery of responsive local services, which are effective, efficient and provide value for money.
- Develop opportunities to improve local services through different ways of working.
- Respond to strategic policies or resource allocations which may impact on the area.
- Join up local activities and events.
- Develop structures and approaches that ensure meaningful engagement and empowerment of local people.
- Increase community ownership of issues and community led delivery in neighbourhoods.

**Accountable to:**

- i) Area Assembly for delivery of the Area Plan and responding to locally identified needs, issues and priorities.
- ii) Relevant commissioning body for specific projects and initiatives.
- iii) PACE Executive for the development of Area Action Plans which underpin Ambition for All".
- iv) Funding organisation for the effective allocation of financial resources devolved down to local level.