

Constitution Committee

Agenda

Date: Wednesday, 5th June, 2013
Time: 10.00 am
Venue: West Committee Room - Municipal Buildings, Earle Street,
Crewe, CW1 2BJ

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 - 6)

To approve the minutes of the meeting held on 26th April 2013.

Contact: Paul Mountford, Democratic Services Officer
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5. **Transparency** (Pages 7 - 10)

To consider a report updating the Committee on the work that is going on across the authority to encourage openness and transparency, and in particular in response to the Protection of Freedoms Act, which came into force in November 2012. The report also invites the Committee to give further consideration to a Notice of Motion on Confidentiality which it considered previously at its meeting on 26th November 2012.

6. **General Discussion on the Constitution**

The Chairman and Vice-Chairman have proposed that the Committee have a general discussion about the Constitution to suggest ways in which it could be improved. There is no report for this item.

THERE ARE NO PART 2 ITEMS

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Friday, 26th April, 2013 at West Committee Room - Municipal
Buildings, Earle Street, Crewe, CW1 2BJ

PRESENT

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

Councillors C Andrew, G Baxendale, P Groves, S Hogben, S Jones,
W Livesley, R Menlove, A Moran, B Murphy, D Newton and P Whiteley

In attendance

Councillors L Brown, K Edwards and A Harewood

Officers

Brian Reed, Head of Governance and Democratic Services
Julie Openshaw, Deputy Monitoring Officer
Paul Mountford, Democratic Services Officer

Apologies

Councillor G Wait

48 DECLARATIONS OF INTEREST

Councillor C Andrew declared a non-pecuniary interest as a member of
the Make it Macclesfield Forum.

49 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

50 MINUTES OF PREVIOUS MEETING**RESOLVED**

That the minutes of the meeting held on 24th January 2013 be approved as
a correct record.

**51 REQUEST FROM STYAL PARISH COUNCIL FOR CHANGE OF
BOROUGH WARD NAME**

The Council had received a request from Styal Parish Council dated 26th
February 2013, requesting that the Borough Ward name of Wilmslow
Lacey Green be amended to include Styal in the title.

A decision to change the ward name could set a precedent which would
make other requests received difficult to decline. This would require

additional workload and further use of Council Resources, given that Wilmslow Lacey Green was only one of fifty-two wards in Cheshire East. 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 was no budget, could be multiplied if other Parish Councils sought similar changes. There was no legal mechanism by which the Council's costs could be recovered from the parish council, or from others who might have similar requests.

RESOLVED

That the request from Styal Parish Council be noted but no further action be taken.

52 NEW OUTSIDE ORGANISATION - THE SANDBACH TRADERS AND RETAILERS ASSOCIATION AND VACANCY ON BOARD OF GOVERNORS FOR THE KING'S SCHOOL, MACCLESFIELD

The Committee considered a report concerning a new outside organisation, the Sandbach Traders and Retailers Association (STAR), which had asked to be added to the Council's list of approved outside organisations; the organisation had also asked the Council to appoint a representative to it. Councillor B Moran had been attending the organisation's meetings.

STAR had been set up to represent the business and commercial viewpoint to regulatory and statutory bodies, and to ensure that local authorities paid proper regard to the consequences of decisions that affected the tourist industry, retailers, catering, industry and professionals. A full copy of the Constitution and rules of STAR had been appended to the report..

The report also sought an appointment to the Board of Governors of the King's School, Macclesfield, to fill a vacancy arising following the recent resignation of Councillor David Neilson.

RESOLVED

That

- (1) 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) Councillor L Brown be appointed to the Board of Governors of the King's School, Macclesfield to fill the current vacancy.

Note: Councillor L Brown, who was present as a visiting Member, upon being nominated for appointment to the Board of Governors of the King's School, Macclesfield, declared a pecuniary interest in relation to the matter

and left the meeting whilst it was considered; Councillor Brown was invited to return to the meeting when the Committee had concluded its consideration of the matter.

Note: Councillor B Murphy arrived at the meeting following the conclusion of this item.

53 ACCRUAL OF POWERS AND DUTIES: OFFICER DELEGATION SCHEME

The Committee considered a proposal that all existing officer delegations remain effective pending the completion of the senior management review.

As authorised by Council, a management review was taking place, the first appointments under the review having already been made. The Council's Constitution, including the officer delegation scheme, currently reflected the pre-review officer structure. As appointments were made to the new structure it would be important to ensure that the officers had the appropriate powers and duties to fulfil their responsibilities. It was therefore proposed that pending the completion of the management review, all existing delegations should remain effective and should accrue to the relevant post holders under the new structure as appropriate.

A Scheme of Delegation Member Working Group had been appointed to review and amend the existing officer scheme of delegation and to make appropriate recommendations to the Constitution Committee. The Group was in the process of formulating a number of proposed changes to the scheme. It would be necessary for the Group to continue to review the scheme in the light of the emerging Council structure before concluding its recommendations.

Members made it clear that they expected the Working Group to conclude its review of the scheme of delegation within the next three months and to report back to the Committee with recommendations. On this basis, they were prepared to recommend that the proposed transitional arrangements be effective until 1st September.

RESOLVED

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 pending further review and shall accrue to the relevant post holders as appropriate, such arrangements to have effect until 1st September 2013; and
- (2) the Scheme of Delegation Member Working Group continue to review the officer scheme of delegation, having regard to the new

management structure and the move to a commissioning Council, and seek to conclude its review within the next three months.

54 MACCLESFIELD LOCAL SERVICE DELIVERY COMMITTEE - TERMS OF REFERENCE

The Committee considered a request that changes be made to the terms of reference of the Macclesfield Local Service Delivery Committee.

The Committee on 24th January 2013 had considered 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. 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.

A number of local Macclesfield members had since formulated proposed terms of reference which they would like to see as a replacement for those which currently applied to the Local Service Delivery Committee. The proposed terms of reference had been appended to the report.

The proposed terms of reference, if agreed, would significantly expand the role of the Local Service Delivery Committee, which had been set up by Council to review and make recommendations on the delivery of services and transfer of assets in the unparished area of Macclesfield in accordance with Council policy. They also appeared to afford the Local Service Delivery Committee the status of a parish council, although the Council had no legal powers to recognise a body that lacked the legal status of a parish council. The proposed terms of reference went further in seeking to give the Local Service Delivery Committee the right to involve itself in the preparations for the devolution of services and transfer of assets in the event that the creation of a parish council was the outcome of the Macclesfield community governance review. This was the responsibility of the Community Governance Review Sub-Committee.

The Committee was 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.

It was acknowledged that the Macclesfield Local Service Delivery Committee was not currently meeting on a regular basis or receiving the necessary officer support to enable it to carry out its responsibilities.

RESOLVED

That

- (1) no further action be taken in respect of the proposed changes to the Macclesfield Local Service Delivery Committee's 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) the officers take steps to ensure that the Macclesfield Local Service Delivery Committee receives the necessary officer support to enable it to meet regularly and carry out its responsibilities.

The meeting commenced at 10.00 am and concluded at 12.00 pm

Councillor A Martin (Chairman)

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CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 5th June 2013
Report of: Head of Commercial Strategy, Business Innovation and Performance
Subject/Title: Transparency

1.0 Report Summary

- 1.1 This report updates the Committee on the work that is going on across the authority to encourage openness and transparency, and in particular in response to the Protection of Freedoms Act, which came into force in November 2012.
- 1.2 The Act has amended the Freedom of Information Act 2000 to require public authorities to release datasets in a re-usable electronic format, in a way that allows businesses, non-profit organisations and others to re-use it for social and commercial purposes.
- 1.3 The report also invites the Committee to give further consideration to a Notice of Motion on Confidentiality which it considered previously at its meeting on 26th November 2012 as referred to later in this report.

2.0 Recommendations

- 2.1 That the Committee
 - (1) note the report and make any further response it considers appropriate; and
 - (2) consider a response to the motion referred to in paragraph 10.1 of the report.

3.0 Reasons for Recommendations

- 3.1 To enable the Committee to consider whether the authority is taking appropriate action to maximise transparency and openness.

4.0 Wards Affected

- 4.1 N/A

5.0 Local Ward Members

- 5.1 N/A

6.0 Policy Implications

6.1 None identified.

7.0 Financial Implications

7.1 None identified.

8.0 Legal Implications

8.1 None identified.

9.0 Risk Management

9.1 No issues identified

10.0 Background and Options

10.1 On 26th November 2012 the Committee considered a report by the Borough Solicitor responding to the following motion which had been moved by Councillor B Murphy and seconded by Councillor P Edwards at the Council meeting on 19th July 2012 and referred to the Committee for consideration:

“In the light of the ever-growing demand for public accountability in public services and the need to sustain public trust and confidence in democratic governance, this Council calls for a review of its policies and protocols in relation to confidentiality.”

Following further clarification by Councillor Murphy, the officers believe that the motion is aimed at maximising transparency and openness.

10.2 The Borough Solicitor’s report explained the role of the Council’s Compliance Team, which encourages the Council to make as much information as possible available to the general public while at the same time protecting the privacy and confidentiality of our citizens, abiding by the relevant legislation:

- The Freedom of Information Act 2000
- The Environmental Information Regulations 2004
- The Data Protection Act 1998
- The Re-use of Public Sector Information Regulations 2005

10.3 The report also described how the Council met the requirement to adopt and maintain a publication scheme through its website, and how the Council responded to the Code of Recommended Practice for local authorities on data transparency by also publishing details of:

- Payments over £500 made by the council
 - an organisational chart of the staff structure of the local authority
 - salaries for staff earning over £55,000 a year,
 - the powers and responsibilities of senior officers
 - Councillor allowances and expenses
 - the democratic running of the Council
- 10.4 The Committee resolved 'that the officers review the approach to confidentiality and the publication of information in this and other local authorities and consult all members of the Council and appropriate Council decision-making bodies before reporting back to the Committee'.
- 10.5 It was intended that this action be referred to the Data Transparency Working Group. Unfortunately, however, this group no longer exists. It was formed as a 'task and finish' group to consider and respond to the Government's consultation on the draft Code of Recommended Practice for local authorities on data transparency.
- 10.6 The Council's Compliance Unit continues to champion transparency and openness within the Council whilst also ensuring we are prepared for and abide with new legislation. The team actively encourages services to provide accurate and timely information in response to request and to allow customers to access as much information as possible without having to resort to freedom of information requests.
- 10.7 The Protection of Freedoms Act, which came into force in November 2012, has amended the Freedom of Information Act 2000 to require public authorities to release datasets in a re-usable electronic format, in a way that allows businesses, non-profit organisations and others to re-use it for social and commercial purposes.
- Public authorities are required when releasing datasets to adhere to any request to do so in electronic form which allows their re-use where reasonably practicable.
 - Any dataset containing copyright material (where the authority holds the copyright) must be made available for re-use under a specified licence.
 - Publication schemes must contain a requirement to publish datasets which have been requested, as well as any updated versions.
 - Such datasets will also have to be published in an electronic form capable of re use and any copyright material must be available for re use in accordance with the terms of a specified licence.
 - Public authorities will be able to charge a fee for allowing re use of any datasets containing copyright material.

10.8 Much of the detail about the requirements to publish datasets will be provided in a new Code of Practice, but this remains in draft form only at this stage.

10.9 The focus of activity within the Council at this stage is:

- Identify our key datasets
- Decide on the licence to be applied to these datasets if they are disclosed:
 - Open Government Licence (where we own the copyright)
 - Non-commercial licence (limiting re-use to non-commercial use)
 - Charged licence (allowing re-use in exchange for a fee)
- Initiate a proof of concept, using datasets held by Environmental Health, to understand the opportunities and risks from proactively publishing datasets
- Set up a section in the publication scheme for datasets which we choose to proactively disclose (in advance of any FOI request) and make available for re-use

10.10 This programme of work is being led by the Senior Information Risk Owner (SIRO), with overview by the Corporate Governance Group.

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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