

Constitution Committee

Agenda

Date:	Thursday, 18th February, 2016
Time:	2.00 pm
Venue:	Committee Suite 1, 2 & 3, Westfields, Middlewich Road, Sandbach CW11 1HZ

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 body in question. 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 26th November 2015.

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

5. **Code of Conduct for Employees** (Pages 5 - 20)

To approve minor amendments to the Code of Conduct for employees.

6. **Corporate Parenting Committee** (Pages 21 - 32)

To approve an amendment to the Constitution to include reference to the Corporate Parenting Committee.

7. **Parish Councils - Community Governance Reviews** (Pages 33 - 36)

To consider a report recommending that the Community Governance Review Sub-Committee be convened to undertake a review of governance arrangements in respect of certain parishes.

8. **Proposals to Further the Council's Efforts to be More Open** (Pages 37 - 50)

To consider the recommendations of the Constitution Member Working Group on a range of proposed measures to further the Council's efforts to be more open.

THERE ARE NO PART 2 ITEMS

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Thursday, 26th November, 2015 at Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

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

Councillors B Burkhill, S Edgar, S Gardner, S Hogben, D Mahon, N Mannion,
R Menlove, D Newton, S Pochin and G Wait

Officers

Brian Reed, Head of Governance and Democratic Services
Anita Bradley, Head of Legal Services and Monitoring Officer
Lindsey Parton, Registration Service and Business Manager
Paul Mountford, Democratic Services Officer

Apologies

Councillor M Beanland

21 DECLARATIONS OF INTEREST

There were no declarations of interest.

22 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public wishing to speak.

23 MINUTES OF PREVIOUS MEETING**RESOLVED**

That the minutes of the meeting held on 17th September 2015 be approved
as a correct record.

24 CALENDAR OF MEETINGS FOR 2016-17

The Committee considered the draft calendar of meetings for 2016-17.

A draft timetable of meetings was attached as Appendix 1 to the report.

It was suggested that for next year's calendar an exercise could be
undertaken, possibly involving a Member task and finish group, to see
what comparator and neighbouring authorities were doing, identify best
practice and assess the implications of holding some meetings in the

evening. The officers took note of the suggestion with a view to undertaking an exercise along the lines suggested.

It was also suggested that the Council meetings in the winter months should commence at 11.00 am and not 10.00 am to allow for winter travel conditions.

RESOLVED

That the draft Calendar of Public Meetings for Cheshire East Council 2016-2017 be recommended to Council for approval subject to the following amendment:

- The Council meetings to be held on 15th December 2016 and 23rd February 2017 commence at 11.00 am and not 10.00 am as indicated in the report.

25 RE-APPOINTMENT OF MEMBERS ALLOWANCES INDEPENDENT REMUNERATION PANEL

The Committee considered a report on appointments to the Cheshire East Council Members' Allowances Independent Remuneration Panel, and the appointment of the Panel Chairman.

Eight applications had been received in response to a press release seeking expressions of interest. Interviews were held on 9th and 15th October 2015.

The names of the preferred candidates were as follows:

Patrick Grange
Steve Leach
Mandy Ramsden
Eric Shaw

Background information on the individuals concerned relating to their suitability for appointment to the Panel had been circulated to Committee members.

Owing to the high calibre of applicants, it was suggested that a pool of four Members be created, from which the Chairman of the Panel would choose attendees for meetings, depending on the nature of the business to be considered.

RESOLVED

That

1. the following four individuals be appointed to a pool of Members to sit on the Cheshire East Council's Independent Remuneration Panel for a period of four years:

Patrick Grange
Steve Leach
Mandy Ramsden
Eric Shaw

2. Steve Leach be appointed as the Panel Chairman; and
3. the Chairman of the Panel be given authority to use his discretion to select members from the pool according to the nature of the work to be conducted by the Panel.

26 DISCUSSION ON THE ISSUE OF MEMBERS VISITING PLANNING MEETINGS

This item was withdrawn.

The meeting commenced at 2.00 pm and concluded at 3.08 pm

Councillor A Martin (Chairman)

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CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting:	18 th February 2016
Report:	Head of Strategic HR
Subject/Title:	Code of Conduct for Employees
Portfolio Holder:	Cllr Paul Findlow, Performance

1.0 Report Summary

- 1.1 Following a recent Internal Audit inspection, minor amendments are proposed to the Code of Conduct for employees to strengthen the requirement for employees to declare any interests. The Director of Legal Services and the Chief Operating Officer consider the change to be non-major and therefore a matter for decision by the Committee.

2.0 Recommendations

- 2.1 That Constitution Committee approve the following minor changes highlighted in yellow in Appendix 1 as recommended by Staffing Committee on 14th January 2016:

1. All employees are required to complete an annual declaration of interest return, even if this is to confirm that they have nothing to declare, and to then report issues as and when they occur.
2. In Adults' and Children's Social Care no gift should be accepted under any circumstances.

3.0 Reasons for Recommendations

- 3.1 In this era of greater public scrutiny and the need for transparency, implementing these changes will demonstrate the Council's commitment to upholding the values expressed in the Code of Conduct and its desire to ensure transparency.
- 3.3 Small insignificant gifts of a value of less than £5, such as pens, diaries, calendars, mouse-mats or mugs may be accepted. However, this is not the case for those working in Adults and Children's Social Care, where no gift, of however little the value, should be accepted under any circumstances. This is to reflect stricter guidelines introduced following the Care Act 2015.

4.0 Wards Affected

4.1 Not applicable

5.0 Local Ward Members

5.1 Not applicable.

6.0 Policy Implications

6.1 As stated.

7.0 Implications for Rural Communities

7.1 Not applicable

8.0 Financial Implications

8.1 Not applicable

9.0 Legal Implications

9.1 None

10.0 Risk Management

10.1 The changes will reduce organisational risk of an interest not being reported, a report of an interest not being duly authorised and recorded, and not being able to demonstrate corporate knowledge of employees' interests.

10.2 In addition the changes will increase employees' awareness of the rules on interests permitted and the need to report them, thereby reducing the incidence of non-reporting and remove the defence of ignorance of the need to report any interest

11.0 Background and Options

11.1 Currently, the Code of Conduct for Employees places the duty of reporting any of the 3 following interests on each individual employee:-

- Approval for outside employment (for those who are you are Grade 7 or above)
- An Interest or Connection
- An offer of Gifts or Hospitality

11.2 These declarations are currently authorised by the Head of Service and then held locally, so this information is maintained in discrete areas throughout the Council.

11.3 A report by Internal Audit recommended these 2 changes:-

1. That each employee should be asked to complete a Declaration of Interests each year
2. That the process of compiling and maintaining these annual returns should be centralised, so that a full picture of the interests of all employees is easily available to Council Members and Officers.

12.0 Access to Information

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

Name: Rosie Ottewill
Designation: Organisational Development Manager
Tel No: 01270 685883
Email: rosie.ottewill@cheshireeast.gov.uk

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Appendix 1

HUMAN RESOURCES POLICY

Title: Code of Conduct for Employees

SCOPE

This Code of Conduct applies to all employees of Cheshire East Borough Council except schools-based employees.

There are specific policies for schools employees which can be accessed via the Schools Intranet Site at the link below.

<http://centranet.ourcheshire.cccusers.com/SchoolsHR/Pages/default.aspx>

AIMS

The public is entitled to expect the highest standards of conduct from all employees who work in local government and the aim of this Code of Conduct is to give clear guidance to Cheshire East Council employees to ensure that they are fully aware of the standards of conduct and behaviour required of them both inside work and, where applicable, in their personal life.

Where employees are required to follow specific job related or professional standards within their job role, this Code of Conduct should be read in conjunction with those standards.

PRINCIPLES

The responsibility for complying with this code lies with employees, who are encouraged to seek advice if they are in any doubt about the interpretation or impact of any aspect of the code.

All employees have a responsibility to act and to take decisions based on public interest and should act with honesty, integrity, objectivity and impartiality at all times. They must always act in accordance with the trust that the public is entitled to place on them and be open about, and take accountability for, their actions and decisions.

Employees should always remember their responsibilities to the community that they serve and ensure courteous and efficient service delivery at all times. All members of the local community, customers and other employees have a right to be treated with fairness and equity and all employees must ensure that they always comply with the Council's policies, and the law, relating to equality and discrimination.

Council employees also need to take care that their behaviour outside the workplace does not conflict with their work responsibilities and will not bring the Council into disrepute

COMPLIANCE

It is vital that all Council employees are exemplary in their conduct at work and non-compliance with this code will be dealt with in accordance with the Council's Disciplinary Policy and Procedure.

Employees who believe that other employees may be breaching this Code of Conduct have a duty to report this, in confidence, to their line manager who will investigate the situation and, where necessary, take appropriate action. Employees who report a potential breach of the code, will not be penalised or discriminated against for having done so.

The principles of this Code of Conduct reflect the Cheshire East Council's values.

CONTENT

This Code of Conduct details the standards of conduct that the Council requires employees to follow in a range of areas and circumstances, as listed below:

- Gifts, Hospitality and Sponsorship
- External Activities or Employment
- Financial and Non Financial Interests
- Use of Financial Resources
- Use of Council Identity, Property and Facilities
- Appointments and Other Employment Matters
- Tendering and Contracts
- Private Use of Firms Dealing with the Council
- Politicityal Neutrality
- Working Relationships
- Personal Relationships
- Confidentiality/Disclosure of Information
- Intellectual Property

Where appropriate, this policy should be read in conjunction with other relevant Cheshire East Council policies and codes of practice e.g. The ICT Code of Practice and the Social Networking guidelines.

This policy is not intended to cover day to day work conduct, performance or attendance issues which are covered by the relevant employment policies. Details of these policies and their coverage can be found on the HR Intranet page.

GIFTS, HOSPITALITY AND SPONSORSHIP

Employees need to be aware that it is a serious criminal offence to corruptly receive any gift, hospitality, sponsorship or other reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made, it will be up to the employee to demonstrate that they have followed the Council's Code of Conduct and that any such rewards have not been corruptly obtained.

All employees are required to complete an annual declaration of interest return, even if this is to confirm that they have nothing to declare, and to then report issues as and when they occur.

Gifts

Employees should not accept significant personal gifts from people or organisations, e.g. contractors or suppliers, who are or may be dealing with the Council as to do so could render the Council and the employee open to criticism or, in serious cases, to criminal charges of corruption.

However, Small insignificant gifts of a value of less than £5, such as pens, diaries, calendars, mouse-mats or mugs may be accepted. However, this is not the case for those working in Social Care, where NO gift, of however little the value, should be accepted under any circumstances.

Where an employee is offered a personal gift that could be regarded as significant, they should politely decline the gift and report the circumstances to their Head of Service, who must keep a record of the event. The Declaration and Reporting Form can be accessed on the intranet.

It is acknowledged that there are specific occasions when staff may consider it appropriate to give a personal gift to a service user. This is only acceptable practice where the giving of the gift has been agreed with the senior manager, and the action is recorded.

Hospitality

Employees should think very carefully before accepting any offer of hospitality and must take the following points into account:

- i) whether the scale of the hospitality is appropriate to the circumstances. For example, the offer of light refreshments or a sandwich lunch at a meeting will generally be acceptable whilst an invitation to an expensive restaurant for a three course meal is unlikely to be acceptable.
- ii) whether the invitation is a corporate one or a personal one
- iii) if corporate, whether attendance at the meeting or event where the hospitality is offered genuinely falls within the employee's job role and has been agreed by their line manager
- iv) whether the timing of the offer of hospitality could be linked to any decisions that the Council may be taking in relation to the organisation which is offering the hospitality

- v) whether acceptance of the hospitality could result in suggestions of improper influence.

Where, having considered the above points, an employee is concerned about hospitality being offered to them, they should seek authorisation from their Head of Service, using the Declaration and Reporting Form, so that they can determine whether or not the employee can accept and to keep a record of the event.

Sponsorship

If an outside organisation wishes to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the rules detailed above about accepting gifts and hospitality will apply. However, particular care should be taken when dealing with contractors or potential contractors.

If the Council chooses to sponsor an event or service, no employee or anyone connected with them may benefit from the sponsorship. Similarly, if the Council wishes to give financial support in the Community any employee who is involved in this should ensure that any advice they give is impartial and that they do not have any conflict of interests. Where applicable the employee will be required to complete a Declaration and Reporting Form.

EXTERNAL ACTIVITIES OR EMPLOYMENT

It is recognised that employees may wish to undertake various activities outside work. However, employees should not take on any type of external private work or activity which conflicts with the Council's interests or which prevents them from doing their normal job properly or from fulfilling the terms of their contract of employment. They must also ensure that they understand and can comply with both Working Time and Health and Safety Regulations before undertaking external private work or activities.

All employees are required to complete an annual declaration of interest return, even if this is to confirm that they have nothing to declare, and to then report issues as and when they occur.

On this basis employees must not:

- i) Undertake private work or activities during their Council working hours
- ii) Use Council premises, property or facilities for private work or activities.
- iii) Undertake any private work which prevents them from carrying out the full range of their Council duties, including contractual overtime.
- iv) Undertake private work or activities for any person, firm or company if it will involve the Council.
- v) Undertake any private work or activities which could involve or bring about a conflict of interest with their normal job.
- vi) Undertake any private work or activities for any person, firm or company who have (or are likely to have) a contractual relationship with or who are commissioned by the Council for any type of work.

- vii) Undertake private work for another employee who is responsible for supervising them, or whom they supervise, or for an elected member of the Council.
- viii) Prepare on behalf of or assist another person, in a private capacity, with any applications to the Council, for example planning or building, if they normally deal with these as part of their job.
- ix) Access Council services, e.g. when making a personal planning application, without declaring that they are an employee of that Council. In these circumstances, a covering letter should be attached to the application which should be submitted via the line-manager.

Where an employee is unsure in any way about private work or activities that they are considering, they should seek advice from their line manager or Human Resources Advisor before undertaking those activities.

Employees who are above NJC Grade 7 or equivalent are required to obtain the consent of their Head of Service, using the Declaration and Reporting Form before undertaking external private work or activities.

FINANCIAL AND NON FINANCIAL INTERESTS

Financial

All employees are required to disclose and declare any direct or indirect financial interest in a contract involving the council or which could bring about a conflict with the Council's interests. They should notify this to their Head of Service using the Declaration and Reporting Form. Failure to disclose or declare such an interest could be a disciplinary or criminal offence.

All employees are required to complete an annual declaration of interest return, even if this is to confirm that they have nothing to declare, and to then report issues as and when they occur.

Non- Financial

Employees should also inform their Head of Service (as above) of the following circumstances, if they believe there could be a conflict of interest:

- i) If they have any direct or indirect interest in any organisation, company, or other body that is doing business with, or has dealings with, the Council, where this may conflict with the employee's job role.
- ii) If they have relationships or roles outside work which might be seen to influence judgements or give the impression of a personal motive.

If prior to or during the course of attending a meeting an employee believes that an item on the agenda may cause them a conflict of interest, they should advise the chair of the meeting and leave the meeting for part or all of the meeting, as appropriate.

Employees also need to be aware that membership of organisations with secrecy about rules, membership and conduct may be incompatible with their work. If, in connection with their employment with the Council, an employee uses such membership for their own or someone else's personal or financial gain, they will be regarded as being in breach of this Code of Conduct.

USE OF FINANCIAL RESOURCES

All employees must ensure that they use any Council or other public funds entrusted to them through their job role in a responsible and lawful manner. The Council's Standing Orders, Financial Regulations and Operating Procedures should be followed at all times.

Employees must also try to ensure value for money and take care to avoid the risk of legal challenge to the Council in relation to the use of its Financial Resources.

USE OF COUNCIL IDENTITY, PROPERTY AND FACILITIES

Use of Council Identity

Employees indicating their affiliation to the Council e.g. via an e-mail address or any other identifier, in personal communications with others external to the Council must clearly indicate that the opinions expressed are their own and not necessarily those of the Council.

Where employees are using social networking sites in their personal life, they must ensure that they comply with the Council's Social Networking Policies, taking care to maintain the reputation and confidentiality of the Council at all times.

Cheshire East Council letter-headed paper must only be used for official correspondence and employees must never use this type of paper for personal correspondence.

Employees who are asked to give a personal reference for a work colleague, must make it clear that the reference is being given on a personal basis and that the opinions expressed are not necessarily those of the Council. As above, letter-headed paper must not be used in these circumstances.

Use of Council Property and Facilities

All employees are responsible for the safe keeping and proper care of any Council property or equipment that they use in the course of their work. Any deliberate or negligent failure to take proper care will be viewed as misconduct and will lead to disciplinary action.

At work employees will have access to a range of Council property and facilities including office equipment, computers, stores, transport and other machinery. These are provided to support employees in carrying out their work and should not generally be used for personal purposes.

However, some light personal use is permitted by the Council in the following circumstances:

Telephones and Mobile Phones/Blackberrys - ideally private telephone calls should not be made or received through the Council's telephone systems or through Council owned Mobile Phones or Blackberrys. However, in practice, employees may need to make or receive urgent or essential calls but these should be kept to a minimum and any costs incurred should be reimbursed to the Council.

Fax machines and photocopiers – if necessary, personal fax messages may be dispatched to locations within United Kingdom. Photocopies of personal documents (up to a maximum of 10 copies at one time) may be taken, with costs being reimbursed to the Council.

Computer Internet access and e-mails - employees are expected to adhere to the guidance given in the Council's ICT Code of Practice which allows some light personal use of internet and e-mail facilities, subject to certain conditions.

All employees need to be aware that it is against Council policy to forward or respond to chain e-mails.

Lease Cars

Employees who have a Council Lease Car must ensure that they comply at all times with the terms of their Lease Car Agreement with the Council and must not allow anyone who is not qualified to drive, or who is not covered by the terms of the agreement, to drive the car. Leased vehicles must be carefully maintained and regularly serviced and, at the end of the lease period, returned in good order, repair and condition, taking account of normal wear and tear.

APPOINTMENTS AND OTHER EMPLOYMENT MATTERS

All employees who are involved in the recruitment and selection of Council employees should follow the Council's policies on recruitment and selection (link) and should ensure that all appointments are made on the basis of merit. No employee should make an appointment which is based on anything other than the ability of the candidate to undertake the duties of the post.

To avoid any possible accusations of bias, employees should not be involved in any appointment where they are related to, or have a close personal relationship with, one of the applicants. This includes the providing of a reference for that person.

Similarly no employee should be involved in procedures or decisions about disciplinary action, pay or promotion relating to another employee who is a relative, partner or close friend.

TENDERING AND CONTRACTING

All employees who are involved in tendering or contracting processes as part of their job role must follow the Council's rules and guidance on Procurement at all times. They should always act with fairness, openness and impartiality when dealing with contractors, suppliers and other customers during these processes.

All orders and contracts must be awarded on merit, by fair competition between tenders. No special favours should be shown to current or former employees or to relatives, associates or friends, when contracts are being awarded. Where an employee feels that there may a conflict of interest in the work they are doing because of some link or relationship with potential or actual tenderers, they should declare this on the Declaration and Reporting Form.

Employees should also clear on the importance of 'separation' of duties and responsibilities within the Procurement process, for example:

- a) where an employee is involved in an 'in-house' bid for a particular service, they should not also be involved in client tasks, such as selecting tenders.
- b) where an employee is responsible for selecting contractors to tender or supply quotations, they should not also be involved in the receipt or opening of tenders or quotations.
- c) where exceptionally a senior manager has both a client and contractor responsibility, they must at all times be aware of the need for accountability and openness in all actions that they take.

All information that an employee has access to as part of a tendering and contracting process, should be regarded as confidential and must not be disclosed to any unauthorised party or organisation.

PRIVATE USE OF FIRMS DEALING WITH THE COUNCIL

No employee should use their position/employment with the Council to seek to obtain a discount or preferential terms when purchasing goods from, or using the services of, firms that they know to have dealings with the Council. Any offer of discounted or preferential terms should be politely refused and employees should cease to deal with the firm if they feel that the offer of preferential terms is designed to promote the firm's interests with the Council.

Goods and services may be purchased from firms who have dealings with the Council, provided the price offered is readily available to the general public.

Employees may take advantage of discounts where these are offered as a result of Trade Union membership.

POLITICAL NEUTRALITY

All employees are expected to follow every lawful policy of the Council and must not allow their own personal or political opinions to interfere with their work.

Employees work for the Council as a whole and must, therefore, work with and for all councillors, not just those of any controlling group or particular political party.

Those employees who may be required to give advice to political groups in the course of their work should do so in a way which does not compromise their political neutrality and should follow the appropriate Council conventions in this regard.

Certain employees hold politically restricted posts (PoRPs) and will be notified of this. (A register of PoRPs is maintained by Human Resources). These employees must observe the restrictions imposed and are disqualified from membership of any local authority, other than a Parish or Community Council, or from being an MP or MEP.

WORKING RELATIONSHIPS

All Council employees are expected to maintain professional working relationships with all individuals and groups of individuals that they have dealings with in the course of their work. They should always dress in a manner that reflects their job role and working environment and behave in a professional manner at all times and should not allow work and personal interests to conflict.

Where an employee works regularly with a Councillor or Councillors, mutual respect is essential and care should be taken to ensure they behave professionally at all times and that close familiarity does not develop which might damage the working relationship.

Where an employee works with members of the local Community or Service Users, they are expected to give efficient and impartial service to all groups

and individuals within that community, following the relevant policies of the Council at all times.

Where an employee finds themselves in a situation where their job with the Council brings them into contact with someone with whom they have, or have had, a private business or personal relationship, they should declare this to their line manager using the Declaration and Reporting Form.

PERSONAL RELATIONSHIPS

It is acknowledged that employees who work together may form close personal friendships and, in some cases, romantic relationships. Whilst the Council would not generally wish to interfere with such friendships and relationships, there would be cause for concern, and/or action to be taken, if potential or actual difficulties and problems at work were to arise from such relationships. Similar concerns could also arise where family members work closely together.

All employees have an obligation to the Council not to compromise standards of behaviour, conduct or performance through personal or family relationships. They are expected to act responsibly and to ensure that such relationships do not influence or prejudice the proper conduct of Council business, bring the Council into disrepute, or cause offence and embarrassment to other colleagues. Additionally, employees must never be involved in recruitment, disciplinary action or other employment matters relating to someone with whom they have a personal or family relationship.

Where employees feel that a personal or family relationship at work may lead to problems or conflict they should discuss this with their manager so that any potential difficulties can be resolved. Similarly where a manager has cause for concern about relationships within their team, they should discuss this with the employees concerned to seek to resolve any issues that might occur. Where it is felt that a relationship at work is causing, or is likely to cause, real difficulties, it may be necessary to move one or both of the employees involved to a different team or work location. Advice should be sought from HR if necessary.

Applicants for posts within the Council are asked to disclose any personal or family relationships with existing Council employees or elected members so that recruiting managers can discuss this with them during the selection process. Failure to do so could disqualify the applicant. Unless, there are exceptional circumstances, such relationships should not generally affect the decision to appoint or not appoint the applicant but will allow for appropriate arrangements to be made, where necessary, to reduce the possibility of problems arising from the relationship.

CONFIDENTIALITY/DISCLOSURE OF INFORMATION

Data Protection

Employees must follow the Council's Policies on Confidentiality at all times and should be fully aware of the provisions of the Data Protection Act in relation to any information that they receive, hold, or use whether manually or electronically.

In addition, employees must not:

- i) Disclose or use confidential work related information for personal gain or benefit or pass it on to others who do not have clearance to receive the information or who might use it in an inappropriate way.
- ii) Give information to the media, or other third party, unless authorised to do so.
- iii) Prevent another person from gaining access to information that they are lawfully entitled to.
- iv) Disclose confidential or personal information about someone else, unless the request is from an approved source such as HMRC or the Department of Social Security or, where the subject has authorised it, from a bank or building society.
- v) Disclose sensitive personal information about an employee when providing a reference for that person, unless they have given their agreement.
- vi) Make any public comment, when acting in a private or unofficial capacity, on Council Policy or any specific matter relating to the Council.

Where an employee is in any doubt, they should always seek guidance from their line manager or, if appropriate, from the Council's Data Protection Officer or Communications Team.

Media Relations

All employees should familiarise themselves with the Council's Media Relations Protocol which states clearly that employees should not communicate externally or disclose any information to the press or other media about the Council, which is not already in the public domain.

If an employee receives an enquiry from the media they should not make any initial comment or response and must immediately direct the enquiry to the Communications team, who will either respond to the enquiry or work with the employee to ensure that the information given out is accurate and timely.

Any unauthorised comment made to the media on behalf of the Council that is potentially harmful to its reputation may result in disciplinary action.

INTELLECTUAL PROPERTY

The term Intellectual Property refers to products of the mind, such as inventions, designs, trade marks, creative writings, programs or drawings. It will normally be the case that ownership of all such products and the copyright of all written material created by an employee in the course of their work for the Council will belong to the Council.

This generally means that the employee who has created the product has no rights to use or sell the product to others outside the Council. However, this is a complex area and further guidance can be sought from the Council's Legal Services Department.

EQUALITY

Cheshire East Council will ensure that, when implementing this Code of Conduct ~~that~~ no employee will be disadvantaged on the basis of their gender or transgender, marital status or civil partnership, racial group, religion or belief, sexual orientation, age, disability, pregnancy or maternity. This means that the Code may need to be adjusted to cater for the specific needs of an individual including the provision of information in alternative formats where necessary.

MONITORING

Data relating to this Code of Conduct will be collated and monitored regularly ~~regularly~~ annually to ensure that the Policy is operating fairly, consistently and effectively. Issues that are identified from the data will be dealt with appropriately.

REVIEW

The code will be reviewed in the light of operating experience and/or changes in legislation.

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 18th February 2016
Report of: Head of Governance and Democratic Services
Subject/Title: Corporate Parenting Committee

1.0 Report Summary

- 1.1 This report seeks the Committee's approval to amend the Constitution to include reference to the Corporate Parenting Committee.

2.0 Recommendation

- 2.1 That in accordance with the powers delegated to the Committee by Council:
1. the arrangements approved by Cabinet for the establishment of a Corporate Parenting Committee be incorporated into the Constitution; and
 2. Council be informed of the change to the Constitution.

3.0 Reasons for Recommendations

- 3.1 To include the Corporate Parenting Committee in the Constitution.

4.0 Background and Options

- 4.1 The establishment of a Corporate Parenting Committee was considered by the Cabinet at its meeting on 19th January 2016. The report considered by Cabinet is attached. Cabinet resolved as follows:

"That

- 1. a Corporate Parenting Committee be appointed with cross party membership of 12 Elected Members and the terms of reference at Appendix 1 to the report;*
- 2. the Committee shall have the status of an advisory committee and include representative young people from the Children in Care Council to perform an advisory role to the Committee;*
- 3. the Committee shall, once its membership has been agreed, formally commence its role;*
- 4. the existence of the Committee be noted in the Council's constitution;*
and

5. all Members of the Council receive a progress report on a quarterly basis.”

- 4.2 Resolution (4) requires that the existence of the Corporate Parenting Committee be noted in the Constitution. In the past, this would involve a report to the Constitution Committee with recommendations to Council in order to obtain the necessary authority to amend the Constitution. However, at the Council meeting on 22nd October the following powers were delegated to the Constitution Committee. They relate to changes which are ‘not major’.

“The Constitution Committee be given the delegated authority to make all changes to the Council’s Constitution which are not major, subject to the Head of Legal Services and Monitoring Officer and Chief Operating Officer (s151 Officer) agreeing that the proposed changes are not major and to Council subsequently being informed of such changes, provided that such changes as are considered by the Committee and agreed by the Head of Legal Services and Monitoring Officer and Chief Operating Officer (s151 Officer) to be major shall be referred to Council for approval;”

The Head of Legal Services and Monitoring Officer and the Chief Operating Officer both agree that the proposal to incorporate the Corporate Parenting Committee into the Constitution is not a major change and can therefore be approved by the Committee.

5.0 Wards Affected

- 5.1 Nil

6.0 Local Ward Members

- 6.1 Nil

7.0 Policy Implications

- 7.1 Nil

8.0 Financial Implications

- 8.1 Nil

9.0 Legal Implications

- 9.1 The legal implications relating to corporate parenting committees are set out in the attached Cabinet report. This report merely seeks approval to incorporate the arrangements approved by Cabinet into the Constitution in accordance with the new powers delegated to the Committee by Council.

10.0 Risk Management

10.1 Nil

11.0 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

Cabinet

Date of Meeting: 19 January 2016

Report of: Kath O'Dwyer
Deputy Chief Executive/Director of Children's Services

Subject/Title: Corporate Parenting Committee

Portfolio Holder: Cllr Rachel Bailey, Children and Families

1. Report Summary

- 1.1. This report proposes the establishment of a new Corporate Parenting Committee to ensure that the Council, with its partners, effectively discharges its role as Corporate Parents for all their children in care.

2. Recommendation

2.1 It is recommended that:

- a) Cabinet appoints a Corporate Parenting Committee, with cross party membership of 12 Elected Members and the terms of reference at Appendix 1;
- b) The Committee shall have the status of an advisory committee and include representative young people from the Children in Care Council to perform an advisory role to the Committee;
- c) The Committee shall, once its membership has been agreed, formally commence its role; and
- d) The existence of the Committee be noted in the Council's constitution.

3. Other Options Considered

- 3.1. There are a number of different models for a Corporate Parenting Board or Committee. One option is to operate the Corporate Parenting Board as an officer group, with member involvement. This has been the model to date. However, this group has not provided a strategic level of accountability around services for cared for children and does not have the influence to make some of the changes needed to other services within the Council.
- 3.2. Another option would be for the Children and Families Overview and Scrutiny Committee to take up this role. Whilst part of the function of Scrutiny Committee is to monitor the effectiveness of services for cared for children, this is not the same as leadership, and is unlikely to result in an effective strategy for corporate parenting.

- 3.3. Thirdly, an option would be to assign the role to another partnership, such as the Children and Young People's Trust or Local Safeguarding Children Board. Whilst these boards need to monitor and challenge outcomes for cared for children, their remit is much wider and they would be unlikely to give the needs of cared for children the necessary focus. The advantage of establishing a Corporate Parenting Committee is that it gives it the importance, status and influence of a formal council committee. The leadership and commitment of Elected Members in their role as corporate parents is of critical importance in achieving good outcomes for children and young people in care.

4. Reasons for Recommendation

- 4.1. Corporate parenting is a statutory function of the Council. The Corporate Parenting Committee will act in an advisory role to Cabinet, which will assist the Council in continuing to fulfil its legal obligations and responsibilities towards cared for children and care leavers and provide the strategic direction to ensure that they are effectively supported to reach their potential through the provision of excellent parenting, high quality education, opportunities to develop their talents and skills, and effective support for their transition to adulthood.

5. Background

- 5.1. As at the end of November 2015, there were 395 children and young people in the care of Cheshire East Council and 221 care leavers. A child or young person is 'looked after' if they are subject to a Care Order or are being looked after under a voluntary agreement, subject to the Children Act 1989. The local authority has a statutory duty to those aged 0- 18 years and up to 21 years as care leavers or 24 years if they are in full time education. In Cheshire East, these young people decided that they wanted to be called 'cared for', so this is the term generally used in Cheshire East.
- 5.2. When these children and young people come into care, the Council takes on a role described as 'Corporate Parent'. The term 'Corporate Parent' means the collective responsibility of the council, elected members, employees, and partner agencies, for providing the best possible care and safeguarding for the children who are looked after by the Council to provide a standard of care that would be good enough for their own children.
- 5.3. The current iteration of the legal corporate parent responsibility comes from section 22 of the Children Act 1989, which imposes a duty on local authorities to safeguard and promote the welfare of each child they look after. Several pieces of more recent legislation have built on this including extending this to cover care leavers, requiring other local agencies to cooperate with the local authority and various duties in planning and reviewing care for individuals and as a locality. These are supported by a suite of statutory guidance, which helps explain what these duties mean in practice, and to which local authorities must have regard.

- 5.4. The corporate parenting responsibility rests with all councillors and council officers and extends into district councils, where they exist, and other local agencies. How involved individuals may be will depend on their role, with Directors of Children's Services and Lead Members having this responsibility as a core focus. Many decisions and functions, however, as diverse as leisure, health, planning and school governance, can have an impact on the wellbeing of looked after children.
- 5.5. Children and young people who are looked after by the local authority rather than their parents are amongst the most vulnerable groups in our community. Outcomes for this group are generally poor and, as corporate parents, the Council has the responsibility to keep them safe, make sure their experiences in care are positive and improve their on-going life chances.
- 5.6. The existing Corporate Parenting Board is made up of officers from within the Council, jointly chaired by the Portfolio Holder for Children and Families and young people representatives from the Children in Care Council. Whilst this group has been effective in developing and monitoring a strategy for cared for children and care leavers, it does not have influence at a policy level. Under the proposed governance arrangements, this group would continue to meet to deliver the strategy and provide information and advice to the Corporate Parenting Committee.
- 5.7. A recent Ofsted inspection has identified a number of areas for improvement in relation to cared for children and care leavers. A new Children's Improvement Plan will set out how these areas for improvement will be addressed. The proposed governance arrangements puts individual boards responsible for delivering, monitoring and challenging progress against the improvement plan. The Health and Wellbeing Board will be the accountable body for overseeing the 'sign off' of action plans.
- 5.8. As part of the governance arrangements for the improvement plan, it is proposed to establish a new Corporate Parenting Committee which would be an advisory committee of Cabinet, given that as a matter of law the Committee will be. The proposed terms of reference for this group are attached at Appendix 1. The current Board is co-chaired with young people and it is proposed that representatives from the Children in Care Council would perform an advisory role in respect of the Committee.
- 5.9. Nevertheless, Cabinet may choose to appoint the Committee on a cross-party basis which, in line with current political proportionality, would have a membership of 8:2:2 (Conservative, Labour, and Independent).

6. Wards Affected and Local Ward Members

- 6.1. The recommendations will affect a small percentage of children and young people across all areas of Cheshire East. Our cared for children live across Cheshire East and some are placed outside of the borough.

7. Implications of Recommendation

7.1. Policy Implications

- 7.1.1. The proposal is expected to put cared for children, young people and care leavers at the centre of Council policy and decision making.

7.2. Legal Implications

- 7.2.1. There are a number of pieces of legislation and statutory guidance that set out the role of the local authority in respect of cared for children and care leavers. There are statutory obligations and guidance for the role of the Local Authority as the Corporate Parent in the Children's Act 1989 and 2004, and the Children and Young People Act 2008.
- 7.2.2. *The Children Act 1989* is the primary legislation setting out the local authority's responsibility to children 'in need', including cared for children. Section 22 imposes a duty on local authorities to safeguard and promote the welfare of each child they look after. *Section 27 of the Children's Act 1989* (amended 2006) places a duty on Housing, Education and Health Authorities to assist with Corporate Parenting.
- 7.2.3. *The Children (Leaving Care) Act 2000* extended the responsibility of the local authority to young people leaving care, requiring them to plan the young person's transition to adulthood and provide ongoing advice and assistance until at least the age of 21.
- 7.2.4. *The Children Act 1989 Guidance and Regulations Volume 2: Care Planning, Placement and Case Review Regulations 2010 and Statutory Guidance* clarify the expectations of care planning and review for cared for children and strengthen the role of the Independent Reviewing Officer (IRO) to challenge when identified needs are not being met. The manager of the service is required to prepare an annual report that should be made available to corporate parents.
- 7.2.5. *The Children Act 1989 Guidance and Regulations Volume3: Planning Transitions to Adulthood for Care Leavers* gives details of how care-leavers should be provided with comprehensive personal support so that they achieve their potential as they make their transition to adulthood. It includes the need for care-leavers to be living in suitable accommodation and receiving support to continue in education or training and to find employment
- 7.2.6. *The Adoption and Children Act 2002* required all local authorities to appoint Independent Reviewing Officers (IROs) to review the care plans of looked after children, and the Act introduced Special Guardianship orders that provide permanence for children but are alternatives to adoption.
- 7.2.7. *The Children and Young Persons Act 2008* requires local authorities to take steps to secure sufficient suitable accommodation for looked after

children within their area that meets their needs. It also strengthens the care planning process and the role of the Independent Reviewing Officer in monitoring the plan, and children's health and education plans are essential components of this.

7.2.8. *Statutory Guidance on Promoting the Health and Well-being of Looked After Children, 2002*, placed the contribution of NHS agencies towards meeting the needs of looked after children on a statutory footing.

7.2.9. *Promoting the Education of Looked After Children: Statutory Guidance for Local Authorities, 2014*, updates the 2010 statutory guidance clarifying the duty to actively support cared for children's education. The guidance details the duty local authorities and Virtual School Heads have to promote the educational achievement of the children they look after, including those placed out-of-authority.

7.2.10. The Children Act 2004, s52 inserted paragraph 3A to s22 of the Children Act 1989 being:-

22 (3A)The duty of a local authority under subsection (3)(a) to safeguard and promote the welfare of a child looked after by them includes in particular a duty to promote the child's educational achievement.

7.2.11. The Children & Families Act 2014 s99 inserted paragraph 3B and 3C to the Children Act 1989 being:-

In the Children Act 1989, in section 22 after subsection (3A) (duty of local authorities to promote the educational achievement of looked after children) insert:-

22 (3B)A local authority in England must appoint at least one person for the purpose of discharging the duty imposed by virtue of subsection (3A).

22 (3C)A person appointed by a local authority under subsection (3B) must be an officer employed by that authority or another local authority in England."

7.2.12. *Statutory Guidance: Securing Sufficient Accommodation for Looked After Children, 2010*, requires local authorities to develop a plan to secure sufficient accommodation for cared for after children within their local authority area and which meets their needs. They can only do this if they work in partnership with other agencies as the requirement is not just about accommodation and placements but also securing a 'diverse range of universal, targeted and specialist services working together to meet children's needs' and applies not only to cared for children, but also those on the edge of care and at risk of custody.

7.3. Financial Implications

7.3.1. Bringing children into the care of the local authority represents a significant cost for the Council. The Corporate Parenting Committee would be better able to monitor these costs and the implications of keeping

children and young people in care. There will be some costs to the Council in establishing a Committee in terms of administration and Elected Member time.

7.4. Equality Implications

7.4.1. None at this stage.

7.5. Rural Community Implications

7.5.1. None identified at this stage.

7.6. Human Resources Implications

7.6.1. There are no human resource implications.

7.7. Public Health Implications

7.7.1. Cared for children are more at risk of health inequalities than their peers. The proposals are expected to improve the awareness and response in respect of these health needs.

7.8. Other Implications

7.8.1. None.

8. Risk Management

8.1. Cared for children are a vulnerable group that are risk of a number of factors – poor education and training, health, safeguarding and transition into adulthood. The creation of a Corporate Parenting Committee would enable these risks to be properly monitored and evaluated.

9. Access to Information/Bibliography

9.1. The legislation and key statutory documents in relation to cared for children and young people and cared leavers are set in this paper.

10. Contact Information

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CORPORATE PARENTING COMMITTEE

Purpose

The purpose of the Corporate Parenting Committee in its role as an advisory committee to the Cabinet is to ensure that the Council effectively discharges its role as Corporate Parent for all children and young people in care and care leavers from 0- 25 years of age and holds partners to account for the discharge of their responsibilities.

Terms of Reference

1. Act as advocates for cared for children and care leavers, ensuring that their needs are addressed through key plans, policies and strategies throughout the Council and its commissioned services.
2. Ensure key strategic plans and reports relating to children in care and care leavers including the Children's Improvement Plan, Corporate Parenting Strategy and Sufficiency Statement.
3. Oversee the implementation of Cheshire East's Corporate Parenting Strategy and action plan and monitor the quality and effectiveness of services to ensure they fulfil the council's responsibilities.
4. Monitor the quality of care delivered by Cheshire East's residential children's homes via the provision of regular reports including summary reports of Regulation 44 visits and Ofsted inspections.
5. Review the performance of the Council in relation to outcomes for children and young people in care via the scrutiny of both quarterly performance reports and the annual reports of the Cared for Children Service, the Independent Reviewing Service and the Virtual School.
6. Establish an environment whereby Elected Members and young people work together to address the needs and aspirations of Cheshire East's children and young people in care and empower children and young people to participate in decision making with adults.

7. Oversee, with the Children and Families Overview and Scrutiny Committee, the implementation of best practice principles in all aspects of service delivery, with the aim of producing positive outcomes for children and young people in care.
8. Support the work of foster carers and adopters in making a difference to the care and support they provide to children and young people in care and those adopted.
9. Make sure that staff and partners follow Cheshire East's pledge for cared for children and young people and the care leaver's charter.
10. Receive and scrutinise the Independent Review Officers' Annual Report

Governance

The Committee will:

- meet bi-monthly;
- report to the Council's Cabinet on at least an annual basis;
- report to the Council's Scrutiny Committee annually: and
- include young people representatives from the Children in Care Council.

Administration

The Board will be serviced by Democratic Services in line with other Council Committees.

Minutes and agendas will be distributed and published no later than 5 clear working days prior to the meeting.

The meetings will take place out of school hours to enable cared for children and young people to participate.

Review

These terms of reference will be reviewed yearly.

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 18th February 2016
Report of: Head of Governance and Democratic Services
Subject/Title: Parish Councils – Community Governance Reviews

1.0 Report Summary

- 1.1 The report suggests that the Community Governance Review Sub-Committee be convened to undertake a review of governance arrangements in respect of certain parishes.

2.0 Recommendations

- 2.1 The Committee is asked to RESOLVE:

1. That the Community Governance Review Sub-Committee be convened to conduct a community governance review of the following Parish arrangements:
 - (a) the potential reduction of the number of Councillors for Minshull Vernon and District Parish Council;
 - (b) the potential merging of Bulkeley and Ridley Parishes into one Parish;
 - (c) the potential to create a common parish council for Hassall and Betchton Parish Councils with a reduced number of seats; and
 - (d) the potential alternative arrangements for Lyme Handley Parish Council, Doddington and District Parish Council and Burland Parish Council, all of which currently have insufficient Councillors elected to be able to operate.
2. That the remit of the review be contained to those Parishes listed above, unless any other matters of importance arise during the course of the review.
3. That the Chairman of the Community Governance Review Sub-Committee be given delegated authority to extend the remit of the review should other parish matters of importance arise.

3.0 Reasons for Recommendations

- 3.1 The Council has received requests from Minshull Vernon and District Parish Council and Bulkeley and Ridley Parish Council to review their governance arrangements. Hassall and Betchton Parish Councils may be interested in creating a common parish council with a reduced number of seats (due to being inquorate at past meetings). In addition the Council is aware of three further Parishes which have insufficient Councillors elected to be able to operate.
- 3.2 Under the provisions of the Local Government and Public Involvement in Health Act 2007 responsibility for Community Governance Reviews falls to the Principal Council. Cheshire East Council has a duty to keep parish arrangements under review.
- 3.3 It is therefore recommended that a Parish review be conducted in these areas.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 Not applicable

6.0 Policy Implications

- 6.1 No policy implications have been identified.

7.0 Financial Implications

- 7.1 The Council has a statutory duty to conduct and meet the costs associated with undertaking the Community Governance Review. The main cost will be in relation to any consultation carried out with electors and others with an interest in the review.

8.0 Legal Implications

- 8.1 The review would be conducted under the provisions of the Local Government and Public Involvement in Health Act 2007 and the Government's guidance on conducting community governance reviews.

9.0 Risk Management

- 9.1 No risks have been identified.

10.0 Background and Options

- 10.1 Minshull Vernon and District Parish Council have made a request to Cheshire East Council that consideration be given to reducing their number of Councillors from 22

to 18, following being unable to elect Councillors to vacant seats in the May 2015 elections. The Parish Council currently has 8 members returned out of 22. They are just quorate with 8 Members elected, but two of the wards within the parish have no elected members.

- 10.2 Bulkeley and Ridley are two separate parishes which operate as one Parish Council with one Chairman and Clerk. The Parish Council has made a request to Cheshire East Council for consideration to be given to merging the two parishes into one parish, as they feel that this would cause less confusion for electors.
- 10.3 Hassall and Betchton Parish Councils may be interested in creating a common parish council with a reduced number of seats (due to being inquorate at past meetings).
- 10.4 It is suggested that Cheshire East Council responds to these requests by conducting a Community Governance Review to address the issues raised and that the Community Governance Review be convened for this purpose.
- 10.5 The Community Governance Review would then be conducted under the provisions of the Local Government and Public Involvement in Health Act 2007 and the Government's guidance on conducting community governance reviews.
- 10.6 It is proposed that the opportunity be also taken to simultaneously review three other Parish Councils, where the Council is aware that they have been unable to elect sufficient Councillors to be able to operate. These are:
- Lyme Handley Parish Council – which has five seats, all of which are vacant;
 - Doddington and District Parish Council - of which 3 of the 6 wards of the parish have all their seats vacant (Blakenhall – 3 seats; Doddington - 1 seat; Lea - 1 seat).
 - Burland Parish Council – which has 9 seats of which 7 or vacant.
- 10.7 It is suggested that the remit of the review be contained to those Parishes listed above at the current time unless any other parish matters of importance arise during the course of the review.

11.0 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

Date of Meeting: 18th February 2016

Report of: Constitution Member Working Group

Subject: Proposals to Further the Council's Efforts to be More Open

1. Report Summary

- 1.1. This report of the Constitution Member Working Group makes recommendations to the Constitution Committee upon a range of proposed measures which will further the Council's efforts to be more open.

2. Recommendation

- 2.1. Audio-recording of committee meetings: it is recommended that, with effect from the beginning of the new municipal year, subject to the availability of appropriate equipment, the proceedings of all decision-making meetings should be audio-recorded; further that such recordings should be retained for use by officers only in order to resolve any disagreement as to the accuracy of the draft minutes of the meeting, and that after formal agreement of the draft minutes, the audio recording should be deleted. It is further recommended that the Director of Legal Services and Monitoring Officer makes such appropriate addition to the Access to Information Procedure Rules as he considers is necessary to give effect to the wishes of the Committee.
- 2.2. Publication of Member attendances: the Committee is asked to consider whether the question of publicly recording Member attendance at non-formal decision-making meetings of Cheshire East Council, joint bodies and outside organisations, should be pursued.
- 2.3. Contract Procedure Rules: the Committee is recommended to agree that all notices of waiver, which are used when consent is sought to depart from the requirements of the Council's Contract Procedure Rules, and notices which are used to record any non-adherence to the Rules, should be retrospectively published for information on the next appropriate Audit and Governance Committee agenda.
- 2.4. Member Job Descriptions: the Committee is recommended to recommend to Council the approval and adoption of the job description for committee chairmen attached as Appendix 1 to this report, and to consider the

development of a job description for councillors, taking into consideration the model set out at Appendix 2.

- 2.5. Chairmanship of Overview and Scrutiny Committee meetings: that the Committee consider whether it wishes to recommend to Council that one or more Overview and Scrutiny Committee chairmanships should be required to be allocated to the Council's opposition groups.
- 2.6. Ombudsman findings: that subject to the requirements referred to in paragraph 5.2.4 of this report, it is recommended that the terms of reference of the Audit and Governance Committee be expanded to include responsibility for considering all findings of the Local Government Ombudsman, and for making recommendations as to actions that may be necessary in connection with the Ombudsman's findings; this also to include reports resulting in a finding of maladministration against the Council.

3. Background

- 3.1. The Constitution Member Working Group is an informal cross-party group of Members, chaired by Councillor David Marren, which meets periodically to develop proposals for constitutional and related changes, for decision or recommendation by the Constitution Committee.
- 3.2. The Working Group met on 21st December to consider a range of issues, and made appropriate recommendations to the Constitution Committee, which are now included within this report.

Audio recording of committee meetings

- 3.3. The Working Group considered the question of whether the proceedings of Committees and other decision-making meetings should be audio-recorded. It was felt that, on occasion, the ability to refer to an audio-recording would assist officers in correctly minuting the proceedings of meetings.
- 3.4. Examples were given by Members of occasions upon which there had been disagreement over the minuting of a previous meeting.
- 3.5. In law, the draft minutes of a meeting are required to be agreed by the next meeting of the body in question, after which they are regarded as the definitive and accurate record of the proceedings of the meeting. The Working Group was of the view that keeping an audio recording of the meeting until the draft minutes of that meeting had been formally approved would be a helpful measure which would assist officers in circumstances where the accuracy of the draft minutes was questioned.
- 3.6. It is therefore proposed that, with effect from the beginning of the new municipal year, subject to the availability of appropriate equipment, the proceedings of all decision-making meetings should be audio-recorded; further that such recordings should be retained for use by officers only in

order to resolve any disagreement as to the accuracy of the draft minutes of the meeting, and that after formal agreement of the draft minutes, the audio recording should be deleted.

Publication of Member attendances

- 3.7. The Working Group discussed the existing automated arrangements which make a public record of Member attendances at meetings. Some Members were concerned that the current record of attendances at meetings did not reflect the full range of activities carried out by Members.
- 3.8. The automated record, which operates through the Council's *Modern.gov* system, keeps a record only of attendance at the Council's formal decision-making meetings, whereas Members attend a range of other bodies too eg working groups (such as the Constitution Committee Working Group), outside bodies (of which there are approaching 100), informal briefing meetings, Parish Council meetings, meetings of other bodies such as the Fire Authority, meetings of ASDVs etc.
- 3.9. It would not be possible to centrally record details of attendances at meetings of these other bodies without creating a burdensome administrative process.
- 3.10. Ultimately, any arrangements which might be adopted to publicly recognise the range of other meetings which Members attend would be dependent upon those Members submitting some form of regular return to officers. Not all members of the Working Group were in favour of creating additional burdens for themselves, for other Members, or for officers and the report author has doubts as to whether all Members would be likely to provide regular returns. The Committee's views are therefore sought upon whether this issue should be pursued.

Contract Procedure Rules

- 3.11. The meeting of the Audit and Governance Committee on 15th December considered the question of publication of notices of waiver, which are used when consent is sought to depart from the requirements of the Council's Contract Procedure Rules. The Committee decided that all such notices, and also notices which are used to record any non-adherence to the Rules, should be retrospectively published for information on the Audit and Governance Committee agenda.
- 3.12. The Working Group discussed the matter and concluded that the Council's Contract Procedure Rules should be amended appropriately to make this a formal constitutional requirement.

Member Job Descriptions

- 3.13. The Constitution Member Working Group at its meeting on 25th August 2015 considered a draft job description for committee chairmen which is

attached as Appendix 1 to this report. The Working Group agreed to recommend the job description to the Constitution Committee.

- 3.14. At its subsequent meeting on 21st December 2015, the Working Group considered whether a job description should also be developed for Members in general. It was felt that this would encourage and assist new Members by clarifying their roles and responsibilities, as well as assisting with Member allowances and Member development. It would also provide a helpful guide to individuals thinking of becoming local councillors. The Working Group agreed that a report should be submitted to the next meeting of the Constitution Committee with proposals for a Member job description.
- 3.15. Officers have previously undertaken some research into member job descriptions at other authorities, as a result of which the job description attached at Appendix 2 has been developed.
- 3.16. The Committee is recommended to recommend to Council the approval and adoption of the job description for committee chairmen attached as Appendix 1 to this report, and to consider the development of a job description for councillors, taking into consideration the model set out at Appendix 2.

Chairmanship of Overview and Scrutiny Committee meetings

- 3.17. At its meeting on 21st December, the Working Group discussed the allocation of Overview and Scrutiny Chairmen positions to the Council's political groups. Historically, the Council's opposition groups have asked that opposition Members be allocated one or more of the Overview and Scrutiny Committee Chairmanships.
- 3.18. In the normal course of events, the allocation of Chairmanships to committees would be an issue for discussion within and between the Groups. Unless there is a desire to see a formal requirement that one or more Overview and Scrutiny Committee chairmanships should be allocated to the opposition Groups, there is no need to make any constitutional change. However, if a formal requirement is sought, then the Committee should make an appropriate recommendation to Council.

Ombudsman findings

- 3.19. At the meeting of Council on 17th December 2015, consideration was given to a finding of the Local Government Ombudsman, against the Council, of maladministration. This finding had to be reported to Council as a matter of law.
- 3.20. Following on from the report to Council, the Working Group considered whether Full Council needs to see any further maladministration findings, or whether this obligation might be delegated to a Council committee, and whether any other decisions of the Local Government Ombudsman should also be considered by that committee.

- 3.21. The view of the Working Group was that all Local Government Ombudsman decisions should be reported for information to the Audit and Governance Committee. In considering this proposal, Members should have regard to the legal advice in paragraph 5.2.4.
- 3.22. It is recommended that subject to the requirements referred to in paragraph 5.2.4 of this report, the terms of reference of the Audit and Governance Committee should be expanded to include responsibility for considering all Local Government Ombudsman decisions, and for making such recommendations as to actions as may be necessary in connection with those decisions; this also to include reports resulting in a finding of maladministration against the Council.

General issues

- 3.23. At the meeting of Council on 22nd October 2015, Council agreed that the Constitution Committee would have delegated authority to make all changes to the Council's Constitution which are not major, subject to the Head of Legal Services and Monitoring Officer, and the Chief Operating Officer, agreeing that the proposed changes are not major, and to Council subsequently being informed of such changes.
- 3.24. With the exception of the proposals in respect of Overview and Scrutiny Committee Chairmen, those relating to Member Job Descriptions, and those relating to Ombudsman findings, which are considered to be major, the Director of Legal Services and Monitoring Officer and the Chief Operating Officer are content that the recommendations of this report, if agreed, will not result in major changes to the Constitution, and the Committee is therefore empowered to formally agree them without recommendation to Full Council. With regard to those changes which are considered to be major, the Committee is asked to make an appropriate recommendation to Council.
- 3.25. As required by the resolution of Council on 22nd October 2015, the proposed minor changes will be reported to Council for information in due course.

4. Wards Affected and Local Ward Members

- 4.1. There are no direct impacts upon individual Wards.

5. Implications of Recommendation

5.1. Policy Implications

- 5.1.1. Any changes to the Constitution, which arise from this report, will form the constitutional policy of the Council, and must be followed in the future work and operation of the Council.

5.2. Legal Implications

5.2.1. In respect of the audio recording proposals, whilst the approved minute constitutes the legal record of the meeting and any decisions taken, the audio recordings themselves will constitute “information” kept by the Council (whilst they are kept by the Council) for the purposes of the Freedom of Information Act 2000, and so will be subject to requests for copies or transcripts of the same under that regime. The Council ought to be alert to that and factor those considerations into its FOI policies and practices in the round.

5.2.2. There are no legal issues arising in respect of the proposals for recording member attendances as set out above.

5.2.3. In respect of the proposals relating to notices of waiver, depending on the level of detail that is to be provided to the Audit and Governance Committee, there may from time to time be a need for that committee to meet in private if circumstances arise where it is called upon to consider notices that give rise to or contain confidential information that is exempt from publication.

5.2.4. In respect of the proposals relating to the Ombudsman's findings, there are statutory obligations which will, in some circumstances, require reports to be taken to Cabinet or full Council. Whilst the Audit and Governance Committee could have within its terms of reference responsibility to consider findings and make recommendations as a result, ultimately the Council's internal arrangements could not circumvent those statutory requirements. Similarly, the Ombudsman operates certain protocols in relation to the timing of the publication of its findings. The Council would have to give consideration to those protocols when determining how to manage the Audit and Governance Committee's agenda in that regard.

5.3. Financial Implications

5.3.1. Whilst some of the proposals contained in this report will result in increased demands upon staff, these are not thought to be significant. The proposed audio-recording of meetings will result in the need for recording equipment, but it is felt that this can be obtained at a relatively modest cost.

5.4. Human Resources Implications

5.4.1. There would appear to be no direct human resources implications.

5.5. Equality Implications

5.5.1. There would appear to be no direct equality implications.

5.6. Rural Community Implications

5.6.1. There would appear to be no direct implications for the Borough's rural communities.

5.7. Public Health Implications

5.7.1. There would appear to be no direct public health implications.

6. Risk Management

6.1. The proposals in this report would, if implemented, appear not to result in any risks for the Council; rather they would create opportunities which would benefit the public, Members, and the organisation.

7. Background Papers

7.1. In writing this report, the report-author has had regard to the Council's Constitution.

8. Contact Information

Contact details for this report are as follows:

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The Role of Chairman

Responsibilities include:

Preparation for the meeting

- To inform himself/herself of the business and objects of the meeting, familiarising him/herself with the content of reports and, in all other respects ensuring that he/she is properly prepared for the meeting.
- To determine that the meeting is properly constituted, that there is a quorum present, and that the meeting can continue to proceed lawfully.
- To be familiar with the rules of debate, as contained in the Council's Constitution
- To guide officers in the administration of committee business eg where meeting arrangements need to change, such as time and venue changes

During the meeting

- Regulation of the conduct of the meeting he/she chairs, including by adopting measures to aid debate:
 - To make the business of the meeting efficient and effective
 - Encouraging members of the committee not to repeat points already made in debate
 - Ensuring that all those participating keep to their allocated speaking time and are succinct in making contributions, always ensuring that appropriate opportunity is given for those entitled to speak to do so
 - Taking appropriate advice from officers prior to, and in attendance at, the meeting.
- To confine discussion to ensure that it is within the scope of the meeting and within reasonable limits of time
- To decide whether proposed motions and amendments are in order, taking legal advice where necessary
- To formulate for discussion and decision, questions that have been moved for consideration of the meeting
- To decide points of order and other incidental questions that require decision at the time
- To seek to ensure that Members of the Council who are visiting planning committee meetings to speak are permitted to do so, if necessary delaying the consideration of the item in question in order to facilitate this, only insofar as it is practicable to do so within the meeting.
- To ascertain the sense of the meeting by putting relevant questions to the meeting and taking a vote thereon
- Where appropriate, to summarise the outcome of the debate
- To declare the result of each vote

- To determine when to take a vote upon the proposed adjournment of the meeting when circumstances justify or require that course
- To exercise a second or casting vote where there is an equality of votes cast

Preserving order at the meeting

- To call upon any disorderly person to behave properly and to ask that person to withdraw from the meeting if they fail to do so
- To direct that such person be removed from the meeting; provided that only such force as is reasonable may be used in doing so
- To determine whether to call for the meeting to be suspended or adjourned in circumstances where there is disorder
- To determine whether to propose that a Member “be not further heard” in circumstances of misconduct and, where such misconduct continues after the vote:
 - to propose that the Member “do leave the meeting”
 - to order that such Member be removed from the meeting, provided that only such force as is reasonable may be used in doing so
- To determine whether to order, where general disturbance occurs, that the appropriate part of the meeting room be cleared

At the end of the meeting

To declare the meeting closed when its business has been completed

**Elected Member Role Profile:
Ward Member**

1. Accountabilities

- To full Council
- To the electorate of their ward and to the residents of Cheshire East

2. Ward Member Role

Representing and Supporting Communities

- To represent ward interest by providing a voice for all sectors of the community
- To be an advocate for the Council in the ward and communities they serve
- To hold ward surgeries on a regular basis where appropriate
- To be a visible and recognisable presence in the community
- To be a channel of communication to the community on Council strategies, policies, services and procedures
- To represent individual constituents and local organisations, undertaking casework on their behalf and serving all fairly and equally
- To interface with the community at Local Area Partnerships/Forums raising local concerns within the Council
- To liaise with executive members, other council members, council officers and partner organisations to ensure that the needs of the local communities are identified, understood and supported
- To promote the principles of equality, tolerance and local democracy in local communities
- To encourage community participation in the Council's decision making processes by helping people understand how they work
- To support local partnership organisations
- To balance different interest within the ward fairly and constructively

Making Decisions and Overseeing Council Performance

- To participate in full Council meetings, reaching and making informed and balanced decisions and overseeing performance
- To participate in informed and balanced decision making on Committees and Task Groups to which they might be appointed (including attending site visits or undertaking other statutory visits and tasks as may be required)
- To contribute to the policy making process through a role on Scrutiny/G&C Committee/Cabinet and thereby helping to shape the development and review of policy and strategy
- To undertake quasi-judicial roles e.g. licensing and planning, following any special procedural rules

- To provide a check on the activities of the Cabinet through the call-in procedure
- To adhere to the principles of democracy and collective responsibility in decision making
- To promote and ensure efficiency and effectiveness in the provision of council and other public services

Representing the Council

- To represent the Council on local Outside Organisations as an appointee of the Council and provide two way communication between the organisation(s) and the Council
- To represent the Council on local partnership bodies, promoting common interest and co-operation for mutual gain
- To represent and be an advocate for the Council on national bodies and at national events
- To provide community leadership and promote active citizenship

Internal Governance, Ethical Standards and Relationships

- To promote and support the good governance of the Council and its affairs
- To promote and support open and transparent government
- To promote and maintain appropriate and effective relationships with employees of the Council
- To adhere to the Members; Core of Conduct, Member/Officer Protocols and the highest standards of behaviour in public office

Personal and Role Development

- To take an active interest in identifying personal development needs for their role as a Member
- To participate in opportunities for development provided by the authority
- To make effective use of electronic communication including email, internet/intranet to aid efficient communication between officers, members and the community
- To provide support and encouragement to new Councillors

3. Values

To be committed to the Aspire values of the Council and the following values in public office:

- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural differences
- Sustainability

**Elected Member:
Personal Specification**

Representing and Supporting Communities

Good advocacy skills
Interpersonal skills
Integrity
Ability to set aside own views and act impartially
Present relevant and well reasoned arguments
Good communication skills
An understanding of Community Leadership and empowerment and working in partnership

Making Decisions and Overseeing Council Performance

Knowledge and understanding of meeting law, rules and conventions
Understanding of delegated powers
Reasoned decision making
Understanding of strategic, policy and service contexts for decisions
Ability and willingness to challenge ideas and contribute positively to policy development
To pay particular attention to the need to avoid predetermination and bias when participating in the decision-making of regulatory committees

Representing the Council

Good public speaking skills
Good presentation skills
Ability to persuade others and act with integrity

Internal Governance, Ethical Standards and Relationships

Understanding of the role of officers, members and different agencies
Respect for and desire to work with different groups and individuals
Knowledge and understanding of and commitment to the Code of Conduct and Member/Officer Protocol
Knowledge and commitment to the values of the Council

Personal and Role Development

Ability to assess personal and role development needs
Desire and skills to participate in development

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