

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Monday, 13th February, 2017 at Council Chamber, Municipal
Buildings, Earle Street, Crewe CW1 2BJ

PRESENT

Councillor A Martin (Chairman)
Councillor M Beanland (Vice-Chairman)

Councillors G Baxendale, B Burkhill, S Edgar, I Faseyi (for Cllr Mannion)
H Gaddum, S Hogben, D Mahon, R Menlove, G Wait (for Cllr Brooks) and
G Williams

Councillors in attendance

Councillors J P Findlow and D Marren

Officers

Brian Reed, Head of Governance and Democratic Services
Dan Dickinson, Legal Team Manager Corporate and Regulatory
Paul Mountford, Executive Democratic Services Officer

Apologies

Councillors E Brooks, M Deakin, N Mannion and D Newton

27 DECLARATIONS OF INTEREST

There were no declarations of interest.

28 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public wishing to speak.

29 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 24th November 2016 be approved
as a correct record.

30 STAFFING COMMITTEE TERMS OF REFERENCE

The Committee received a report on the amended terms of reference of
the Staffing Committee as approved by Council on 15th December 2016.

RESOLVED

That the report be noted.

31 NEW JNC HANDBOOK FOR CHIEF EXECUTIVES AND CONSEQUENTIAL AMENDMENTS TO THE CONSTITUTION

The Committee considered a report setting out the changes made in the new JNC handbook for Chief Executives which reflected changes made to the statutory employment protections for the Head of Paid Service, Chief Finance Officer (the Section 151 Officer) and Monitoring Officer who, together, were referred to as the “Protected Officers”. The report also recommended changes to the Constitution to comply with the new requirements.

The changes were required to comply with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and followed the issuing of the revised JNC handbook in October 2016.

Full details of the proposals were set out in the report and its appendices.

In addition to the report, the Committee had regard to a supplementary paper which set out a number of points of clarification in respect of matters within the main report and its appendices. This had followed discussion with the Chairman of the Staffing Committee who had provided additional helpful perspectives and suggestions on the matter. The clarification paper recommended a number of consequential amendments to the appendices to the report.

The Committee was informed that external solicitors had advised on the constitutional and employment law issues and had contributed to the report. Such external advice had been sought so that the Council could benefit from the experience of a firm that had advised a number of councils on how best to align their constitutions and procedures with the new regulations and JNC handbook. In this respect, the approach recommended in the report reflected best practice.

The Committee discussed the relative merits of a single set of procedures to apply to all three Protected Officers as opposed to one process for the Head of Paid Service and another for the Section 151 and Monitoring Officers. A single approach for all three officers would provide clarity and consistency, and would avoid any unnecessary complexity. If two separate processes were adopted, they would be unlikely to differ to any great extent, given the need to comply with the rules of natural justice. It was not clear what particular benefits would be gained by such an approach. The report therefore recommended a single set of processes for all three Protected Officers.

RESOLVED

That the Constitution Committee recommends to Council that

1. a single, uniform dismissal and disciplinary procedure as set out in the report be adopted in relation to the Head of Paid Service, the Section 151 Officer and the Monitoring Officer; and
2. subject to the additional recommendations set out in paragraphs 13, 14 and 15 of the clarification paper:
 - a) the Staff Employment Procedure Rules be amended as set out in Appendix 2;
 - b) the Terms of Reference of the Staffing Committee be amended as set out in Appendix 3;
 - c) an Investigation and Disciplinary Committee (comprising 7 elected Members) be established with the terms of reference set out in Appendix 4;
 - d) a Disciplinary Appeals Committee (comprising 7 elected Members) be established with terms of reference as set out in Appendix 5;
 - e) an Independent Persons Panel be established with the terms of reference set out in Appendix 6;
 - f) the Director of Legal Services and Monitoring Officer be authorised to invite the Council's current Independent Persons (being those persons appointed to advise on member conduct complaints under the Localism Act 2011) and if necessary one or more of the Independent Persons of neighbouring authorities (following consultation with the Monitoring Officers of those authorities), to be considered for appointment to the Independent Persons Panel;
 - g) the Constitution Committee be authorised to confirm appointments to the Independent Persons Panel;
 - h) the Constitution Committee be authorised to approve the payment of a reasonable and proper allowance/expenses for the work undertaken by those Independent Persons appointed to the Independent Persons Panel; and
 - i) the Director of Legal Services be authorised to make any further consequential amendments to the Constitution to ensure consistency with the above changes.

The meeting commenced at 2.30 pm and concluded at 3.25 pm

Councillor A Martin (Chairman)