

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Thursday, 5th July, 2012 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

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

Councillors Rhoda Bailey, G Baxendale, S Hogben, S Jones, F Keegan,
W Livesley, A Moran, B Murphy, D Topping and P Whiteley

In attendance

Councillor D Brickhill

Officers

Caroline Elwood, Borough Solicitor and Monitoring Officer
Brian Reed, Democratic and Registration Services Manager
Paul Mountford, Democratic Services Officer
Cherry Foreman, Democratic Services Officer

Apologies

Councillors P Groves, D Newton, A Thwaite and G Wait

1 DECLARATIONS OF INTEREST

There were no declarations of interest.

2 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

3 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 11th May 2012 be approved as a correct record.

4 NOTICE OF MOTION ON CHANGES TO THE ARRANGEMENTS FOR SCHEDULED COMMITTEE MEETINGS

The Committee considered the following motion, proposed by Councillor D Brickhill and seconded by Councillor P Edwards, which had been referred by Council to the Committee for consideration:

“That meetings set out in the Council diary shall not be changed either by timing or location unless:

All Members have been consulted and there is no relevant business in which case the meeting is cancelled.

All Members are consulted and more than 60 agree to the change.”

Councillor Brickhill attended the meeting and spoke in relation to the motion.

The Committee procedure rules currently provided that where it was necessary to cancel or change the arrangements for a scheduled meeting, the chairman of the committee in question could agree this following consultation with the relevant group spokesmen on the committee. Any such changes would then be notified to all members of the Council.

The introduction of a procedure whereby all Members of the Council had to be consulted before a committee meeting could be changed or cancelled, and which would require more than 60 Members to agree any such change, would make the operation of the Council’s committee system unwieldy, cumbersome and unresponsive to any genuine need for change. Members felt, however, that it would be reasonable and appropriate for all members of the committee concerned to be consulted. It was also felt that any cancellation should allow sufficient time for public notice to be given.

RESOLVED

That Council be recommended to approve a change to the Committee Procedure Rules to provide that a scheduled meeting of a decision-making body may be cancelled or changed by the Chairman following consultation with the whole membership of that body, provided that such cancellation or change takes place at least five clear working days before the scheduled date of the meeting to enable sufficient public notice to be given.

5 AUDLEM EDUCATION FOUNDATION

The Committee considered a request by the Audlem Educational Foundation that the Council approve changes to the size and membership of the Foundation’s Awards Committee.

RESOLVED

That the matter be referred to the Outside Organisation Sub-Committee for consideration.

6 CHANGES TO OUTSIDE ORGANISATIONS APPOINTMENTS

The Committee considered proposed changes to the Council’s representation on a number of Category 2 outside organisations.

The officers reported at the meeting that Councillor P Groves had been nominated to the Macclesfield Chamber of Commerce and Business Link in

place of Councillor Macrae. The Conservative Group had been unable to submit a nomination for a vacancy on the Cheshire County Playing Fields Association.

RESOLVED

That

- (1) the changes of representation set out in the Appendix to the report and the additional nomination reported at the meeting be approved, the appointments to run until such time as the Council's representation is reviewed following the election of the new Council in 2015;
- (2) the appointments take immediate effect;
- (3) the nomination of a representative to fill the vacancy on the Cheshire County Playing Fields Association be referred to the Outside Organisations Sub-Committee; and
- (4) notwithstanding the appointments now made, the Council retains the right to review its representation on any outside organisation at any time.

7 THE CHESHIRE AND WIRRAL COUNCILS JOINT SCRUTINY COMMITTEE

The Committee considered a report proposing the withdrawal of the Council from the Cheshire and Wirral Councils Joint Scrutiny Committee with immediate effect.

Cheshire West and Chester Council had already withdrawn from the Joint Scrutiny Committee which meant that the Committee could no longer hold legally constituted meetings. In light of Cheshire West's decision, the Scrutiny Chairmen's Group at its meeting on 1st June 2012 had concluded that it would not be possible for the Joint Committee to continue and that Cheshire East Council should now concentrate on how it could best influence mental health provision locally. The scrutiny of mental health provision in Cheshire East could be accommodated within the Council's own scrutiny arrangements.

RESOLVED

That the Council's nominations to the Cheshire and Wirral Councils Joint Scrutiny Committee be formally withdrawn with immediate effect and the Borough Solicitor be authorised to make any consequential amendments to the Constitution.

8 LOCALISM ACT 2011: PROPOSED AMENDMENT TO AUDIT AND GOVERNANCE COMMITTEE'S TERMS OF REFERENCE AND THE COUNCIL'S PROCEDURE RULES

The Committee considered the proposed adoption of additional terms of reference for the Audit and Governance Committee to enable responsibility for ethical standards and conduct issues to be transferred from the Standards

Committee in line with the requirements of the Localism Act 2011. The proposed terms of reference were set out in the Appendix to the report and included the establishment of three ad hoc panels and sub-committees to consider, at different stages, alleged breaches in the Member Code of Conduct. The membership of the bodies would be drawn from a pool of 15 members comprising the members of the Audit and Governance Committee and five others.

The Borough Solicitor advised that a revised Member Code of Practice, together with proposed assessment criteria and procedure rules for the new bodies, would be submitted to Council for approval alongside the proposed terms of reference.

The Committee was also asked to consider a proposed amendment to the Council's Constitution which would require a Member to withdraw from a meeting after declaring a disclosable pecuniary interest.

RESOLVED

That

- (1) the terms of reference set out in the Appendix to the report be recommended for formal adoption by full Council on 19th July 2012, the sub-committee and panels to operate under the procedures approved and adopted by Council;
- (2) the proposed pool of 15 Members be constituted on the basis of political proportionality and the political groups be invited to submit nominations to the five additional places as appropriate; and
- (3) Council be recommended to agree that the Council Procedure Rules be amended to require a Member who declares a disclosable pecuniary interest in an item of business to withdraw from the meeting at the appropriate juncture, the Borough Solicitor being authorised to make such changes to the Constitution as she considers appropriate to give effect to the wishes of Council.

9 DRAFT MEMBER / OFFICER CODE OF PRACTICE - DELEGATION AND COMMUNICATION

Prior to consideration of this matter, the Democratic and Registration Services Manager reported receipt of an email from a member of the public asking that the powers currently delegated to officers to approve the renewal of licences for sexual entertainment establishments in certain circumstances be rescinded and that such matters be dealt with by the relevant licensing committee.

The Committee considered a report in response to a resolution of the Audit and Governance Committee of 14th June, which called for a report to be presented to the Constitution Committee on the Council's Contract Procedure Rules and

officer Scheme of Delegation, with a view to increasing the level of Member involvement in decision-making.

Appendix 1 to the report contained a draft Code of Practice which sought to address the issues of concern to the Audit and Governance Committee. The Code of Practice sought to strengthen the exchange of information between Officers and Members and improved and clarified current practice and procedures around decision-making, including the use of officer delegations.

Members felt that the draft Code formed a useful basis for further work alongside a review of the Officer scheme of delegation, and that the Code, as an improvement on the current arrangements, should be used on an interim basis whilst further work was undertaken by a Member task and finish group appointed for that purpose. The Borough Solicitor referred to authority delegated to her by Council to make consequential amendments to the officer scheme of delegation to reflect changes to the senior management structure; she would make such necessary changes to the document prior to its consideration by the task and finish group to ensure that the document accurately reflected the current delegation arrangements.

RESOLVED

That

- (1) a task and finish group of five members of the Committee (3 Conservative; 1 Labour; 1 Independent) be appointed to give further detailed consideration to the draft Officer Code of Practice, and to the officer scheme of delegation (Powers and Responsibilities of Officers) as set out at Appendix 2 to the report, and report back to the Committee's next meeting;
- (2) a Liberal Democrat Group member be invited to attend meetings of the task and finish group on a non-voting basis in order to participate in the work of the group; and
- (3) in the meantime, the draft Officer Code of Practice be used on an interim basis.

10 DELEGATED DECISIONS - WAIVER OF CONTRACT PROCEDURE RULES

The Committee considered a report outlining the interim procedure and revised process for the waiver of the Council's Contract Procedure Rules under the Delegated Decision Process.

As a result of concerns arising from the use by officers of delegated decisions, an interim procedure had been implemented which strengthened the original process for signing off such decisions pending review of the process by Members.

At its meeting on 14th June 2012, the Audit and Governance Committee had approved an action plan which included a fundamental review of the application

of delegated decisions. The report now before Members formed part of that review process. The report did not deal with general delegated decisions under the Council's officer scheme of delegation but solely with the waiver of the competition rules within the Contract Procedure Rules. The relevant procedures had now been reviewed and strengthened by the introduction of further controls and enhanced Portfolio Holder involvement and the revised procedures were now in operation. Details of the revised procedures and associated documentation were set out in Appendix 2 to the report.

RESOLVED

That

- (1) the revised interim procedure for the Waiver of Contract Procedure Rules under the Delegated Decision Process be noted; and
- (2) the task group previously appointed by the Committee to review detailed changes to the Constitution be asked to undertake a further review of the Contract Procedure Rules and report back to the Committee's next meeting.

11 REVIEW OF THE CONSTITUTION

In light of recent events, in particular the Audit and Governance Committee's consideration of the Lyme Green review and the need to review the Council's scheme of delegation and contract procedure rules, the Committee was asked to review the priorities within its work programme for reviewing the Constitution. An updated work programme was set out in the report.

RESOLVED

That the updated work programme be noted and the officers give priority to work on the scheme of delegation.

The meeting commenced at 2.00 pm and concluded at 4.40 pm

Councillor A Martin (Chairman)