

Cheshire East Council

Constitution Committee

Date of Meeting: 24th November 2016

Report of: Head of Governance and Democratic Services

Subject: The Functions of the Public Rights of Way Committee

1. Report Summary

- 1.1. This report will enable Members to consider the allocation of functions to the Public Rights of Way Committee.

2. Recommendation

- 2.1. That the Constitution Committee considers the resolution of Council and resolves to make no recommendations for changes to the existing public rights of way decision-making arrangements.

3. Background

- 3.1. When the Independent Remuneration Panel (IRP) delivered its recommendations on the Council's Scheme of Member Allowances, a number of recommendations were made about Special Responsibility Allowances (SRAs).
- 3.2. Council, having considered the report of the IRP, and the recommendations of the Constitution Committee, resolved as follows:

"That Consideration of the question of any changes to the SRA allocated to the Chairman of the Public Rights of Way Committee be deferred pending a report to the Constitution Committee upon potential options to amalgamate the work of that Committee with that of another decision-making body".
- 3.3. In making its recommendations, the Panel concluded that it was not convinced that the responsibilities of the Public Rights of Way Committee had important and different functions which merited the Chairman's SRA. Comment was made that Cheshire East was the only Council in the CIPFA "family" which operated a Public Rights of Way Committee.

- 3.4. The Panel's view was that, whilst other authorities undoubtedly had rights of way issues to determine, these functions would have either been delegated to an officer, or would have been included within the responsibilities of another committee.
- 3.5. The Panel report commented that it did not feel it could justify recommending an SRA for the Chairman; indicating that the Chairman's role should be regarded as "one of the many minor positions of responsibility within the Council which do not qualify for an SRA".
- 3.6. From the examples seen of other CIPFA family decision-making structures, it would appear that a number of these do delegate Public Rights of Way functions to their planning committees. This could be seen as a natural destination for these regulatory functions if a decision was taken to amalgamate the functions of the Committee with those of another. Other authorities delegate public rights of way decision-making powers to officers.
- 3.7. With regard to a potential amalgamation of the Committee's functions with those of a planning committee, consideration should be given to the specialist nature of planning, and the need to ensure that this is not diluted by the addition of a further major and important decision making responsibility in respect of public rights of way. Members should also be mindful that the workload of the planning committees, and their meetings which often last for many hours.
- 3.8. Members will also wish to consider the comparison made by the Panel, using the CIPFA family of local authorities. Whilst this may have provided an appropriate comparison for some purposes, the comparison might not necessarily be good for an authority such as Cheshire East, with a large rural Borough, and with its profile of public rights of way.
- 3.9. The opportunities offered by the Borough's public rights of way network towards developing green infra-structure and contributing to the Quality of Place agenda are significant from a recreation, exercise and health and wellbeing perspective. This will generate considerable public rights of way-related work that will require an established and practiced system to process successfully.
- 3.10. With the potential of HS2, it is clear that there could be a significant upsurge in public rights of way-related work, over a concentrated and protracted period of time. Members should have this in mind when considering the appropriateness of any changes to current decision-making arrangements.
- 3.11. In addition, new legislation is expected to come into force in 2017 which will impose a new statutory framework around public rights of way matters. For the first time, deadlines will apply to the determination of public rights of way applications. Members should carefully consider how any change in the responsibilities of the Public Rights of Way Committee might impact

upon, and how the Council can respond to the demands of the new legislation.

3.12. Other than the amalgamation of public rights of way functions with licensing functions, it would seem that there is no other natural destination for those functions.

3.13. The Manager of the Public Rights of Way Unit has offered comments, which are appended to this paper.

4. Wards Affected and Local Ward Members

4.1. All Cheshire East Borough Wards are affected by the recommendations of this report.

5. Implications of Recommendation

5.1. Policy Implications

Whilst the recommendations of this report would appear only to have implications in terms of the Council's administrative business, consideration should be given to the Council's public rights of way and planning policies. The Council's planning committees have a very important and specialist role in applying planning policies to the decisions made. It could be reasonably argued that joining-in public rights of way considerations and policies to already heavily burdened planning committees, might lead to a dilution of the specialisms of the committees in question.

5.2. Legal Implications

5.2.1. There are no legal implications associated with the allocation of public rights of way functions to those of another committee, except that any committee responsible for new functions would need to ensure that its specialism was not diluted, and that its members were appropriately trained in the specialisms in question.

5.3. Financial Implications

5.3.1. The original rationale of the Panel suggesting that public rights of way functions should be allocated to another committee was that this would lead to a reduction in the number of SRAs under the Members' Scheme of Allowances. The Chairman of the Public Rights of Way Committee is entitled to receive £5,600 per year as an SRA.

5.4. Human Resources Implications

5.4.1. Amalgamation of the public rights of way function to those of another committee, such as a planning committee, would have implications in terms of training of the officers advising the committee.

5.5. Equality Implications

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

5.6. Rural Community Implications

5.6.1. Clearly, there could be significant implications of any changes to public rights of way responsibilities, for rural communities. The Borough has an extensive network of public rights of way, which must be protected. The Council, in considering any changes to the way in which public rights of way issues are administered, must ensure that appropriate safeguarding is placed around such administration.

5.7. Public Health Implications

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

6. Risk Management

6.1. The risks associated with the proposals contained in this report are set out in the main body of the report.

7. Background Papers

The report of the IRP has been referred to in preparing this report.

8. Contact Information

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