

# CHESHIRE EAST COUNCIL

## Constitution Committee

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<b>Date of Meeting:</b>	4 <sup>th</sup> August 2017
<b>Report of:</b>	Acting Director of Legal Services (Acting Monitoring Officer)
<b>Subject/Title:</b>	Review of the Constitution

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### 1.0 Report Summary

- 1.1 The Council is undertaking a comprehensive review of the current Constitution to ensure that it complies with all relevant statutory requirements, and to examine how its current processes and procedures may be altered to improve organisational efficiency and achieve stronger governance. The background to and scope of the review is set out in the advice note from external solicitors Bevan Brittan which comprises Appendix 1 to this report (“the Advice Note”).
- 1.2 This report asks the Constitution Committee to endorse the proposals arising from the Advice Note. It also asks the Constitution Committee to appoint the Constitution Working Group as a formally constituted Sub-Committee in order to take forward a full review of the Constitution, with a view to presenting a proposed new Constitution to the Constitution Committee which would, in turn, be asked to recommend the same to full Council for adoption.

### 2.0 Recommendations

- 2.1 It is recommended that, following consideration of the Advice Note, the Constitution Committee:
- 2.1.1 agree the need for a review of the Constitution and the production of a proposed new Constitution for consideration by Council in accordance with proposals contained in the Advice Note
  - 2.1.2 agree the proposed vision for the production of a new Constitution as follows:-  
  
*“to have a clear, succinct Constitution which is accessible, user-focused, provides helpful instruction and ensures good governance across all elements of service delivery”*
  - 2.1.3 agree the seven principles set out in the Advice Note as a starting point for the review of the Constitution and production of a proposed new Constitution.

- 2.1.4 Agree the key areas for action and proposed approach set out in the Advice Note.
- 2.1.5 Appoint a Sub-Committee of five (5) Members of the Constitution Committee (3 Conservative; 1 Labour; 1 Independent) to meet fortnightly with terms of reference as follows:
- a. agree a work programme based on the priorities set out in the Advice Note so as to divide the task of reviewing the Constitution into appropriate work packages and allocating the work packages to relevant Member and Officer task groups to progress
  - b. approve the evolving re-drafted sections of the new Constitution that are proposed by the allocated Member and Officer task groups; and
  - c. approve a final draft of the full Constitution to be put to Constitution Committee for approval, prior to Constitution Committee then recommending the adoption of the same by full Council.
- 2.1.6 The names of the Sub-Committee Members to be notified to the Head of Governance and Democratic Services in accordance with the usual rules of appointing members to committee places. Substitute Members to be appointed from within the membership of the Constitution Committee.
- 2.1.7 Agree that any product unanimously approved by the Sub-Committee shall be treated as approved by the Constitution Committee.

### **3.0 Reasons for Recommendations**

- 3.1 The Council is undertaking a comprehensive review of the Constitution to ensure that it complies with all relevant statutory requirements, and to examine how its current processes and procedures may be altered to improve organisational efficiency and achieve stronger governance.
- 3.2 The Council commissioned Bevan Brittan to carry out a desktop review of the current Constitution. The proposals arising from that report are being brought before the Constitution Committee for approval and endorsement on behalf of Council.
- 3.3 Constitution Committee is asked to appoint a Sub-Committee in order to take forward a full review of the Constitution with all stakeholders with the objective of presenting proposals for a new Constitution to the Constitution Committee, which will in turn be asked to recommend the same for adoption by full Council.
- 3.4 It is considered that there is a need to have the substantive review and drafting process subject to as focused an approval process as possible if

the objectives of the review are to be achieved within an appropriate timescale.

- 3.5 The adoption of the seven principles set out in the Advice Note will provide a clear touchstone for the efficient development of the new document and associated guidance. The approval of the key areas for action and proposed approach will provide a framework to redrafting the Constitution.
- 3.6 A work programme, driven by the Sub-Committee, will identify the key areas of the Constitution, involve relevant stakeholders in consideration of the key issues and ensure the development of a new document within a clear and accountable timescale. In particular, a recommendation from Cabinet Members that all Chairs and Vice-Chairs, in conjunction with all Group Leaders, be invited and encouraged to participate in the proposed Member and Officer task groups is endorsed and envisaged as an integral component of recommendation 2.1.5 (a) set out above.

#### **4.0 Background and Options**

- 4.1 See attached Advice Note.

#### **5.0 Wards Affected and Local Ward Members**

- 5.1 All wards are affected.

#### **6.0 Implications of Recommendation(s)**

##### **6.1 Policy Implications**

- 6.1.1 These will be identified and factored in at each stage of the proposed review.

##### **6.2 Legal Implications**

- 6.2.1 Section 37 of the Local Government Act 2000 and the guidance issued under it requires the Council to keep its Constitution up to date and regularly review it.
- 6.2.2 Specific legal requirements that relate to the operation of each part of the constitution and associated processes will be identified and comprehensively addresses as part of the review process.

##### **6.3 Financial Implications**

- 6.3.1 The Financial Implications of a revised Constitution will be considered as part of the review process, and this will require input from the Council's s.151 Officer. This will ensure that the Constitution supports the statutory responsibilities of the s.151 role.

#### 6.4 Human Resources Implications

- 6.4.1 There are no direct implications arising from the process of review itself. Any implications arising from the content of the proposed new Constitution will be comprehensively addresses as part of the review process.

#### 6.5 Equality Implications

- 6.5.1 There are no direct implications arising from the process of review itself. Any implications arising from the content of the proposed new Constitution will be comprehensively addresses as part of the review process.

#### 6.6 Health and Wellbeing Implications

- 6.6.1 There are no direct implications arising from the process of review itself. Any implications arising from the content of the proposed new Constitution will be comprehensively addresses as part of the review process.

#### 6.7 Implications for Children and Young People

- 6.7.1 There are no direct implications arising from the process of review itself. Any implications arising from the content of the proposed new Constitution will be comprehensively addresses as part of the review process.

#### 6.8 Rural Community Implications

- 6.8.1 There are no direct implications arising from the process of review itself. Any implications arising from the content of the proposed new Constitution will be comprehensively addresses as part of the review process.

#### 6.9 Overview and Scrutiny Committee Implications

- 6.9.1 There are no direct implications arising from the process of review itself. Any implications arising from the content of the proposed new Constitution will be comprehensively addresses as part of the review process.

#### 6.10 Risk Management Implications

- 6.10.1 There are no direct implications arising from the process of review itself. Any implications arising from the content of the proposed new Constitution will be comprehensively addresses as part of the review process.

## **7.0 Access to Information**

- 7.1 Appendices 2 and 3 to the Advice Note contain exempt information as defined in Paragraph of Part 1 of Schedule 12A of the Local Government Act 1972 (Information in respect of which a claim to legal privilege could be maintained in legal proceedings) and are therefore not for publication.
- 7.2 The remaining background papers relating to this report (Advice Note and Appendix 1) can be inspected by contacting the report author:

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