

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Sub-Committee**
held on Friday, 3rd November, 2017 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor A Martin (Chairman)
Councillor B Burkhill (Vice-Chairman)

Councillors G Baxendale, S Edgar, S Hogben, J P Findlow (for Cllr Gaddum),
A Kolker (for Cllr Beanland) and B Roberts (for Cllr Mannion)

Officers

Brian Reed, Head of Governance and Democratic Services
Julie Gregory, Solicitor
Chris Allman, Senior Manager, Project and Change
Paul Mountford, Executive Democratic Services Officer

Bevan Brittan (external advisers)

Judith Barnes

Other Members present

Councillors Rhoda Bailey, P Butterill, P Groves, J Jackson, G Merry,
J Nicholas, A Stott and B Walmsley

Apologies

Councillors M Beanland, H Gaddum and N Mannion

20 DECLARATIONS OF INTEREST

There were no declarations of interest.

21 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public wishing to speak.

22 MEMBERS SPEAKING

Councillor A Stott asked how members would know what had changed in the constitution. Judith Barnes of Bevan Brittan referred to the authority given to officers by members to report any substantive changes to the Sub-Committee. Brian Reed added that any member concerned about a change could discuss it with him.

Councillor J Jackson commented that she did not agree with the proposed changes to the planning committees as set out in the agenda and added that reserved matters on outline planning applications should be returned to the planning committees. She also disagreed with any proposals to

deny officers on lower grades the opportunity to be heard by the Staffing Appeals Sub-Committee. She also urged careful consideration of the filtering process in relation to the IDC Committee.

Councillor G Merry, as Chairman of the Strategic Planning Board, indicated that she had not been consulted on the proposed reduction in the size of the planning committees. She also supported the retention of substitutes.

23 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 29th September 2017 be confirmed as a correct record.

24 REVIEW OF THE CONSTITUTION - PRINCIPLES

The Sub-Committee considered a report on mechanisms to ensure that the revised Constitution was concise, user-friendly and future-proof.

A key principle of the review had been to be concise, covering only those essential issues which needed to be in the formal Constitution and sign-posting to other documents and sources. The Sub-Committee considered an Advice Note by Bevan Brittan which explained in more detail how this would work in practice, including the use of 'hyperlinking' and the status and ownership of each hyperlinked document in the proposed revised Constitution. The Advice Note is attached as Appendix A to these minutes.

The Sub-Committee also considered a schedule of sections/documents to be taken out of the constitution and linked to it where appropriate. The schedule made suggestions for the appropriate ownership and review processes for each document. A number of questions had been highlighted in the Schedule for members' consideration. The schedule is attached as Appendix B to these minutes.

Much feedback had been received on the most appropriate mechanism for highlighting changes from the existing Constitution to the new revised document, including a request for 'tracked changes'. Bevan Brittan had advised that the redrafted Constitution, whilst taking much of the content from the current one, was a significantly changed document, especially in terms of its layout. This had required a significant restructuring and editing of repetitious, superfluous or outdated content. As such, a large part of the New Constitution was essentially a new document, not an amended one, and the facility to 'track all changes' did not lend itself to this kind of rewrite. It was difficult, if not impossible, to use the 'tracked changes' functionality within Microsoft Word and attempts to highlight these changes manually through notation, high-lighting, colour-coding or other methods often obscured rather than enlighten, when trying to review the new material. Such an approach could not therefore be recommended.

Bevan Brittan proposed instead to bring to the attention of Members the substantive areas of change within an Explanatory Note/Schedule of Substantive Changes.

The Sub-Committee had endorsed this approach at its meeting on 15th September 2017 when it resolved that Officers be permitted to use their discretion (this to be exercised with caution) in bringing to the attention of the Sub Committee only matters of substance when constitutional changes are proposed. It was therefore proposed that offices would:

- draw attention to all substantive changes (exercising caution) in the Explanatory Note (List of Substantive Changes);
- provide printed copies of both the existing Constitution and the revised Constitution to any Member that requested them; and
- highlight any specific changes (with page number references for both documents) as requested by Members on a case-by-case basis if these were not immediately apparent and/or incorporated within the Explanatory Note (List of Substantive Changes).

RESOLVED

That the Constitution Committee be recommended to approve:

1. the overall proposed approach to hyperlinking as set out in the Bevan Brittan Advice Note (Appendix A to these minutes) subject to all hyperlinked documents being linked to the public website as well as the Intranet;
2. that with regard to the specific questions raised in the schedule at Appendix B:
 - (a) the terms of reference of committee chairmen be removed from the Constitution and be hyperlinked and the Constitution Committee retain responsibility for the document;
 - (b) the Whistleblowing Policy be removed from the Constitution and be hyperlinked and ownership of the Policy remain with the Audit and Governance Committee;
 - (c) the Planning Protocol of Conduct and the Protocol on Public Speaking Rights at planning committee meetings be removed from the Constitution and be hyperlinked and responsibility for the documents be passed to the Strategic Planning Board; and
 - (d) the Local Ward Member Protocol be removed from the Constitution and be hyperlinked and responsibility for the document remain with the Constitution Committee;

3. subject to resolution 2 above, the proposals set out in Appendix B, subject to the inclusion of a hyperlink to the Fire Authority website; and
4. the approach to highlighting substantive changes to the Constitution to Members as set out above.

25 REVIEW OF THE CONSTITUTION - WORK PACKAGE 2: DECISION-MAKING: TERMS OF REFERENCE OF MEMBER BODIES

The Sub-Committee considered a draft revised Explanatory Note (Schedule of Substantive Issues) for Work Package 2, and a redrafted element of Work Package 2 – Decision-making: Terms of Reference of Member Bodies (New Constitution Section 2 (a) to (d)).

The Explanatory Note (Schedule of Substantive Issues) highlighted proposed changes to the constitution in three categories:

Section I – substantive changes required by law for approval (although these will be minimal as the original Bevan Brittan review confirmed that the Constitution was compliant)

Section II – substantive changes based on best practice recommended for approval

Section III – substantive changes for consideration by the Sub-Committee

The Sub-Committee considered the substantive changes and agreed an appropriate course of action in respect of each one.

(The Explanatory Note (Schedule of Substantive Changes) has since been updated to reflect the Sub-Committee's decisions and will be incorporated into a single document for consideration by the Constitution Committee.)

RESOLVED

That

1. the content of the report and the significant progress made to date be noted;
2. the Constitution Committee be recommended to approve:
 - (a) the proposed Substantive Issues as set out in the Explanatory Note (Schedule of Substantive Issues) Sections I & II;
 - (b) the specific recommendation in respect of each individual issue as

set out in the Explanatory Note (Schedule of Substantive Issues) Section III; and

- (c) the revised draft of Section 2 (a) to (d) of the Constitution (Work Package 2) as set out in Appendix B to the report and the accompanying Explanatory Note (Schedule of Substantive Issues), subject to the specific responses agreed by the Sub-Committee.

26 REVIEW OF THE CONSTITUTION - WORK PACKAGE 3: DECISION-MAKING: OFFICER SCHEME OF DELEGATION

The Sub-Committee considered a draft revised Explanatory Note (Schedule of Substantive Issues) for Work Package 3, and a redrafted element of Work Package 3 – Decision-making: Officer Scheme of Delegation (New Constitution Section 2 (e)).

The Explanatory Note (Schedule of Substantive Issues) highlighted proposed changes to the constitution in three categories:

Section I – substantive changes required by law for approval (although these will be minimal as the original Bevan Brittan review confirmed that the Constitution was compliant)

Section II – substantive changes based on best practice recommended for approval

Section III – substantive changes for consideration by the Sub-Committee

The Sub-Committee considered the substantive changes and agreed an appropriate course of action in respect of each one.

(The Explanatory Note (Schedule of Substantive Changes) has since been updated to reflect the Sub-Committee's decisions and will be incorporated into a single document for consideration by the Constitution Committee.)

RESOLVED

That

1. the content of the report and the significant progress made to date be noted;
2. the Constitution Committee be recommended to approve:
 - (a) the proposed Substantive Issues as set out in the Explanatory Note (Schedule of Substantive Issues) Section II;
 - (b) the specific recommendation in respect of each individual issue as

set out in the Explanatory Note (Schedule of Substantive Issues) Section III; and

- (c) the revised draft of Section 2 (e) of the Constitution (Work Package 3) as set out in Appendix B to the report and the accompanying Explanatory Note (Schedule of Substantive Issues), subject to the specific responses agreed by the Sub-Committee.

27 REVIEW OF THE CONSTITUTION - WORK PACKAGE 4: PROCEDURE RULES

The Sub-Committee considered a draft revised Explanatory Note (Schedule of Substantive Issues) for Work Package 4, and a redrafted element of Work Package 4 – Procedure Rules (New Constitution Section 3)

The Explanatory Note (Schedule of Substantive Issues) highlighted proposed changes to the constitution in three categories:

Section I – substantive changes required by law for approval (although these will be minimal as the original Bevan Brittan review confirmed that the Constitution was compliant)

Section II – substantive changes based on best practice recommended for approval

Section III – substantive changes for consideration by the Sub-Committee

The Sub-Committee considered the substantive changes and agreed an appropriate course of action in respect of each one.

(The Explanatory Note (Schedule of Substantive Changes) has since been updated to reflect the Sub-Committee's decisions and will be incorporated into a single document for consideration by the Constitution Committee.)

RESOLVED

That

1. the content of the report and the significant progress made to date be noted;
2. the Constitution Committee be recommended to approve:
 - (a) the proposed Substantive Issues as set out in the Explanatory Note (Schedule of Substantive Issues) Sections I & II;
 - (b) the specific recommendation in respect of each individual issue as

set out in the Explanatory Note (Schedule of Substantive Issues) Section III; and

- (c) the revised draft of Section 3 of the Constitution (Work Package 4) as set out in Appendix B to the report and the accompanying Explanatory Note (Schedule of Substantive Issues), subject to the specific responses agreed by the Sub-Committee.

28 NEXT MEETING

The next meeting of the Sub-Committee would be held on Friday, 17th November 2017 at 10.00 am in the Committee Suite at Westfields.

The meeting commenced at 2.30 pm and concluded at 5.00 pm

Councillor A Martin (Chairman)