

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting:	30 th November 2017
Report of:	Acting Director of Legal Services (Acting Monitoring Officer)
Subject/Title:	Review of the Constitution

1.0 Report Summary

- 1.1 The Council has undertaken a comprehensive review of the current Constitution to ensure that it complies with all relevant statutory requirements, and examined how its current processes and procedures should be altered to improve organisational efficiency and achieve good governance.
- 1.2 This report brings the product of that review to the Constitution Committee.

2.0 Recommendations

- 2.1 That Council be recommended to adopt the revised Constitution of Cheshire East Council, as appended to this report.
- 2.2 That the Committee endorses the approach to any further necessary amendments as set out in the accompanying General Issues report and approved by the Constitution Sub-Committee on 3rd November 2017.

3.0 Reasons for Recommendations

- 3.1 The Council has undertaken a comprehensive review of the Constitution to ensure that it complies with all relevant statutory requirements, and examined how its current processes and procedures may be altered to improve organisational efficiency and achieve good governance.
- 3.2 The Council commissioned Bevan Brittan Solicitors to carry out a desktop review of the current Constitution. The proposals arising from that review were brought before the Constitution Committee for approval and endorsement on 4th August 2017.
- 3.3 The Committee appointed a Sub-Committee in order to take forward a full review of the Constitution, taking into account the views of stakeholders, and to present a new draft Constitution to the Constitution Committee for approval and recommendation to full Council.

- 3.4 The agreed timescale for the adoption of a new Constitution was noted at the meeting of Full Council in December 2017. Council resolved as follows: *“That the progress made in respect of the review of the Constitution and the timescale for the completion of the review be noted”*.
- 3.5 The adoption of seven key principles (set out below in paragraph 4.2 of this report) by the Constitution Committee provided a clear touchstone for the efficient development of the new document and associated guidance.
- 3.6 A work programme, driven by the Sub-Committee, identified the key areas of the Constitution, involved all relevant stakeholders in consideration of the key issues and oversaw development of a new document within a clear and accountable timescale.

4.0 Background and Options

- 4.1 A paper setting out the proposed approach was approved at the Constitution Committee on 4th August 2017.
- 4.2 The Council adopted seven key principles to this review, those being that the new document should:
1. recognise the Council's democratic leadership role;
 2. support, not hinder, the efficient exercise of democratic decision making, good governance and the delivery of services;
 3. be modern in its language, format and presentation;
 4. be concise – covering only those essential issues which need to be in the formal Constitution and sign posting to other documents/sources;
 5. recognise the new ways in which the Council operates (for example through ASDVs and shared services);
 6. delegate decision making to the most appropriate level with the right checks, balances and scrutiny and
 7. be future proof, not requiring constant revisiting and updating.
- 4.3 This initial paper also recommended the appointment of a Constitution Sub-Committee.
- 4.4 The Sub-Committee met on 23rd August 2017 to take forward the approach and approved the creation of five “work packages” with working groups – and nominated Lead Members and Lead Officers – for each work package, as set out below:
- 4.2.1 **The overall style and presentation of the Constitution** (Work Package 1)

4.2.2 Decision-making: Terms of Reference of Member Bodies (Work Package 2)

- Lead Member: Cllr. Gordon Baxendale
- Lead Officer: Daniel Dickinson

4.2.3 Decision-making: Officer Scheme of Delegation (Work Package 3)

- Lead Member: Cllr. Nick Mannion
- Lead Officer: Daniel Dickinson

4.2.4 Procedure Rules (Work Package 4)

- Lead Member: Cllr. Andrew Martin
- Lead Officer: Brian Reed

4.2.5 Codes & Protocols (Work Package 5)

- Lead Member: Cllr. Barry Burkhill
- Lead Officer: Brian Reed

4.5 As part of that approach, an initial joint Member / officer workshop– facilitated by Bevan Brittan – was held on 31st August 2017 at Sandbach Town Hall. The notes from this workshop were fed into the Working Groups.

4.6 The Sub-Committee met on 15th September 2017 and received updates from the Lead Officers on progress, including the Terms of Reference for the Working Groups and revised content for Work Package 1, which was approved. The Sub-Committee also approved the principle of proposed changes to the Constitution being brought to the attention of the Sub-Committee, in order for recommendations to be made to the Constitution Committee and then to Council at the conclusion of the review. These are now set out for consideration by the Committee in the Explanatory Note (List of Substantive Issues) at Appendix A.

4.7 In addition, a range of Member engagement opportunities were put in place, as set out below:

- Group Leader Briefing, 9th October 2017
- Drop-In Session, 12th October 2017
- Drop-In Session, 13th October 2017
- Drop-In Session, 18th October 2017

- Drop-In Session, 19th October 2017
 - Presentations to the Council's political groups
 - Presentations to the political group representatives on the Constitution Sub-Committee and the Constitution Committee
 - Discussions with Group Leaders and individual Members, where requested.
- 4.8 In total, it is believed that over 60 of the Council's 82 Members have been directly engaged in this process.
- 4.9 Further Sub-Committee meetings were held, approving the revised content and reports of substantive changes as follows:
- 4.9.1 Work Packages 2 and 3 – approved on 3rd November 2017, subject to amendments identified in the minutes of that meeting
- 4.9.2 Work Packages 4 and 5 – approved on 17th November 2017, subject to amendments identified in the minutes of that meeting.
- 4.10 The seven key principles set out at paragraph 4.2 of this report have been fulfilled:
- 4.10.1 The draft Constitution clarifies and strengthens the Council's democratic leadership role in a number of ways. Greater clarity has been brought to the core documentation which comprises the Constitution, and which defines the Council's democratic role, as well as strengthening the arrangements around keeping ward members informed of issues within their local areas.
- 4.10.2 The changes made to the draft constitution support, and do not hinder the efficient exercise of democratic decision making, good governance and the delivery of services. All decision-making processes have been reviewed to ensure that they are fit for purpose and inefficiencies in current decision-making arrangements have been removed. The involvement of Bevan Brittan solicitors, who have wide experience of decision-making arrangements nationally have been able to add-value to this exercise, as have the involvement of others, such as the Council's Interim Section 151 Officer, who has brought a wealth of experience to the process, drawn from other local authorities.
- 4.10.3 The new draft Constitution is modern in its language, format and presentation. The whole document has been reviewed and plain English has been used in the new document. Hyperlinks to documents which no longer need to be contained within the Constitution, have been used to reduce the bulk of the document, whilst preserving appropriate oversight of those documents by members.

The new Constitution will be much easier to navigate by members of the public, Councillors and officers, and references to outdated/replaced guidance and legislation have been removed/corrected.

- 4.10.4 The new Constitution will be concise – covering only those essential issues which need to be in the formal Constitution and sign posting to other documents/sources. The use of plain English and hyperlinks has achieved this. The new Constitution will be much shorter than the existing document, to the benefit of the user. However, the importance of hyperlinked documents, and the ownership of them have been secured.
 - 4.10.5 The new ways in which the Council operates have been, for the first time, properly recognised in the draft Constitution. The Council's approach to ASDVs¹ and shared services are now set out in the document: an important improvement in terms of keeping members of the public, Councillors and officers properly informed of the Council's working arrangements.
 - 4.10.6 The new Constitution will delegate decision-making to the most appropriate level, with the right checks, balances and scrutiny. The terms of reference of decision-making bodies have been reviewed, as have the delegations to officers, which have been streamlined and simplified. Finance and Contract Procedure Rules have been reviewed and made fit for purpose.
- 4.11 This report now appends four documents:
- 4.11.1 The composite Explanatory Note of substantive issues, which have been considered by the Sub-Committee, together with the Sub-Committee's recommendation against each issue, which are reflected in the draft Constitution. This is contained at Appendix A to this report.
 - 4.11.2 The draft Constitution itself, which is now recommended for approval by the Committee, and adoption by Full Council. This forms Appendix B to this report and is a separate document.
 - 4.11.3 Those documents which form part of the current Constitution, but which the Sub-Committee recommends should no longer be in the Constitution, together with a summary front-sheet which provides information as to "ownership" of each. This forms Appendix C to this report and is a separate document.

¹ A separate review of ASDV governance is currently underway at the Council. On conclusion of that review, any necessary changes or clarifications in the Constitution in relation to the ASDVs will be brought back to Constitution Committee and Council for consideration. This is also referred to in the Explanatory Note

- 4.11.4 One document which, whilst not part of the current Constitution or part of the proposed new draft Constitution, is required by law and will be referenced and hyperlinked from the revised Member Code of Conduct. This has been amended, and the proposed amendments approved by Sub-Committee. This forms Appendix D to this report and is a separate document.

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 are identified in the Explanatory Note (Appendix A).

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.

6.3 Financial Implications

- 6.3.1 The Constitution incorporates the Finance and Contract Procedure Rules which identify important parameters for managing the Council's resources. The work to review the Constitution has no direct budgetary implications.

- 6.3.2 The Financial Implications of a revised Constitution have been considered as part of the review process, with input from the Council's s.151 Officer and the Constitution Sub-Committee. This ensures that the Constitution supports the statutory responsibilities of the s.151 role.

6.4 Human Resources Implications

- 6.4.1 There are no human resources implications.

6.5 Equality Implications

- 6.5.1 There are no specific equality implications.

6.6 Health and Wellbeing Implications

- 6.6.1 There are no specific implications for health and wellbeing.

6.7 Implications for Children and Young People

6.7.1 There are no specific implications for children and young people.

6.8 Rural Community Implications

6.8.1 There are no specific implications for rural communities.

6.9 Overview and Scrutiny Committee Implications

6.9.1 The proposals have been made available for close scrutiny by all Members of the Council.

6.10 Risk Management Implications

6.10.1 These were identified and factored in at each stage of the review, as part of weekly Project Board meetings chaired by the Acting Director of Legal Services (in his role as Senior Responsible Owner).

7.0 Background Papers

7.1 The approved papers of the Constitution Committee and Sub-Committee provide the necessary background to this review.

8.0 Access to Information

8.1 Those papers are available on the Council's website.

Name: Dan Dickinson

Designation: Acting Director of Legal Services (Acting Monitoring Officer)

Tel No: 01270 686230

E-mail: daniel.dickinson@cheshireeast.gov.uk