



*Working for a brighter future together*

## **Constitution Committee**

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**Date of Meeting:** 20 September 2018

**Report Title:** Community Governance Review

**Senior Officer:** Dan Dickinson – Acting Director of Legal Services

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### **1. Report Summary**

- 1.1. To inform the Committee of progress in respect of a limited number of parish and town council governance matters, and to seek the authority of the Committee for these matters to be included in a Borough-wide Community Governance Review (Review) which includes the governance arrangements of all town and parish councils across Cheshire East.

### **2. Recommendation**

- 2.1. That the Constitution Committee be recommended to agree that:

2.1.1. a Borough-wide Review, in respect of the governance arrangements of all of the Borough's town and parish councils, be undertaken, commencing as soon as reasonably practicable after the 2019 all-out elections, and concluding well in advance of the May 2023 elections.

2.1.2. That a sub-committee of the Committee be appointed to drive-forward and coordinate the Review, working with an officer working group, and to make appropriate recommendations to the Constitution Committee for decision.

2.1.3. The sub-committee comprise representatives of all of the Council's political groups, on the basis of the following proportionality: 4:1:1:1 (Conservative: Labour: Independent: Liberal Democrat), drawn from the Constitution Committee, provided that the Liberal Democrat Group representative shall be nominated by its Group Leader.

### **3. Reasons for Recommendations**

- 3.1. A Community Governance Review in respect of town and parish councils in the Borough will provide the opportunity for Cheshire East Council to review and make appropriate changes to town and parish council community governance. This Review will require the Council to consult with local people and other bodies, and to take account of representations received in connection with the Review. Although the Review would cover the whole Borough, it is anticipated that changes to governance arrangements would not be requested or required in the majority of cases in our town and parish councils. However the Review would help to address governance issues raised within some parishes, including concerns about the impact of new housing developments on some parish boundaries; some of which arise from allocations within Cheshire East Local Plan.
- 3.2. It is important to note that the requirement for the Council to conduct a Community Governance Review could be triggered, at any time, by local people presenting the Council with a petition to conduct a Community Governance Review for part or the whole of the Council area. The Council would then be under a legal duty to carry out a Community Governance Review for the part, or whole area as requested, within a twelve-month time frame. However this duty does not arise if the Council is already conducting a review of the whole, or a significant part of the area to which the petition relates. Therefore, as a consequence of the Council undertaking its own Borough-wide Review, the risk of any uncoordinated review being instigated by way of a petition is removed.
- 3.3. It is proposed that the Borough-wide Review of town and parish council governance arrangements will be progressed in detail, as soon as practicable, after the May 2019 elections.
- 3.4. The elections will take place on 2 May 2019, and are already in the planning stages. It would not be possible, or reasonable, to commence the main body of work associated with the Review, or the consultation stages of the Review, which would fundamentally affect the basis upon which those elections will be organised and held, until after the May 2019 elections. This report, therefore, proposes that the Review should be commenced as soon as possible and then progressed in detail in the Summer of 2019. It is anticipated that the Review would be concluded in a timescale of around 12 months, but the timescale for the Review will be dependent upon factors which cannot be fully predicted at this stage.
- 3.5. It is appropriate for existing residual parish matters to be included in the proposed Borough-wide Review, along with those requests already made by a small number of town and parish councils relating to Local Plan

issues. Given that development pursuant to the Local Plan is not certain; this being dependent upon a range of factors, such as the need for planning permission, and the pace at which developers implement such permissions, it is felt to be of key importance that Community Governance Reviews are not conducted in a piecemeal fashion. A coordinated approach is required which takes into account all factors which might result in the need for this Council to agree to change governance arrangements, such as boundary changes, and numbers of town and parish councillors. Taking such an approach will ensure that the consequences of any proposed Review changes, including the impact of such changes on other town and parish councils, are properly taken into account and considered.

- 3.6. Undertaking a Review of all town and parish council arrangements across the Borough will be a major exercise, and will necessitate the involvement of a team of officers, led by Democratic Services, involving the Elections Team and officers from other Council areas, including but not limited to the Spatial Planning Team, GIS, Business Intelligence, Finance (in relation to precepts), and the Council's lawyers. A full assessment of resource needs will be required as soon as possible. Plans are underway to progress this.
- 3.7. It is therefore proposed that a Borough-wide Review, in respect of the Borough's town and parish councils, be progressed following the all-out Borough, Town and Parish elections in May 2019, and that a sub-committee of the Constitution Committee be appointed to take-forward this work; the sub-committee, supported by a multi-disciplinary officer working group, will make recommendations to the Constitution Committee for decision.

#### **4. Background**

- 4.1. Cheshire East Borough is entirely parished, comprising 186 town and parish council wards. Those wards are contained within 134 town and parish councils in the Borough. Cheshire East Council is responsible for electoral and governance arrangements in respect of town and parish councils within the borough, including; town and parish boundaries; numbers of town and parish councillors; warding/grouping arrangements etc.
- 4.2. The Council may conduct Community Governance Reviews (CGRs) of towns and parishes within the Borough, which could result in changes to town and parish council boundaries and electoral arrangements. Government guidance states that the principal council should continually keep their area under review, and that it is good practice for a principal council to consider conducting a Review every 10-15 years, except in areas with a low population. The last Review for Cheshire East took place in

2011, but this was a Review of Borough electoral arrangements, conducted by the Boundary Commission, resulting in a number of consequential changes to some town and parish council warding arrangements. A full review of town and parish councils across Cheshire East has not been conducted since before the creation of Cheshire East Council in 2009.

- 4.3. The Council is aware of a small number of residual parish council governance-related queries, which have not yet been progressed.
- 4.4. The Council has also recently been approached by a small number of town councils with requests that their areas be subject of a Community Governance Review. Those requests have arisen as a consequence of Local Plan proposals and recent developments, which the town and parish councils believe should be addressed by a Community Governance Review.

## **5. Implications of the Recommendations**

### **5.1. Legal Implications**

- 5.1.1 The general powers of a local authority to conduct a (CGR) are contained in Section 82 of the Local Government and Public Involvement in Health Act 2007 (the 2007 Act).
- 5.1.2 Section 83 of the 2007 Act sets out the duty of local authorities to respond to valid CGR petitions, and contains the requirements in terms of validity of such petitions.
- 5.1.3 Section 79 of the 2007 Act sets out the duties of local authorities in respect of conducting CGR petitions, and Section 100 of the Act requires local authorities to have regard to the Secretary of State's guidance, and to that which has been issued by the Local Government Boundary Commission for England.
- 5.1.4 Section 93 of the 2007 Act sets out requirements regarding consultation, and how CGRs should be conducted. Section 93, and Section 102 contain provisions in respect of the timescale for conclusion of CGRs (12 months from commencement) and the principles which underpin the CGR process.
- 5.1.5 Section 93 goes on to set out requirements relating to the duty to consult electors and others during CGR processes.
- 5.1.6 Importantly, Section 85 of the 2007 Act makes provision for local authorities to decide what action, if any, to take in response to a community governance petition in certain circumstances. Sub-section (6) applies this

discretion to local authorities when the local authority is in the course of undertaking a CGR of the whole of the Council's area and when a petition is received which relates to the whole or part of the Council's area.

## **5.2 Finance Implications**

- 5.2.1 Whilst there will undoubtedly be resource implications associated with a Borough-wide Review, the level of financial implications are, as yet, unclear.
- 5.2.2 A major part of the Review process is the consultation of local electors and others, including parish councils, in order to establish whether there are any issues which the consultees would want to be the subject of the Review. It is not possible to predict the level of consultation responses and what proportion of these might produce substantive issues which would then result in the need for further detailed work to take place.
- 5.2.3 The proposals contained in this report seek authority for the establishment of an officer project team and the sub-committee to drive-forward the work on this Review. The work of this team and sub-committee will produce further information and insight into the resource-implications and potential financial implications of the proposed Review, which will be reported back to the Committee in due course.

## **5.3 Policy Implications**

- 5.3.1 There are no direct policy implications. The way in which the proposed Review is conducted and the basis upon which it is conducted, will be agreed by the Committee.

## **5.4 Equality Implications**

- 5.4.1 There are no direct equality implications.

## **5.5 Human Resources Implications**

- 5.5.1 These are outlined in the Finance Implications of this report.

## **5.6 Risk Management Implications**

- 5.6.1 Cheshire East Borough Council's own borough ward boundaries and electoral arrangements are the responsibility of the Boundary Commission, and are not the subject of this report. It must be noted however that if the Review of town and parish council arrangements resulted, for example, in their wards not being coterminous with the borough ward boundaries, such matters may be considered by the Local Government Boundary Commission for England (LGBCE), who may choose to make

consequential changes to the borough ward boundaries affected. The Boundary Commission might choose to do this in any event.

- 5.6.2 The LGBCE has confirmed that currently, Cheshire East Council is not currently proposed to be subject to a borough ward review. The trigger for such a review would be if the electorate of one of our Cheshire East borough wards varied from the average number of electors per councillor by +/-30% of the average elector ratio, or if the electorate of 30% of our wards was +/- 10% from the average and this is not currently the case. Our current electorate statistics show that, as at 1 August 2018, our wards vary from -14.58% to 21.88% from the average ratio of electors per councillor. This average has been calculated by dividing our electorate, as at 1 August 2018, by our 82 member seats.
- 5.6.3 Any decision not to undertake a Review would leave the Council vulnerable to ad-hoc petitions from local areas. These would have to be dealt with within a very limited timeframe of a maximum of 12 months, without any flexibility on the part of this Council to group related reviews together unless, by coincidence, the petitions were presented to the Council at the same time. This would prevent the Council from taking a reasoned holistic view across the whole Borough.
- 5.6.4 The Council would be forced to pursue reviews on the same ad-hoc basis with which the petitions had been presented, which could result in lack of coordination and conflicting issues arising in each. Undertaking a Review will remove this risk.

## **5.7 Rural Communities Implications**

- 5.7.1 It will be important to ensure that the views of parish councils are taken into account in any Review, and the citizens from rural areas have the opportunity to comment in response to the Review, if they wish to do so.
- 5.7.2 Other implications for rural communities will become evident as and when any Review is progressed.

## **5.8 Implications for Children & Young People**

- 5.8.1 There are no direct implications for children and young people.

## **5.9 Public Health Implications**

- 5.9.1 There are no direct implications for public health.

## **6 Ward Members Affected**

- 6.1 All Ward members will be affected to some extent and will be included in the consultation process.

## **7 Consultation & Engagement**

- 7.1 Consultation has not yet been undertaken but will include consultation with ward members, parish clerks, town and parish councillors, electors, local community groups etc. Consultation will be undertaken via the website and direct communications via town and parish clerks.

## **8 Access to Information/Contact Information**

- 8.1 Any questions relating to this report should be directed to the following officer:

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