

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Monday, 15th July, 2019 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor J Nicholas (Chairman)
Councillor S Hogben (Vice-Chairman)

Councillors M Asquith, R Bailey, J Bratherton, L Crane, S Edgar, T Fox,
G Hayes, A Martin, B Murphy, A Stott (for Cllr Moreton) and P Williams

Officers

Daniel Dickinson, Legal Team Manager (Corporate & Regulatory)
Rachel Graves, Democratic Services Officer
Guy Kilminster, Corporate Manager Health Improvement
Kath O'Dwyer, Acting Chief Executive
Brian Reed, Head of Democratic Services and Governance
Katie Small, Scrutiny Officer
Julie Zientek, Democratic Services Officer

Other Members Present

Councillors B Evans, JP Findlow and J Rhodes

Apologies

Councillors M Benson and R Moreton

1 DECLARATIONS OF INTEREST

There were no declarations of interest.

2 PUBLIC SPEAKING TIME/OPEN SESSION

The Chairman read a statement submitted by Graham Goodwin regarding possible changes to the public speaking time at Council meetings. Mr Goodwin suggested that each member of the public should be given a set time to address Council, for example 5 minutes. Currently, a total of 15 minutes was allocated for members of the public to address the council, with a limit of 5 minutes per person. However, at recent Council meetings the individual time allocation had been reduced to as little as one minute, due to the number of people wishing to address Council. The Head of Democratic Services and Governance responded that consideration of this issue would be included in the Committee's review of meeting arrangements.

Sue Helliwell referred to the Cabinet meeting held on 9 July 2019, at which the Leader had stated that as tenancy agreements were renewed the terms could be changed, where possible, to include that badger culling would not be allowed on Council land. She asked whether this change would need to be considered by Cabinet and an overview and scrutiny committee. The Head of Democratic Services and Governance responded that this would be raised via the proper processes following the meeting.

Ted Wall welcomed the inclusion of the Council's governance arrangements on the agenda. He had supported the "Change Cheshire East" campaign and was optimistic for the future. However, change for the sake of change must be avoided. There were faults in the committee-style councils of old, and any working group must look to the future.

3 MEMBER SPEAKING

Councillor G Hayes stated that he was in agreement with the addition of public speaking at Council meetings to the Committee's work programme. This would ensure that it was given thorough consideration together with any potential change in the Council's governance arrangements.

Councillor R Bailey referred to the report to the next meeting on the review of meeting arrangements and asked if it could be expanded to include accessibility of meetings for Members and the layout of meetings.

4 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 22 November 2018 be approved as a correct record.

5 THE COUNCIL'S GOVERNANCE ARRANGEMENTS

The Committee considered a report regarding changes to the Council's governance arrangements.

On 22 May 2019, Council had agreed the following Notice of Motion:

'This Council is committed to implementing a change in decision-making governance arrangements, comprising the cessation of the current Leader and Cabinet model of governance, and the implementation of a full Committee model of governance; this to be developed during 2019/20 with a view to the new arrangements taking effect from the beginning of the 2020/21 Municipal Year, subject to a legally and constitutionally robust process, led by the Council's Constitution Committee, and agreed by Council'.

It was proposed to establish a working group to develop detailed proposals, which would be submitted to the Constitution Committee for

consideration. The final recommendations of the Constitution Committee would then be considered by Council.

RESOLVED

That

1. a working group of 8 Members be established, on a politically proportionate basis (3:2:2:1), to develop detailed proposals on revised governance arrangements as envisaged in the notice of motion, with those terms of reference as set out in paragraph 3.9 of the report;
2. the working group produce recommendations for the Committee to consider; and
3. the working group be known as the 'Governance Working Group'.

6 HEALTH AND WELLBEING BOARD - PROPOSED REVISIONS TO THE TERMS OF REFERENCE

The Committee considered proposed revisions to the Terms of Reference for the Health and Wellbeing Board.

The Terms of Reference of the Cheshire East Health and Wellbeing Board were reviewed every two years. At its meeting on 25 June 2019, the Board had agreed a number of minor changes to its Terms of Reference, in order to take account of the ongoing reorganisation of the Cheshire Clinical Commissioning Groups.

The Terms of Reference as amended were attached as an Appendix to the report.

RESOLVED

That the proposed revised Terms of Reference of the Health and Wellbeing Board, as set out in the Appendix to the report, be recommended to Council for approval.

7 APPOINTMENTS TO OUTSIDE ORGANISATIONS 2019-2023

The Committee considered a report regarding appointments to the Category 2 list of Outside Organisations. The proposed appointments were set out in the schedule appended to the report.

It was reported that it had been established that the number of representatives on the Audlem Education Foundation should be one, not two, and that the nomination for appointment was Councillor R Bailey, the Ward Councillor. In addition, the Council had been approached by the Chairman of the Board of Management of Nantwich Museum with a view

to the Council appointing a second representative who would not necessarily be a sitting Councillor.

Committee Members requested a review of all Outside Organisations prior to the Council elections in 2023, to include a simplification of the process and the appointment of local Ward members to local organisations.

RESOLVED

That

1. the Committee confirms it will continue with the current approach to appointing to Outside Organisations, and for the casual vacancy procedure to be used in the event of changes in the mid-term period;
2. subject to Councillor R Bailey being the sole appointment to the Audlem Education Foundation, approval be given to the appointment of the representatives shown on the schedule attached to the report, and that the appointments run until such time as the Council's representation is reviewed following the election of the new Council in 2023;
3. the appointments take immediate effect;
4. notwithstanding 1. above, the Committee retains the right to review the representation on any Outside Organisation at any time, for any reason;
5. the Head of Democratic Services and Governance be authorised to accept any nominations to Outside Organisations that have not been received by the date of the Committee meeting; and
6. the Head of Democratic Services and Governance be granted delegated authority to accept a nomination for a second representative on the Nantwich Museum Trust, as requested by the Chairman of the Board of Management of Nantwich Museum.

8 NOTICE OF MOTION - PARENTAL LEAVE POLICY FOR COUNCILLORS

The Committee considered the following Notice of Motion, which had been proposed by Councillor J Rhodes and seconded by Councillor J Bratherton at the Council meeting on 21st February 2019 and referred to the Committee for consideration:

"This Council notes:

- *That the role of a councillor should be open to all, regardless of their background, and that introducing a parental leave policy is a step towards encouraging a wider range of people to become councillors,*

and is also a step to encourage existing councillors who may want to start a family to remain as councillors;

- *That parental leave must apply to parents regardless of their gender, and that it should also cover adoption leave to support those parents who choose to adopt.*

This Council resolves:

- *To adopt the parental leave policy set out below.”*

The proposed Parental Leave Policy for Cheshire East Council was attached as an Appendix to the report.

RESOLVED

That the Committee notes, and broadly endorses, the principles contained in the motion with a view to considering the matter in greater detail at a future meeting as the review of the Council's governance arrangements progresses.

9 AMENDMENTS TO THE CONSTITUTION - CHANGES TO THE SENIOR MANAGEMENT STRUCTURE

The Committee considered a report regarding amendments made to the constitution by the Monitoring Officer under delegated powers to reflect recent changes to the senior management structure, including changes in some job titles. The opportunity had also been taken to provide greater clarity and consistency with respect to officer responsibilities, correct any related drafting errors and review the allocation of functions between the Executive Director of Corporate Services and the Section 151 Officer.

RESOLVED

That the Committee notes the amendments to the constitution by the Monitoring Officer under her delegated powers to reflect the recent changes to the Council's senior management structure.

10 AMENDMENT TO THE CONSTITUTION - INVESTIGATION AND DISCIPLINARY COMMITTEE TERMS OF REFERENCE

The Committee considered proposed revisions to the Terms of Reference for the Investigation and Disciplinary Committee (“IDC”), the Disciplinary Appeals Committee (“DAC”), the Independent Persons Panel (“IPP”) and the Employment Procedure Rules, which are all contained within the Council's constitution and which, together, provide the mechanisms required by statute to manage disciplinary matters arising against the Council's Head of Paid Service, its Section 151 Officer and its Monitoring Officer. The Committee also considered proposed new “IDC Handbook” which contained comprehensive guidance notes on the processes that relate and which was to be included as an “associated document”

referenced in Section 7 of the constitution as supporting the constitution but not being formally comprised within it.

The current mechanisms and processes relating to the business of the IDC had been reviewed in line with the requirements set out in the Model Disciplinary Procedure and Guidance in the JNC Conditions of Service Handbook, which has the status of nationally applied guidance. In addition, learning points from recent IDC matters had also been taken into account. A separate IDC Handbook had been produced which provides detail on the process to be followed and which would be included as an associated document in the Constitution, with a link provided for ease of reference. In respect of the Employment Procedure Rules, which also sought to deal with these issues, the review found these to be out of date and/or duplicated by the processes contained in the proposed new Terms of Reference and Handbook. Therefore the proposal was to reduce the Employment Procedure Rules to a single paragraph which referenced the detail contained in the new proposed IDC Terms of Reference and Handbook.

The Legal Team Manager (Corporate & Regulatory) reported that further changes were required to the documents that had been presented to the Committee. This was to reflect the fact that with the exception of the statutory requirement that 1 seat on any IDC or DAC must be filled by a cabinet member, staffing matters were, in law, non-executive functions and as such the envisaged roles for the Leader/Deputy Leader in the materials presented to the Committee should actually be re-assigned to the Chair of Staffing Committee and/or the Chair of any IDC committee that happen to have been convened at the relevant time. That was in accordance with the council's current practices, and aligned with nationally accepted good practice (reflected in the JNC model handbook and guidance) of achieving a separation of the Leader/Deputy Leader from functions which, in law, were non-executive functions. Members of the Constitution Committee agreed and as a result, further changes were agreed to the documents originally presented to the Constitution Committee.

The meeting was adjourned to enable officers to produce "clean" copies of the documents incorporating all of the changes proposed, which members subsequently approved.

RESOLVED

That the following proposed amendments to the Constitution, comprising:-

- A) revised Terms of Reference for the Investigation and Disciplinary Committee, the Disciplinary Appeals Committee and the Independent Persons Panel (as set out in Appendix A to the report), with the changes shown in the appendix to these minutes

- B) the proposed amendments to the Employment Procedure Rules (as set out in Appendix B to the report)
- C) the inclusion into the Constitution (as an “associated document” within chapter 7 thereto) of the new IDC Handbook (as set out in Appendix C to the report), with the changes shown in the appendix to these minutes.

be recommended to Council for approval.

The meeting commenced at 2.00 pm and concluded at 4.40 pm

Councillor J Nicholas (Chairman)

APPENDIX TO MINUTE 10 - AMENDMENT TO THE CONSTITUTION - INVESTIGATION AND DISCIPLINARY COMMITTEE TERMS OF REFERENCE

ITEM 11 SUPPLEMENTAL PAPER - CHANGES MADE BY THE CONSTITUTION COMMITTEE ON 15 JULY 2019

Change No. 1 – The following paragraph replaces paragraph 53 on Page 55 of the agenda report pack. “Tracked changes” are shown.

- 53 The Committee shall be politically balanced, shall consist of 5 Members of the Council of which 1 member of the Committee must may be a member of the Cabinet but that member must not be the Leader or Deputy leader. Members of the Committee must have completed mandatory training. A quorum for the meeting shall be 3 Members.

Change No. 2 – The following paragraph replaces paragraph 62 on page 57 of the agenda report pack. “Tracked changes” are shown.

- 62 The Committee shall be politically balanced, shall consist of 5 Members of the Council of which 1 member of the Committee must may be a member of the Cabinet but that member must not be the Leader or Deputy Leader. No Member who was a member of the Investigation and Disciplinary Committee making the decision which is the subject of the appeal may be a member of the Disciplinary Appeals Committee. Members of the Committee must have completed mandatory training.

Change No. 3 – The following paragraph replaces paragraph 7 on page 63 of the agenda report pack. “Tracked changes” are shown.

7. The draft filter report will be shared jointly with the Chair of the Staffing Committee and / Leader, or the Chair of the IDC if there is a standing committee.

Change No. 4 – The following paragraph replaces paragraph 21 on page 66 of the agenda report pack. “Tracked changes” are shown.

21. It may also be necessary, if an exceptional situation arises, for the Head of Paid Service, or if the DSO in question is the Head of Paid Service, the Monitoring Officer in consultation with the Leader, or Deputy Leader in consultation with the Monitoring Officer (if the DSO is the Head of Paid Service), to carry out a temporary suspension of the DSO pending the convening of an IDC Committee hearing to consider the matter. In such circumstances, a decision whether or not to carry out a temporary suspension shall be taken by either the Head of Paid Service or the Monitoring Officer (as the case may be) in consultation with the Chair of Staffing and/or the Chair of the IDC if

there is a standing committee. Any ~~the~~ temporary suspension decision will be reviewed by the Committee at the first available IDC meeting.