

## **Corporate Policy Committee Council**

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<b>Date of Meeting:</b>	14 April 2022 27 April 2022
<b>Report Title:</b>	First Annual Review of the Committee System
<b>Report of:</b>	David Brown – Director of Governance and Compliance
<b>Report Reference No:</b>	CP/66/21-22
<b>Ward(s) Affected:</b>	All

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### **1. Purpose of Report**

- 1.1** This report updates Council as to how the first year of the committee system has functioned and makes recommendations which Council may consider will improve the future functionality of the committee system.

### **2. Executive Summary**

- 2.1** This report provides Council with an overview of the functioning of its committee system of governance since the Annual General Meeting on the 4 May 2021 when this was adopted. The Council has implemented a fundamental change in the way that decisions are made. It has achieved this through a pandemic; changes to online and physical meetings; whilst, at the same time, allocating resources to a multitude of external issues ranging from EU withdrawal, legislative changes, market, and supply chain factors. This has required a concerted effort on the part of Members and officers to ensure that the Council continues to conduct its business successfully.
- 2.2** The Council's ability to make timely, urgent, and complex decisions required as a result of the fast-changing nature of the pandemic and associated changes to legislation and government guidance has continued without interruption. Many of these decisions have had profound implications for communities in Cheshire East and have required coherent, complex, and fast engagements with central government and partner organisations.

- 2.3 There has been no legal or other challenge to the validity or timeliness of the Council's decision-making.
- 2.4 The change in governance is legally centred upon a specific date: 4<sup>th</sup> May 2021. Continuing improvements and alignments of internal and external policies, procedures, internal and external protocols will be reflected in continuing governance and constitutional improvements. There are known changes anticipated such as the integrated care system and there are likely to be further changes yet unknown from centralised policies set out in the levelling up and health white papers. These are in addition to the programmed work such as the Member Code of Conduct review.
- 2.5 The policy parameters relating to the adoption of the committee system were set by Council on 19 November 2020. The approach to those parameters reflects the design principles agreed in appendix G of the 19 November 2020 report. A summary review of the agreed design principles, against delivery, is set out below. The ability of the Council to make timely, lawful decisions during the period of change of governance to a committee system has been achieved.
- **Openness:** Virtually all Members are engaged in the committee process either by membership of a service committee or in an oversight function. Proportional committees allow decisions to benefit from input from most political groups.
  - **Quick Decision Making:** The committee cycle is running on a two-monthly cycle.
  - **Affordability:** The cost of a committee system will be kept to a minimum by providing value for money and an efficient decision-making process.
  - **Legal Requirements:** The Council must comply with all legal requirements, and legal advice will be available to all meetings.
  - **A Modern Committee System:** The system provides for equivalent public engagement to that which previously applied.
- 2.6 This report is divided in to three parts. Part 1 sets out the review of the first year. Part 2 makes recommendations for acceptance of immediate changes, with the updated consolidated text of Chapters 4 to 7 of the Constitution attached (Appendix 3). Part 3 sets out the proposed future work to the Constitution.
- 2.7 Affordability design parameter is to ensure the cost of a committee system will be kept to a minimum by providing value for money and an efficient decision-making process, and the Part 1 data gives an indication of current resource implications. Reliable analysis is challenging due to the pandemic distortion and the limited time of operation of the committee system – still not a full year – and therefore a cautious interpretation is recommended (appendix 1).

- 2.8 Member oversight of the committee system is provided by the Constitution Working Group, reporting to the Corporate Policy Committee. The Audit and Governance Committee has responsibility for the Member Code of Conduct arrangements and the whistleblowing policy.
- 2.9 The committee system, at the time of drafting this report, has completed 11 months of the first municipal year, together with a full budget setting process.
- 2.10 Members will note that there is a separate report on today’s agenda on the Integrated Care System and any consequential constitutional changes will be incorporated into the Constitution.

**3. Recommendations**

- 3.1 That the Corporate Policy Committee recommend that Council:
  - 1. Note the comparative data and successful operation of the committee system to date in appendix 1.
  - 2. Agree the revisions to the Constitution in appendix 2 to 4.
  - 3. Agree the future work to be undertaken in Part 3 of the report.
  - 4. Require a further annual review report at its meeting scheduled to be held in July 2023.

**4. Reasons for Recommendations**

- 4.1 To ensure that the committee system is fit for purpose, meeting the requirements of Cheshire East Council, partners, and residents.
- 4.2 It is best practice to annually review the Council’s Constitution.

**5. Other Options Considered**

Option	Impact	Risk
Do nothing	It is acknowledged that the Constitution is a working document, which constantly needs to be kept under review to ensure that it is fit for purpose and that it meets the needs of the Council. Doing nothing is not appropriate, as this would not result in the Council learning from the experience of the last 11 months, and then improving consequently.	Poor decision making, not meeting the needs of residents  Failure to meet Corporate Plan Priorities

## **6. Background**

- 6.1.** On the [19 November 2020](#) Council resolved to adopt a committee style of governance. The policy basis for this was set in the eight appendices to the report to Council. Council resolved that a review should take place in November 2021. Members were asked to note that one consequence of moving to a committee system was that there would be certain decision-making powers delegated to officers. It was also noted that to enable the effective operation of Council, officers exercising decision-making powers may be empowered to do so outright, or subject to consultation with lead Members, such as chairs of committees.
- 6.2.** On the [19 April 2021](#) Council approved the draft Constitution to give effect to the change to the committee system. This included approval of Chapters 1 to 7 of the Constitution, which deal with:
- Introduction, summary, and explanation
  - Responsibilities for function
  - Procedural rules
  - Codes and protocols
  - Councillors' allowances scheme
  - Glossary
  - List of associated documents
- 6.3** On the [4 May 2021](#), the Council held its Annual General Meeting, which triggered the implementation of the committee system.
- 6.4** On the [22 June 2021](#) Council approved further revisions to Introduction, summary and explanation (Chapter 1), Responsibilities for function (Chapter 2), and Procedural rules (Chapter 3) and the Member Allowances Scheme (Chapter 5) of the Constitution. Amendments to the management structure were also agreed, with delegated authority being given to the Monitoring Officer to make consequential amendments to the Constitution to give effect to the new management structure.
- 6.5** On the [15 December 2021](#) Council considered the interim review of the committee system and approved a revised consolidated text to the Constitution.
- 6.6** Chapters 4 to 7 of the Councils Constitution are attached at Appendix 3, which includes, a revised Councillor/Officer Protocol and amendments to the glossary and list of associated documents.

## **7. PART 1 Review of the first year**

**7.1** The Cabinet and four scrutiny committees were replaced with six service committees and a standing Finance Sub-Committee. Various free-standing committees of the former decision-making structure, such as the Staffing Committee, have been merged with the relevant service committees. The Council has now had nearly a full annual cycle of the committee system. Officers have undertaken a desk-top analysis, comparing the agendas and minutes of all relevant committee meetings (i.e., those of the new service committees, with those of all the committees – including Cabinet – that they replaced). A more detailed analysis of the committee system can be found at Appendix 1; it is subject to the caveats around the analysis as set out in the footnotes and postscript to the appendix

**7.2** The headline figures are as follows:

- The total number of meetings held increased at the advent of the committee system and is still currently 18% higher than the pre-pandemic level
- The number of reports for decision is now largely unchanged from the pre-pandemic period, but the number of reports for briefing/information only has increased from 77 to 138 reports a year.
- The average length of each meeting has reduced by 11%, but the total time in meetings is 5% greater than it was (i.e., there are more meetings than before, but they are generally shorter)
- Total time spent in meetings by Members initially increased by 37% when remote meetings were first introduced, but this has since reduced and is now 11% less than under the Cabinet system pre-Covid
- In contrast, the total time spent in meetings by officers is still 6% more than it was under the Cabinet model

**7.3** Overall the picture appears to be one of changes in the balance of demand. For example, shorter but more frequent meetings (5% overall increase) appear to be consistent with the 6% increase in officer time.

### **7.4 Budget Setting Process**

**7.5** Approving the budget is one of the most important decisions councillors must make each year. This is the first council budget developed under the council's committee system of decision making. The committee system meant that more councillors are directly involved in making decisions about council services and policy. The initial budget process was set out in the transitional paper of April 2022 and was supported by the budget and policy framework procedure rules which remained unchanged from April 2021.

**7.6** The budget was a Member recommendation from the Corporate Policy Committee and was approved by Full Council, at its meeting held on 24 February 2022. The budget setting process has been successful. No changes to the budget procedure rules are suggested.

## **8. PART 2 Recommended changes to the Constitution**

**8.1** Since the Review of the Committee System Report, considered by Full Council on 15 December 2021, the Constitution Working Group has met on 4 occasions. The Working Group has focussed upon:

- Amendments to Chapter 3 of the Council's Constitution (Appendix 2):
  - six-month rule for service committees, which has been amended to create flexibility for the Chair and Committees in allowing a report which is the same or substantially the same as that upon which a decision was made by the committee within the preceding 6 months. A new resolution may then be made.
  - public speaking at committees which has been revised to ensure the Council makes reasonable adjustments for those who cannot attend in person such as those with disabilities or Covid-19.
  - Referral of decisions to Full Council. Following learning over the past year, policy issues have been considered and the procedural rules have been amended to provide clarity and a mechanism for achieving an outcome to resolve the issue without the need for referral to Council.
- Revision to Chapter 4 of the Council's Constitution – Councillor/Officer Protocol, which is a completely revised document to reflect the committee system and to be made more succinct (Appendix 3).
- Amendments to Chapter 7, list of associated documents, of the Council's Constitution – process for referral of decisions and responsibilities of group administrators and guidance on public speaking at full Council. Following learning over the past year, these have developed to provide further detail and clarity, as supporting documents to the Constitution (Appendices 3 and 4).

**8.2** The associated documents do not form part of the constitution but assist in members and officers in understanding how parts of the constitution work and how the constitution is interpreted. These documents are important and predominately arise from learning encountered during the year and are likely to include further documents when new situations arise. It is important that members have the opportunity to see and debate these documents. The debate will help inform the approach taken and any future proposals or reconsideration of existing documents by the Constitution Working Group.

**8.3** Documents that members may consider important include the note on putting forward agenda items or mechanics of a referral to full council. It is important to

recognise the documents are designed to help, support, and interpret the constitution they do not replace it, nor can they be proscriptive. Member's kind attention is directed to Chapter 7.

- 8.4** Members have raised the issue of questions at committee and full council. The Constitution Working Group have received 3 discussion papers on approach to be adopted and are considering the balance between efficiency and efficacy of meetings, ensuring the public are sign posted to the best route to get an answer to their issue and the ability and need for the public and Members to be able to raise matters in an open public forum. This remains on the work programme and no further changes to questions are being made to date save for the moving of appendix 1 found at Chapter 3, page 30 of the current Constitution to Chapter 7.
- 8.5** The Working Group's recommendations were considered by the Corporate Policy Committee which made recommendations to Council and, subject to approval by Full Council, will be included in the Council's updated Constitution.
- 8.6** The Audit and Governance Committee is responsible for the Member Code of Conduct. The Committee set up a working group to review the provisions of the Code in the context of work of the Committee for Standards in Public Life report in January 2019, and the consequential Local Government Association's recommended updated Model Code of Conduct.
- 8.7** The Member Code of Conduct was shared with town and parish councils for the purposes of consultation. There is strong logic for all Councils adopting the model code. Following the consultation period, revised drafts of the Code of Conduct and procedure were prepared by the working group and will be considered by the Audit and Governance Committee in due course before recommending any changes to Council for adoption. The government's response to the Committee for Standards in Public Life report in January 2019 was published on 18 March 2022 and it is anticipated the revised code and process will be recommended by the Audit and Governance committee early in the new municipal year.

**9. PART 3 - Proposed future changes to the Constitution.**

- 9.1** The Constitution Working Group will continue to meet to revise supporting documents and will recommend consequential material changes. Proposed future work of the Constitution Working Group includes:

- Rules of debate
- Financial scheme of delegation
- Clarification on the terms of reference and relationship for Finance Sub Committee and Corporate Policy Committee
- Notices of motion
- Questions at Full Council and Committees

- Conflicts of Interest
- Officer code of conduct
- Officer scheme of delegation
- Review of number of committees to ensure they remain appropriate and proportionate to future changes eg, Integrated Care

## **9.2 Training and Development**

**9.3** Informal commentary from members and officers throughout the year has consistently mentioned training. Training is currently being commissioned to support the decision-making process, by ensuring that members and officers are confident in how they manage effective debate at meetings.

**9.4** The proposed training will be further interactive sessions building on activities at a service committee meeting. The workshop will explore the skills required by members and officers to effectively handle debate, including challenge, and questioning techniques, and understand the impact of their behaviours and communication styles.

**9.5** This will be supported by informal officer training as matters arise and more formal training on substantive issues such as Code of Conduct when appropriate. Members will also appreciate that the programme of training on induction of new Members will be refreshed for 2023.

**9.6** In addition, there is an appetite for taking and sharing the best knowledge and approach developed by individual service committees across the wider Council. Officers are working on taking the best practice and using that to develop approaches to information sharing, committee briefings etc. Operational learning from the first year will be used to inform and improve how we work in the future.

## **10. Consultation and Engagement**

**10.1** Engagement with Members has primarily been through the Constitution Working Group, and, where relevant for the Code of Conduct, the Audit and Governance Committee.

**10.2** All Members received a request for their comments on the first year of operation of the committee system, Member feedback has been totalled. Also, throughout the year, feedback from Members has been considered by the Constitution Working Group, as it has arisen. Future Member and officer engagement will be formalised through the project arrangements. All directorates have contributed to the feedback.

## **11. Implications**

### **11.1 Legal**

**11.1.1** The proposed amendments to the Constitution are part of the continuing development of the committee system. Although predominately to ensure consistency with a committee style of governance, changes require approval of full Council such as the editorial amendments to terms of reference.

**11.1.2** The Constitution is the functioning rule book used by all officers and Members in driving forward the business of the Council. Like any set of rules, it needs to remain current and consistent with the intent of Council and practicable in the delivery of the Council's objectives.

**11.1.3** The core elements of the Constitution are set through various legislative regimes and the current Constitution appears to meet the substantive legal requirements. The areas in which the Council has a discretion the constitution must also remain broadly reasonable and consistent with the objectives of the council.

**11.1.4** Failure to keep the Constitution under review and adapt to the changing needs of the organisation will build in levels of risk into the decision-making process. Those risks may manifest themselves as delay, poor quality decisions or ultimately a challenge to the decision itself.

### **11.2 Finance**

**11.2.1** There are unavoidable costs which will relate to system change, training, and implementation.

**11.2.2** Appendix 1 indicates a potential trend which may increase the resources required to support each committee. A potential increase in the resource/cost of operating the committee system as opposed to the cabinet model was anticipated, with a consequent design parameter of minimisation of resource/cost.

**11.2.3** There are no direct cost implications of the Constitutional updates.

### **11.3 Policy**

**11.3.1** The recommended changes to the Constitution will, if agreed by Council, result in constitutional change.

### **11.4 Equality**

**11.4.1** An Equality Impact Assessment was completed for the original decision to change governance. The accessibility and intelligibility of the Constitution has remained at the forefront of the drafting process. Accessibility and transparency are core design principles and additional learning has been incorporated through the changes to and the review of remote meetings.

## **11.5 Human Resources**

**11.5.1** There are direct implications for human resources. Staff (and Members) have requested additional training. Training requests include process training on how decisions are made, and practical issues such as additional training on report writing given the change in audience from cabinet to committee. Members have sought better understanding of how to obtain best results from officers who present reports, consistency in style of recommendations, to process and procedural issues.

## **11.6 Risk Management**

**11.6.1** The risks of changing systems of governance were set out in paragraph 1.6 onwards of the November 2020 [report](#). The Council has continued to effectively manage the strategic risks related to the wider pandemic, changes in legislation on meetings, resource constraints and the fixed time frame set by the November decision. At present these risks appear to have been successfully mitigated.

**11.6.2** The review of the operational effectiveness of the committee system and supporting Constitution is an essential component of ensuring the efficacy of corporate decision making which is a key element of continuing risk mitigation.

## **11.7 Rural Communities**

**11.7.1** There are no direct implications for rural communities as any proposed changes to decision making will alter the responsible committee for many services.

## **11.8 Children and Young People/Cared for Children**

**11.8.1** There are no direct implications for children and young people.

## **11.9 Public Health**

**11.9.1** The direct implications for public health are set out in the ICS paper previously decided on this agenda.

## **11.10 Climate Change**

**11.10.1** There are no direct implications for climate change.

<b>Access to Information</b>	
Contact Officer:	Brian Reed Head of Democratic Services and Governance
Appendices:	Analysis of the committee system (Appendix 1)

	<p>Amendments to Chapter 3 of the Council’s Constitution – six-month rule for service committees, public speaking at committees and referral of decisions (Appendix 2)</p> <p>Consolidated text of Chapters 4 to 7 of the Council’s Constitution (Appendix 3)</p> <p>Amendments to Chapter 7 of the Councils Constitution – process for referral of decisions and responsibilities of group administrators and guidance on public speaking at full Council (Appendix 4).</p>
Background Papers:	Previous Full Council reports (as hyperlinked throughout this report)