

# **Constitution Committee**

## **Supplementary Agenda**

---

**Date:** Thursday, 5th October, 2017  
**Time:** 2.00 pm  
**Venue:** Committee Suite 1, 2 & 3, Westfields, Middlewich Road,  
Sandbach CW11 1HZ

---

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

**5. Work Packages and Proposed Amendments to the Constitution (Pages 3 - 104)**

To consider a report on the current progress with the work packages.

**This page is intentionally left blank**

## CHESHIRE EAST COUNCIL

### Constitution Committee

---

<b>Date of Meeting:</b>	5 <sup>th</sup> October 2017
<b>Report of:</b>	Acting Director of Legal Services (Acting Monitoring Officer)
<b>Subject/Title:</b>	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 updates Constitution Committee on the process and progress of that review, and asks the Committee to note the work undertaken to present a new Constitution to the Constitution Committee in November and then full Council for adoption in December.

#### 2.0 Recommendations

- 2.1 It is recommended that Constitution Committee:
  - 2.1.1 Endorses the proposed revised project timetable as set out in Appendix A
  - 2.1.2 Notes the current status of the Work Packages as set out in Appendix B
  - 2.1.3 Notes the significant effort of both officers and Members in delivering this comprehensive review within a narrow timeframe.

#### 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 to carry out a desktop review of the current Constitution. The proposals arising from that report were brought before the Constitution Committee for approval and endorsement on 4<sup>th</sup> August 2017. Constitution Committee appointed a Sub Committee

in order to take forward a full review of the Constitution with all stakeholders and present a new Constitution to the Constitution Committee for approval and recommendation to full Council within a tight timescale.

- 3.3 The adoption of seven key principles provided a clear touchstone for the efficient development of the new document and associated guidance. 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 Constitution Committee on 4<sup>th</sup> August 2017. This recommended the creation of a Constitution Sub Committee.
- 4.2 The Sub Committee met on 23<sup>rd</sup> 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.
- 4.3 As part of that approach, an initial joint officer/Member working group – facilitated by Bevan Brittan – was held on 31<sup>st</sup> August 2017 in Sandbach Town Hall. The notes from this workshop were fed into the Working Groups.
- 4.4 The Sub Committee met again on 15<sup>th</sup> 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 in which proposed changes to the Constitution will be highlighted to Sub Committee, Committee and Council through the conclusion of the review.
- 4.5 Those Terms of Reference set out how each Work Package was addressed, how both officer and Member comments were sought and incorporated, and how revised content has been drafted by Bevan Brittan for consideration by the Sub Committee.
- 4.6 The Sub Committee met again on 29<sup>th</sup> September and received update papers on overall progress as well as draft content (including accompanying Explanatory Notes) for Work Packages 2 and 3. The Sub Committee agreed the revised timetable and approach.
- 4.7 Throughout this review, the Project Board has been mindful of the challenging timetable for a review of this nature, requiring significant engagement from a wide range of stakeholders but also needing to make swift progress so that all energy can be focussed for a defined period and a successful resolution delivered without unnecessary delay.

**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 will be identified and factored in at each stage of the proposed review.

**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 outcome of the review is likely to apply to the decision-making process required to set the Medium Term Financial Strategy for 2018/19 and beyond, and may impact on financial management of current year budgets depending on the date any revisions are approved.

6.3.3 The Financial Implications of a revised Constitution will be considered as part of the review process, and this will require input from the Council's s.151 Officer. This will ensure 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 N/A

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).

**Background Papers**

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

**7.0 Access to Information**

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

Name: Martin Middleton

Designation: Business Improvement & Change Manager

Tel No: 01270 686230

E-mail: [martin.middleton@cheshireeast.gov.uk](mailto:martin.middleton@cheshireeast.gov.uk)

**PROJECT TIMELINE****Key Milestones**

<i>Milestone</i>	<i>Date</i>	<i>Status</i>
Constitution Committee – agreement of scope	4/8/17	Completed
Constitution Sub Committee – agreement of process	23/8/17	Completed
Joint Member/Officer Workshop – initial discussions	31/8/17	Completed
Constitution Sub Committee – agreement of Joint Officer/Member Working Groups terms of reference and approval of Work Package 1	15/9/17	Completed
Working Group engagement	5/9/17 - 22/9/17	Completed
Constitution Sub Committee – consideration of drafts of Work Package 2 and Work Package 3	29/9/17	Completed
Constitution Committee – consideration of draft changes, progress to date and updated timeline	5/10/17	
Group Leaders' Briefing	9/10/17	
Group Briefings	TBC	
Member Briefing Sessions	12/10/17 - 13/10/17	
Constitution Sub Committee – to approve Work Packages 2, 3 and elements of 4	Mid to late October	
Council – update on progress	19/10/17	
Constitution Sub Committee – to approve rest of Work Packages 4 and all of 5	w/c 13/11/17	
Constitution Committee – to recommend the full redrafted Constitution to Council	30/11/17	
Council – to approve the full redrafted Constitution	14/12/17	

## APPENDIX B

## Current Work Package Status Update

	Working Group feedback	Status
Work Package 1 - The overall style and presentation of the Constitution	Yes	Approved
Work Package 2 - Decision Making – Terms of Reference of Member Bodies		
<i>Appeals Sub Committee</i>	Yes	Drafted
<i>Audit &amp; Governance Committee</i>	Yes	Drafted
<i>Cabinet</i>	Yes	Drafted
<i>Cheshire Police and Crime Panel</i>	Yes	Drafted
<i>Civic Sub-Committee</i>	Yes	Drafted
<i>Community Governance Review Sub-Committee</i>	Yes	Drafted
<i>Constitution Committee</i>	Yes	Drafted
<i>Corporate Parenting Committee</i>	Yes	Drafted
<i>Decision-Making by Individual Cabinet Members</i>	Yes	Drafted
<i>Disciplinary Appeal Committee</i>	Yes	Drafted
<i>Executive Functions</i>	Yes	Drafted
<i>Health &amp; Wellbeing Board</i>	Yes	Drafted
<i>Independent Persons Panel</i>	Yes	Drafted
<i>Independent Remuneration Panel</i>	Yes	Drafted
<i>Investigation and Disciplinary Committee</i>	Yes	Drafted
<i>Job Description of Committee Chairmen</i>	Yes	Drafted
<i>Lay Members Appointments Committee</i>	Yes	Drafted
<i>Licensing Committee</i>	Yes	Drafted
<i>Local Choice Functions</i>	Yes	Drafted
<i>Outside Organisations Sub-Committee</i>	Yes	Drafted
<i>Overview &amp; Scrutiny Committees</i>	Yes	Drafted
<i>Planning Committees</i>	Yes	Drafted
<i>Polling Districts and Polling Places Review Sub-Committee</i>	Yes	Drafted
<i>Public Rights of Way Committee</i>	Yes	Drafted
<i>Responsibilities of All Cabinet Members</i>	Yes	Drafted
<i>Responsibilities of Council</i>	Yes	Drafted
<i>Responsibilities of Individual Cabinet Members</i>	Yes	Drafted
<i>Role of Deputy Cabinet Members</i>	Yes	Drafted
<i>School Organisation Sub Committee</i>	Yes	Drafted
<i>Shared Services Joint Committee</i>	Yes	Drafted
<i>Staffing Committee</i>	Yes	Drafted



	Working Group feedback	Status
<b>Work Package 3 - Decision Making – Officer Scheme of Delegation</b>		
<i>Scheme of Delegation to Senior Officers</i>	Yes	Drafted
<i>Statutory and Proper Officer Provisions</i>	Yes	Drafted
<b>Work Package 4 - Procedure Rules</b>		
<i>Access to Information Procedure Rules</i>	Yes	Drafting in progress
<i>Budget and Policy Framework Procedure Rules</i>	In progress	Drafting in progress
<i>Committee and Sub-Committee Procedure Rules</i>	Yes	Drafting in progress
<i>Contract Procedure Rules</i>	Yes	Drafting in progress
<i>Council Procedure Rules</i>	Yes	Drafting in progress
<i>Executive Arrangements and Cabinet Procedure Rules</i>	Yes	Drafting in progress
<i>Finance Procedure Rules</i>	In progress	Awaiting comments
<i>General Provisions</i>	Yes	Drafting in progress
<i>Overview and Scrutiny Procedure Rules</i>	Yes	Drafting in progress
<i>Staff Employment Procedure Rules</i>	In progress	Awaiting comments
<b>Work Package 5 - Codes/Protocols and Members' Allowances</b>		
<i>Councillor Call for Action Protocol</i>	Yes	To be drafted
<i>Local Ward Member Protocol</i>	Yes	To be drafted
<i>Mayoralty Code of Practice</i>	Yes	To be drafted
<i>Member Code of Conduct</i>	In progress	Awaiting comments
<i>Member/Officer Relations Protocol</i>	In progress	Awaiting comments
<i>Officer Code of Conduct</i>	In progress	Awaiting comments
<i>Petitions Scheme</i>	Yes	To be drafted
<i>Planning Protocol</i>	In progress	Awaiting comments
<i>Public Speaking Protocol</i>	In progress	Awaiting comments
<i>Whistleblowing Policy</i>	In progress	Awaiting comments

**This page is intentionally left blank**

# Cheshire East Council

## New Constitution

---

### Part 1

### Introduction, summary and explanation

- 1.1 This document is the Council's Constitution. It contains details of how the Council works, how decisions are made and where to find information about the Council.

### Content of the Constitution

Part	Title	Contents
1	<a href="#">Introduction, summary and explanation</a>	<p>This section</p> <p>Sets out an overview of how the Council operates, what the key parts of the Constitution cover and what rights members of the public have.</p>
2	<a href="#">Responsibility for Functions</a>	<p>Sets out the way in which functions have been allocated and which decision-making body/person within the Council has responsibility for making those decisions.</p> <ul style="list-style-type: none"> <li>(A) Diagrammatic explanation of member decision making bodies</li> <li>(B) Council (including "Local Choice" Functions)</li> <li>(C) Cabinet</li> <li>(D) Committees</li> <li>(E) Officer delegations (including a diagram of the officer structure/council management)</li> </ul>
3	<a href="#">Rules of Procedure</a>	<p>Sets out the procedural rules relating to all Council activities grouped into the following sections</p> <ul style="list-style-type: none"> <li>(A) Rules governing meetings and decisions               <ul style="list-style-type: none"> <li>• Full Council Meetings</li> <li>• Committees and Sub Committee Meetings</li> <li>• Cabinet Meetings</li> <li>• General Provisions relating to Procedure Rules</li> </ul> </li> </ul>

Part	Title	Contents
		<ul style="list-style-type: none"> <li>Budget and Policy Framework Rules</li> <li>Overview and Scrutiny Procedure Rules</li> </ul> <p>(B) Access to documents and information</p> <p>(C) Finance Procedure Rules</p> <p>(D) Contract Procedure Rules</p> <p>(E) Employment Procedure Rules</p>
4	<a href="#">Codes and Protocols</a>	<p>Sets out codes and protocols covering members' and officers' conduct including</p> <p>(A) Member Code of Conduct</p> <p>(B) Officer Code of Conduct</p> <p>(C) Member/officer protocol</p> <p>(D) Whistleblowing policy</p>
5	<a href="#">Members' Allowance Scheme</a>	
6	<a href="#">Index and Glossary</a>	

## Purpose of the Constitution

- 1.2 This is a document to help residents, businesses, partners, stakeholders, councillors and staff understand how the Council works. We have included hyperlinks between different parts of the Constitution wherever possible to make it easy to navigate your way around the information. We have also included hyperlinks to other documents/sites where we think this will be helpful. All hyperlinks are coloured [blue like this](#)
- 1.3 If you have any queries about anything in this Constitution please contact [\[details\]](#)

## The Council

- 1.4 Cheshire East Council has 82 elected councillors (also called members). Each Councillor represents the residents in their Ward. There are 52 Wards in the Council's area. Councillors are elected every four years. Click to find out when the [next election](#) will take place.
- 1.5 Click to find out which [Ward](#) you are in and who your [Councillor](#) is. Click for a [list of all Councillors](#) with their contact details. Click for details of the [political composition](#) of the Council.

## Councillors

- 1.6 Councillors are directly accountable to citizens for the running of the Council. They have a duty to represent all constituents in their Ward. They are involved in decision making in the Council ([Part 2](#) of the Constitution gives details of how Councillors make decisions at the Council). Councillors can also represent the Council on external bodies.
- 1.7 Councillors have to observe a [Code of Conduct](#) and a [Protocol on Member/Officer Relations](#).
- 1.8 Councillors also have to register and declare certain interests. You can access the [the Register of Members' Interests](#) here.

## How the Council makes decisions

- 1.9 All Councillors meet together a number of times each year as the Full Council. You can get details of the [Full Council Meetings this year here](#). Full Council appoints a Mayor (who chairs the Full Council Meeting, performs the Council's civic role and represents the Council in the community) and a Deputy Mayor. Click to get details of how the [Full Council operates](#).
- 1.10 The Council operates an "executive" form of governance. This means that the Full Council appoints a Leader of the Council. He/she then appoints up to 9 other Councillors who, all together, form the Cabinet. Each of the Councillors on the Cabinet is responsible for a particular area of the Council's activities (called "portfolios"). Click to get details of how the [Cabinet operates](#) and to see the current Cabinet portfolios. Click to get details of the [Cabinet meetings](#) this year.
- 1.11 The Full Council also appoints a number of Committees to deal with different aspects of the Council's functions, for example, planning and licensing. There are also Overview and Scrutiny Committees which hold the Cabinet to account. Click to see details of the [Council's Committees](#).
- 1.12 [This diagram](#) shows the overall structure of the Council's decision making arrangements.

## The Council's Staff/Employees

- 1.13 Councillors are supported by the Council's staff/employees (who are also called "officers"). Officers provide advice, implement decisions and manage the day to day delivery of the Council's services.
- 1.14 The most senior officer is the Chief Executive. Other senior managers lead different parts of the Council's services. Some officers have specific duties to ensure that the Council operates within the law and uses resources wisely. These are the Monitoring Officer and the Section 151 officer (Chief Finance Officer).
- 1.15 Click to see the [Council's Senior Management Structure](#). Click to see the functions and responsibilities which the Council has given to the senior officers – [the Scheme of Delegation](#).

- 1.16 The Council's Corporate Leadership Team comprises the following officers who shall be regarded as "Chief Officers":
- Chief Executive
  - Executive Director People and Deputy Chief Executive
  - Chief Operating Officer (Section 151 Officer)
  - Executive Director Place
  - Strategic Director of Adult Social Care and Health
  - Director of Legal Services (Monitoring Officer)
- 1.17 Officers have to comply with the [Officers' Code of Conduct](#) and the [Protocol on Member/Officer Relations](#).
- 1.18 The recruitment, selection, discipline and dismissal of officers must be done in accordance with [specific rules](#).

## **Rights of citizens and residents**

- 1.19 Everyone has an equal right to access high quality Council services. Members of the public have rights to
- Vote at local elections;
  - Attend the Council's meetings except where confidential or exempt information is being discussed;
  - [Speak at meetings](#)
  - Contact local Councillors about any matters of concern;
  - Contribute to investigations by the Overview and Scrutiny Committees;
  - Complain where there are problems with Council services;
  - Complain to the Commission for Local Administration (the Ombudsman) if the Council has not followed its procedures properly;
  - Complain to the Council if you believe there is evidence that a Councillor has not followed the Council's Code of Member Conduct;
  - Inspect the Council's accounts.
- 1.20 You also have rights to view public reports to the Council, the Cabinet and the Council's Committees. Click to get more details of these [public rights](#).

## **Review of the Constitution and Decision Making**

- 1.21 This Constitution will be kept under review by the Constitution Committee (click for its [terms of reference](#)).

## Cheshire East Council – New Constitution

### Explanatory note to new Part 2 (a) to (d) Responsibility for Functions

(Version 2 28.09.17)

This Part is a fundamental rewriting of what was previously in (part of) Part 2 and 3 of the old constitution – Introductory Chapters and Responsibilities for Functions. It would not be helpful to track the changes on to the original constitution as the new Part adopts a very different approach. **Members have asked that a report be produced which tracks the changes that have been made to this part of the Constitution, and it is suggested that officers produce such a report prior to the draft being finalised.**

The approach adopted is as follows

1. All the words coloured blue indicate where there will be hyperlinks to allow access to other parts of the document and/or to other documents e.g. Local Schemes of Delegation, the Proper Officer Register etc.
2. Any financial thresholds have been highlighted yellow as these remain subject to an overall review across the new Constitution.
3. There are a few queries where the document needs to avoid acronyms/be clearer on what a certain area of responsibility means.
4. The structure and content of the document is as follows:-

Section	Title	Contents
A	Diagram of decision making structure and introduction to decision making	<p>The diagram will need to be created.</p> <p>The Introduction sets out principles of good decision making previously in Part 2 but with hyperlinks to aid navigation of the document</p>
B	Full Council	<p>Sets out the arrangements for Full Council, pulling all previous references which were spread over the constitution into one place.</p> <p>The mayoral code of practice is accessed through a link from here as is the guidance on the role of a Chair.</p>
C	Cabinet	<p>Sets out the roles and functions of the cabinet collectively and individual portfolio holders. The role of the cabinet and the portfolio holders has been redrafted to make their democratic leadership role clearer – this has drawn on comments made as part of this project. The individual portfolio areas have not been changed.</p> <p>There are hyperlinks to aid navigation around the document and the layout should be clearer to follow with consistent drafting</p> <p>The role of Deputy Cabinet Members has been amended to reflect concerns at the precious drafting</p> <p><u>Portfolio Holder Decisions</u></p> <p>The requirement for an individual portfolio holder to hold a meeting to</p>

Section	Title	Contents
		<p>make a decision has been removed save for Key Decisions. This approach was supported at the Sub-Committee meeting of 29 September but Members have raised concerns that removing the requirement for Portfolio Holder meetings for non-key decisions could make it more difficult for Members to scrutinise in advance the decisions that are being made.</p> <p>It was suggested that an internal procedure be agreed to determine how information is circulated in advance of Portfolio Holders' decisions being taken. The Council should note that as a matter of law, only Key Decisions need to be publicised in advance of being taken (under Regulation 9 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012). We understand that Key Decisions will continue to be made with 28 clear days' notice and be identified in the Forward Plan.</p> <p>Members have suggested that they would like to have advance notice of all decisions. This is an administrative procedure for the Council to determine and does not necessarily need to be recorded in the Constitution (but it may be helpful to include it).</p> <p>There is no legal requirement to circulate details in advance of non-key decisions being made, but the Council should decide whether it wishes to adopt such a procedure, which could include publishing details of non-key decisions in the Forward Plan.</p> <p><u>Communication of Executive Decisions that have been taken</u></p> <p>Members have suggested that a list of all executive decisions be circulated once or perhaps twice a week following decisions being taken by Portfolio Holders. The current requirement is for an email within 48 hours. Some members would prefer to receive bulk rather than individual decisions within 48 hours of being made.</p> <p>The Constitution needs to reflect the requirements for recording decisions set out in Regulation 13 of the 2012 Regulations. All executive decisions taken by Members and Officers need to be recorded in this way, regardless of whether they are Key Decisions or not.</p> <p>The Council needs to decide whether it wants to adopt a procedure for the circulation of information which goes beyond recording requirements of Regulation 13.</p> <p><u>Call-in of Decisions</u></p> <p>Members have requested that call-in be retained for all decisions, rather than just for Key Decisions. This can be reflected in the draft Constitution, although it should be noted that local crime and disorder matters are excluded from call in, as are the following matters are under Regulation 3 of the Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012/1022:</p> <ol style="list-style-type: none"> <li>1. Matters relating to planning decisions;</li> <li>2. Matters relating to licencing decisions;</li> </ol>



Section	Title	Contents
		<p>3. Matters relating to a person who has recourse under law to an appeal or review of the matter.</p> <p>4. any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for inclusion in the agenda for the Overview and Scrutiny Decision.</p>
D	Committees	<p>There has been extensive redrafting of this section, whilst not changing the fundamental allocation of responsibilities. Hyperlinks have been used and the layout made easier to follow.</p> <p>The terms of reference of the Licensing Committee have been completely redrafted to move away from lists of legislation to more clarity on which body decides which function. Again – the fundamental allocation of decision aiming has not been changed – officer comments have been taken into account.</p> <p>The terms of reference of the Audit and Governance Committee have been redrafted to edit the lengthy list of activities (most of which were a natural part of the Committee's brief and did not need stating). The co-opted member has been made non-voting because of concerns at the legal basis for this.</p> <p>The code of conduct for the HWB has been added as a link.</p> <p>The terms of reference and constitution of the Shared Services Joint Committee have been included. It is understood that both of these are under review, and it may be that they need to be updated in due course. They currently appear in their 2009 form.</p> <p><u>Strategic Planning Board</u></p> <p>Members have commented that the Strategic Planning Board no longer nominates Councillors to sit on the Northern and Southern Planning Committee. Reference to this has been removed from the draft Constitution.</p> <p>It was also noted that the use of the term "call-in" to refer to the challenge of a decision to delegate a planning decision to an officer is misleading. The term call-in is a specific term relating to the functions of the Overview and Scrutiny Committee.</p> <p>It was suggested that an alternative phrase be adopted. "Member Challenge", or "Referral" were proposed by members, and Bevan Brittan could suggest further alternatives. The Council should confirm the term it wishes to adopt.</p> <p><u>Investigatory and Disciplinary Committee</u></p> <p>A Cllr raised a concern that in a previous re-draft (April 2017) of the Constitution a sentence had been added to the Terms of Reference to the Investigatory and Disciplinary Committee which gives the MO and the Chair of the staffing Committee the ability to "filter out and deal with allegations which are clearly unfounded, trivial or can be dealt with under some other procedure".</p> <p>Bevan Brittan notes that similar wording appears in the Chief</p>

Section	Title	Contents
		<p>Executives' National Salary Framework and Conditions of Service, dated 13 October 2016.</p> <p>Bevan Brittan recommends that the decision is delegated to the MO, unless the complaint is against the MO, in which case the delegation should be to the chief executive. In both cases we advise that the delegation should be "in consultation with the Chair of the IDC".</p>

There are some missing sections from this Part of the Constitution that we are not able to develop but need urgent consideration and drafting.

- Alternative Service Delivery Vehicles – what are the constitutional arrangements for these i.e.
  - Who makes decisions as the shareholder of these bodies
  - Where is the commissioning role for the contracts with these bodies
- Delegation of Functions to third parties - are there contracted out functions (perhaps to the ASDVs or other bodies? If so, these should be listed.
- Please confirm whether there are any other Joint Committees?

We have left placeholders for these missing areas.

# **Cheshire East Council New Constitution**

---

## **Part 2**

### **Responsibilities for Functions**

- (A) Diagrammatic explanation of member decision making bodies and introduction to decision making

## 1. Introduction to decision making

- 1.1 The Council makes many decisions relating to matters within its area. So that members of the public are clear about what decisions are made and which part of the Council or individual has responsibility for particular types of decisions, this Part of the Council's Constitution sets this out.
- 1.2 The Council, the Cabinet, the Leader of the Council and any Committee or Sub-Committee of the Council may delegate a function or decision to a Committee, Sub-Committee or officer on a permanent or one-off basis.
- 1.3 The Cabinet has delegated decision-making powers to individual members of the Cabinet.

## 2. Principles of decision-making

- 2.1 The following principles will apply to the way in which the Council (and all decision makers given the responsibility of making decisions) makes its decisions:
  - The Council will take into account all relevant considerations and will ignore those which are not relevant.
  - A realistic evaluation of alternatives will be made and consultation will take place through access by the public to those making decisions.
  - The Council will take decisions which are proportionate to the desired outcome.
  - When it makes decisions, the Council will take professional advice from officers.
  - Human rights will be respected.
  - The Council makes a presumption that its decision-making processes will be open.
  - The Council will be clear in its aims and desired outcomes.
  - When decisions are taken, the options available will be explained, as well as the reasons for the decision.

## 3. Types of decision and the decision-takers

- 3.1 When the Full Council makes decisions, it will follow the [Council Procedure Rules](#)
- 3.2 [The Cabinet Procedure Rules](#) will be complied with when the Cabinet makes decisions.
- 3.3 The Council's Overview and Scrutiny Committees must follow the [Overview and Scrutiny Procedure Rules](#) when they make decisions.

- 3.4 The [Council Procedure Rules](#), will be followed when Committees and Sub-Committees of the Council make decisions.
- 3.5 On occasions, the Council, a Councillor or officer act as a tribunal or in a quasi-judicial manner when they determine the civil rights, obligations or criminal responsibility of individuals. When this happens, they will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

#### **4. Key decisions**

- 4.1 Certain types of decisions made by the Cabinet, individual Cabinet Members, Committees, Sub-Committees of the Cabinet and officers are “Key Decisions”. Except in cases of urgency, these types of decision receive special advance publicity so that members of the public and Councillors are able to consider the implications of the decision. They may also seek to influence the decision by making contact with the decision-maker. Key Decisions appear on the [Council’s Forward Plan](#).
- 4.2 A Key Decision is defined as:-
- “an executive decision which, is likely –
- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; and/or
  - (b) to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the local authority.”

For the purposes of the above, savings and expenditure are “significant” if they are equal to or greater than **£1m**.

## (B) The Full Council

### Functions of the Full Council

1. The following functions are the responsibility of the Council and will be discharged by the Full Council (all councillors meeting together) unless specifically delegated to another Committee, Sub-Committee, body or officer under this Constitution. The Council:
  - 1.1 is accountable to its citizens for the proper discharge of all of its functions and the delivery of all its services;
  - 1.2 will keep under review the running of the Council's affairs and will implement changes where it considers there is a need to do so to improve the way in which the organisation operates, its relationships with the Council's citizens and the delivery of any services in the most effective and efficient way;
  - 1.3 will adopt the Council's Constitution and approve any amendments to it (except where specifically delegated to the Constitution Committee or the Monitoring Officer);
  - 1.4 will
    - Elect the Mayor
    - Appoint the Deputy Mayor
    - Elect the Leader of the Council
    - Appoint to such other offices as may be required under this Constitution or by law;
  - 1.5 will adopt and approve the [Policy Framework](#) and any of the policies within it;
  - 1.6 will agree the Council's [Budget](#);
  - 1.7 subject to the urgency procedure in the [Access to Information Procedure Rules](#) make decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget, where the decision maker is minded to make it in a manner which would otherwise be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
  - 1.8 will determine whether functions which are classified as "[Local Choice](#)" functions should be reserved to the Council or exercised by the Cabinet;
  - 1.9 will adopt the Council's Codes of Conduct for Members and Officers and the Protocol on Member/Officer Relations;
  - 1.10 will agree

- 1.10.1 the establishment and composition of Committees and Sub-Committees, other than those which may be established within the Cabinet,
- 1.10.2 The political balance of such bodies as required from time to time, and
- 1.10.3 the allocation of chairmen and vice-chairmen to those bodies.

nominations to the Council's non-executive committees, sub-committees and decision-making bodies, and changes to such nominations, including nominations to chairmanships and vice-chairmanships, shall be notified by the Council's Group Leaders or Group Whips in writing or by email to the Head of Governance and Democratic Services and shall thereafter be published on the Council's website. Such nominations shall be in accordance with the relevant numerical allocations made by Council in relation to the body in question.

- 1.11 will agree and amend the terms of reference of its Committees and Sub-Committees and the job description for committee chairs;
- 1.12 will consider any matter which has been referred or submitted to it by the Cabinet for information, views or debate (but recognising that an Executive matter remains the sole responsibility of the Cabinet and the Council cannot make a decision in relation to it);
- 1.13 will determine any matter which is referred to it for determination by a Committee or Sub-Committee other than a Cabinet body, under this Constitution or under some other approved policy or procedure;
- 1.14 will adopt or otherwise, as provided in the Council Procedure Rules, motions submitted under Standing Order No.12 (Notice of Motion) which do not relate solely to a Cabinet function;
- 1.15 will approve the Members Allowance Scheme for elected Members following advice from the Independent Remuneration Panel;
- 1.16 will appoint/dismiss the Head of Paid Service, dismiss the Monitoring Officer and Chief Finance Officer (S151 Officer), designate an officer to act as Monitoring Officer and an officer to act as Chief Finance Officer.
- 1.17 Will appoint the Returning Officer and Electoral Registration Officer;
- 1.18 will approve the Council's response to any issues or proposals in relation to local government boundaries including Electoral Wards, the conduct of elections and the discharge of local authority functions;
- 1.19 may take decisions relating to the name of the area and may confer the title of Honorary Alderman or Freedom of the District;

- 1.20 may make decisions relating to the making, amending, revoking, re-enacting, adopting or enforcing byelaws and promoting or opposing the making of local legislation or personal bills;
- 1.21 may determine other matters which may from time to time be submitted to it for determination, either by resolution or through approved procedures, where such matters do not fall within the functions of the Cabinet.
- 1.22 will take decisions in respect of functions which are not the responsibility of the Executive, and which have not been delegated by the Council to Committees, officers or elsewhere.

## Council Meetings

- 2 The following are the different types of council meeting:
  - 2.1 the Annual Meeting of the Council, which will be held in May;
  - 2.2 ordinary meetings;
  - 2.3 extraordinary meetings, which will be called as and when required in accordance with the Council Procedure Rules;

and they will be conducted in accordance with the [Council Procedure Rules](#) in this Constitution.

## Policy Framework

- 3 By law, the council must have a policy framework. This is a list of plans and strategies which are relevant to the council's functions and are required by law to be decided by the full council, usually on the recommendation of the executive.
- 4 The policy framework includes
  - Children and Young People's Plan
  - Sustainable Community Strategy
  - Crime and Disorder Reduction Strategy
  - Education Development Plan
  - Local Transport Plan
  - Plans and strategies which together comprise the Local Development Framework
  - Youth Justice Plan
  - Licensing Policy
  - Gambling Statement of Principles
  - Business Plan
  - Food Law Enforcement Service Plan

**Comment [BB1]:** NB: The legislation requiring this has been revealed. However, the Council may have retained the strategy.

Please confirm whether this can be taken out?

**Comment [BB2]:** NB: The legislation requiring this has been revealed. However, the Council may have retained the strategy.

Please confirm whether this can be taken out?



- The plan and strategy which comprise the Housing Investment Programme
- **Adult Learning Plan**

**Comment [BB3]:** NB: The legislation requiring this has been revealed. However, the Council may have retained the strategy.

Please confirm whether this can be taken out?

## Budget

- 5 The Council's budget (which is set by the Full Council) comprises the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

## Local choice functions

6. Certain functions are classified as "Local Choice" functions under the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) Regulations 2000, Schedule 2. This means that the Council can decide which of these should be reserved to the Council and which exercised by the Cabinet.
7. The following table sets out where the Local Choice Functions are exercised:-

Local Choice Functions	Decision Making Body	Delegation of functions to Committees (where applicable)
Functions under a local Act (other than one specified or referred to in Reg 2 or Schedule 1 of the Regulations 2000)	Cabinet	
To determine appeals <sup>1</sup> against any decision of the authority.	Full Council	Appeals Panel insofar as not delegated to any other Committee or officer
To make arrangements for appeals against exclusion of pupils from maintained schools	Full Council	Appeals Panel
To make arrangements for appeals regarding school admissions <sup>6</sup>	Full Council	Appeals Panel

<sup>1</sup> Including appeals in relation to access to information by Members under s100F Local Government Act 1972, Part 5 Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012, and the common law "need to know" rules

<sup>6</sup> s94(1), (1A) and (4) School Standards and Framework Act 1998

**Comment [BB4]:** The formatting is not allowing consecutive footnotes and needs reviewing

To make arrangements for appeals by governing bodies <sup>7</sup>	Full Council	Appeals Panel
Any function relating to contaminated land <sup>11</sup>	Cabinet	
The control of pollution or the management of air quality <sup>12</sup>	Cabinet	
To serve an abatement notice in respect of a statutory nuisance <sup>13</sup>	Cabinet	
To pass a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area <sup>14</sup>	Full Council	
To inspect the authority's area to detect any statutory nuisance <sup>15</sup>	Full Council	
To investigate any complaint about the existence of a statutory nuisance <sup>16</sup>	Full Council	
To obtain information about interests in land <sup>17</sup>	Full Council	Chief Officers
To obtain particulars of persons interested in land <sup>18</sup>	Full Council	Chief Officers
To make arrangements for the execution of highways works <sup>19</sup>	Cabinet	
To appoint any individual (a) to any office other than an office in which s/he is employed by the authority (b) to any body other than (i) the authority; (ii) a joint committee of two or more authorities or (c) to any committee or sub-committee of such a body	Cabinet or individual Portfolio Holders in respect of organisations listed below and the Full Council in respect of other organisations.	In respect of appointments by Full Council delegated to the Constitution Committee.

<sup>7</sup> 1995(2) School Standards and Framework Act 1998  
<sup>11</sup> Pollution Prevention and Control Act 1990 and subordinate legislation  
<sup>12</sup> Pollution Prevention and Control Act 1999; Part IV Environmental Protection Act 1990; Clean Air Act 1993  
<sup>13</sup> s80(1) Environmental Protection Act 1990  
<sup>14</sup> s79 Environmental Protection Act 1990  
<sup>15</sup> s79 Environmental Protection Act 1990  
<sup>16</sup> s79 Environmental Protection Act 1990  
<sup>17</sup> s80(1) Environmental Protection Act 1990  
<sup>18</sup> s16 Local Government (Miscellaneous Provisions) Act 1976  
<sup>19</sup> s278 Highways Act 1980

**Comment [BB5]:** NB: The legislation requiring this has been revealed. However, the Council may have retained the strategy.

Please confirm whether this can be taken out?

**Comment [BB6]:** NB: The legislation requiring this has been revealed. However, the Council may have retained the strategy.

Please confirm whether this can be taken out?

**Comment [BB7]:** We did previously suggest losing the separate list of organisations but we have retained the approach here pending consideration by members

and to revoke any such appointment		
To make agreements with other local authorities for the placing of staff at the disposal of those other authorities	Cabinet	

## Organisations

8. Appointments to the following organisations shall be made by the Cabinet or individual Portfolio Holders (if delegated to them by Cabinet).

- Cheshire Local Access Forum
- Cheshire and Wirral Partnership NHS Foundation Trust (Mental Health Services)
- Peaks and Plains Housing Trust
- Environment Agency (NW) Regional Flood Defence Committee (North West)
- Environment Agency Liaison Group
- EU Structural Funds Governance Group
- European Chemicals Regions Network
- Federation of Burial and Cremation Authorities
- Local Government Association General Assembly
- Local Government Association People and Places Board
- Marketing Cheshire
- Manchester Airport Consultative Committee
- North West Employers Organisation
- North-West Rail Campaign
- PATROL (Joint Committee of England and Wales for the Joint Control of Traffic Regulations Outside London)
- Peak District National Park Authority
- Peaks and Plains of Cheshire Tourism
- Plus Dane Housing
- The Silk Heritage Trust
- West Coast Rail 250
- Wulvern Housing
- Joint Cheshire Pensions Investment Panel
- Mid-Cheshire Hospitals NHS Foundation Trust

## Role of the Mayor and Chairing of the Council

### 9. Civic Role

- 1.1 The Council's Mayor, supported by the Deputy Mayor will perform the Council's civic role.
- 1.2 This entails raising and maintaining the profile of the Council's area and its citizens. The aims and values of the Council will be promoted in an apolitical manner.
- 1.3 The Mayor will decide which civic and ceremonial functions to promote following consultations, where appropriate, with officers of the Council. These functions may include representing the Council at events organised by other local authorities or organisations.

## **2. Council Role**

- 2.1 The Mayor is elected at the Annual Council meeting in May. The Deputy Mayor is appointed at the same meeting.
- 2.2 The Mayor is responsible for:
  - 2.2.1 upholding and promoting the purposes of this Constitution and interpreting it, where necessary, with advice;
  - 2.2.2 presiding over meetings of the Full Council to ensure that business is carried out efficiently and effectively, whilst preserving the rights of Councillors and the interests of the Council's citizens (guidance on the [Role of a Chair](#) can be found here which is relevant for all chairs of Council meetings);
  - 2.2.3 ensuring that, at Council meetings, matters of concern to local people can be debated through the appropriate Councillors;
  - 2.2.4 ensuring that Councillors not on the Cabinet, or who do not hold the Chair of a main committee, are able to hold those office holders to account;
  - 2.2.5 promoting public involvement in the Council's activities and acting as a contact between members of the public and organisations and the Council;
  - 2.2.6 carrying out other roles on behalf of the Council;
- 2.3 The Deputy Mayor will:
  - 2.3.1 support the Mayor in his/her civic role and will also carry out civic duties on behalf of the civic office;
  - 2.3.2 deputise for the Mayor in his/her absence.

## **3. The Mayoralty Code of Practice**

- 3.1 The Mayor shall comply with the [Mayoralty Code of Practice](#)

## **4. Who may become Mayor or Deputy Mayor**

- 4.1 Any elected Member of the Council shall be eligible for election to the office of Mayor, or appointment as Deputy Mayor, except for Members of the Cabinet.



## (C) The Cabinet

### 1. Role

- 1.1 The Cabinet carries out those duties and responsibilities which are not the responsibility of any other part of the Council.
- 1.2 Some of the Cabinet's responsibilities are "local choice" functions, which Council has chosen to delegate to the Cabinet.
- 1.3 Other functions are the responsibility of the Cabinet because the law says so.

### 2. Composition

- 2.1 The Cabinet consists of the Leader of the Council, and up to 9 other Councillors. The Leader of the Council is elected by Full Council, but the Leader is responsible for appointing the other Members of the Cabinet, and for notifying the Council of such appointments.
- 2.2 No substitution arrangements will apply to the Cabinet, and neither the Mayor nor Deputy Mayor may be appointed to the Cabinet.

### 3. The Leader

- 3.1 The Leader will hold office for a period of four years from the date he/she is elected to that office by the Council or until
  - 3.1.1 he/she resigns from the office of Leader;
  - 3.1.2 he/she becomes ineligible to be a Member of the Council, either for a specific period, or indefinitely;
  - 3.1.3 he/she ceases to be a Councillor;
  - 3.1.4 he/she is removed from office by a no confidence resolution of the Council requiring a simple majority, in respect of which the motion has been fully set out in the agenda for the meeting.
- 3.2 Where there is a vacancy in the office of Leader, the Deputy Leader will assume the responsibilities of the Leader until the next meeting of the Council.
- 3.3 The Leader shall appoint a Deputy who shall be a member of the Cabinet and who shall hold office until such time as the term of office of the Leader who appointed him/her comes to an end, or until he/she is removed from office by the Leader, or he/she ceases to be a Cabinet member.
- 3.4 Where both the Leader and Deputy Leader cease to hold office at the same time, the Council's Mayor shall call a meeting of the Full Council as soon as possible, to elect a new Leader.

### 4. Other Cabinet Members

- 4.1 Other Members of the Cabinet will hold office until any of the events listed in 3.1.1-3.1.3 above, which apply to ending the term of office

of the Leader, apply to them collectively or individually as Cabinet Members; or until the Leader brings their term of office to an end.

## **5. Proceedings of the Cabinet**

- 5.1 Proceedings of the Cabinet shall be conducted in accordance with the [Council and Cabinet Procedure Rules](#)

## **6. Responsibility for Functions**

- 6.1 The Leader will ensure that a record is kept of the executive functions which are the responsibility of individual Cabinet Members, any Cabinet Committee or Sub-Committee, officers or joint arrangements.

## **7. Cabinet Members**

- 7.1 The following are the Council's Cabinet Portfolios:
- Leader
  - Highways and Infrastructure
  - Housing and Planning
  - Children and Families
  - Adult Social Care and Integration
  - Corporate Policy and Legal Services
  - Health
  - Finance and Communities
  - Regeneration
  - Democratic and Public Engagement, Assurance and ICT
- 7.2 At the Annual Meeting of Council, the Leader will present to the Council a written record of delegations. The document presented by the Leader will include the following information about executive functions in relation to the coming year:
- the names, addresses and wards of the people appointed to the Cabinet by the Leader; and
  - the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority.

## **8.0 Deputy Cabinet Members**

- 8.1 The Cabinet has appointed a number of non-executive Members as Deputy Cabinet Members to support individual Members of the Cabinet in the performance of their functions. Deputy Cabinet Members may not take decisions on behalf of Cabinet Members.
- 8.2 Deputy Cabinet Members may not be members of overview and scrutiny committees.

## **General Responsibility of the Cabinet, Committees and Sub-Committees**

These bodies are responsible for:

1. ensuring the effective and efficient discharge of the functions delegated to them;
2. ensuring that any Council services are appropriate for and responsive to the needs and views of the Council's citizens, and are delivered effectively and efficiently;
3. ensuring that good external relationships and effective local liaison are promoted in relation to any Council services;
4. monitoring the functions of the Council within their remit and contributing to any Council aims, objectives and policies;
5. determining policies and objectives for any Council services, within their remit, reviewing the extent to which they are met, and agreeing any necessary action;
6. determining the Council's views on matters specific to their areas of responsibility and related external matters;
7. ensuring the effective and efficient management of any services and resources falling within their purview in accordance with this Constitution and, where appropriate, the effective and efficient discharge of the responsibilities of any subordinate bodies or person.

Where the Cabinet is exercising a Cabinet function, in whole or in part, as set out below, the Cabinet is empowered to take all necessary and appropriate decisions to fulfil the obligations placed upon it subject to any restrictions or constraints imposed by the law or this Constitution.

Insofar as such functions do not fall within the responsibilities of individual Cabinet Members, the Cabinet is responsible for:-

1. the development of policy/strategy for the Council;
2. the monitoring of the effectiveness of policy/strategy;
3. the review of policy/strategy (leading to revision and further development);
4. subject to consultation with the appropriate Scrutiny body or bodies, advising on Budget setting, including all other related financial matters, plans and proposals;



5. ensuring that proper arrangements exist for the effective and efficient management of the Council's executive affairs and the delivery of policy/strategy;
6. ensuring that the Council prepares for the Performance Management regime and any Government initiatives dealing with such matters which have financial implications;
7. monitoring and auditing the lawful, proper and efficient conduct of the Council's financial affairs, including the extent to which budgets and financial policies are being and will be met, and requiring or approving any remedial action to be taken where it considers it necessary and appropriate;
8. advising the Council where appropriate, and determining such matters as may be prescribed from time to time, under the Council's Constitution as the responsibility of the Cabinet;
9. developing, monitoring and reviewing any Council Corporate personnel and human resources policies;
10. approving, monitoring and reviewing the provision of services to the Council which are delivered by internal and/or external suppliers;
11. overseeing, approving and co-ordinating policies on national and external communications, public and media relations and public affairs generally;
12. overseeing relationships with, participation in and contribution to external organisations and partnerships, Local Government Association, or their successors or like bodies;
13. ensuring officers exercising delegated powers on behalf of the Cabinet discharge their responsibilities efficiently and effectively;
14. ensuring that officers discharge their responsibilities efficiently and effectively in relation to Cabinet functions;
15. advising the Council on strategic matters in relation to corporate governance, community governance and community strategy;
16. monitoring and reviewing issues relating to relating to the implementation of strategy and policy;
17. preparing and approving, as appropriate, Regional and Sub-Regional Plans and Strategies;
18. supporting any relevant regional arrangements relating to regional policy, transportation, planning and environmental issues and ensuring that the Council's views are made known;

19. promoting employment and investment in the Council's area, including the preparation and approval of any Economic Development and Tourism Strategies;
20. deciding such other matters as may fall to the Cabinet to determine as required by the law or as delegated to it by the Council;
21. dealing with any executive Local Development Framework functions which are given to the Council by the Secretary of State;
22. making decisions upon those executive functions which arise under the Cheshire (Structural Changes) Order 2008.

The Cabinet may discharge these functions itself, through a Cabinet Committee or Sub-Committee or by delegation to an officer. In addition, the Cabinet may appoint such advisory panels, including any member of the Council, as it considers appropriate to provide advice to it.

## Responsibilities of all Cabinet Members

The following are the general responsibilities which apply to all Cabinet Members, and the specific responsibilities which apply to individual Cabinet Members. These responsibilities include various functions which are delegated to each Cabinet Member to discharge.

These responsibilities and delegations are the Council's Executive Arrangements which include the Framework for Decision-Making by Individual Cabinet Members, set out below the lists of responsibilities of each Cabinet Member.

In discharging these functions, the Cabinet Member must act lawfully. This means that he or she must act within the scope of the authority that is delegated in accordance with any limits within the delegation, this Constitution, Council policies, Procedure Rules and the Members' Code of Conduct, taking advice of the Monitoring Officer and the Section 151 Officer.

There are occasions when matters affect more than one portfolio of responsibility. On such occasions, the Cabinet Member with the primary responsibility shall take the lead and exercise their delegated powers, but in consultation with all Cabinet Members with an interest.

Each Cabinet Member is the spokesperson for the policy area or 'portfolio' they are responsible for. They also:

1. lead on developing council policy and make recommendations to the Cabinet
2. provide guidance to the Cabinet on delivering services within their portfolio area
3. give guidance to the Cabinet on budget priorities
4. monitor performance and make sure policy is delivered
5. lead on improving council services
6. ensure that activities meet the Council's overall vision, core values and guiding principles
7. represent the Council at a national and local level
8. contribute to debate and decision-making
9. work with all councillors and officers to make sure that the overview and scrutiny process works correctly including appearing before and responding to overview and scrutiny committee reports
10. make decisions within the responsibility of the Cabinet Member's portfolio.
11. ensure appropriate consultation and liaison with partners and the community on matters within the scope of their portfolio.

**Comment [BB8]:** I have revised these responsibilities significantly using very helpful wording suggested by respondents

## **The specific responsibilities of individual Cabinet Members (Leader and Portfolio Holders)**

This section sets out the responsibilities of the individual Cabinet Members who comprise the following:-

- [Leader](#)
- [Highways and Infrastructure Portfolio Holder](#)
- [Housing and Planning Portfolio Holder](#)
- [Children and Families Portfolio Holder](#)
- [Adult Care and Integration Portfolio Holder](#)
- [Health Portfolio Holder](#)
- [Corporate Policy and Legal Services Portfolio Holder](#)
- [Finance and Communities Portfolio Holder](#)
- [Regeneration Portfolio Holder](#)
- [Democratic and Public Engagement, Assurance and ICT Portfolio Holder](#)

## **Responsibilities of the Leader**

- To chair the Cabinet.
- To select the Cabinet Members and determine their Portfolios of responsibility.
- To appoint Committees and sub-committees of the Cabinet and to determine their powers.
- To represent and act as ambassador for the Council (recognising the role of the Mayor)
- To have overall responsibility for;
  - policy development and design
  - Ministerial and Members of Parliament/European Parliament liaison Act as Head of Cabinet.
- To represent the Council's views on matters of corporate or strategic policy and any other matters which are within the Leader's terms of reference.
- To submit to the Cabinet:
  - all policy and/or operational matters which have corporate implications or which cross the remits of the individual Cabinet Members
  - any matter which crosses the portfolio of more than one Cabinet Member, and which cannot be resolved, to the Cabinet for decision
- To present to the Council "State of the Borough" reports and to be responsible for related debates.
- To provide appropriate and timely Cabinet responses to Scrutiny Committee recommendations and to monitor the implementation of those responses

## **Portfolio Holder responsibilities of the Leader**

- HS2 and Rail Strategy
- Constellation partnership
- Local Government Association
- Internal Audit
- Strategic Partnerships
- Sub-regional activity
- Devolution
- Government liaison
- Oversight of Communications and Media Relations

## **Responsibilities of Highways and Infrastructure Portfolio Holder**

The Portfolio Holder is responsible for all matters relating to Highways and Infrastructure matters and is responsible for liaising with other Members of the Executive, particularly where those matters affect other aspects of Council business or the Borough.

In particular, and subject to the Council's Executive Arrangements, which empower officers to make certain decisions, and which require the collective Executive to make other decisions, the Portfolio Holder has individual responsibility to make all executive decisions in respect of the following matters:

- Deputy Leader:
- Highways and Transport strategy and operations, including public transport (rail/bus), cycling and public rights of way
- Local Transport Plan
- Engagement with Transport Service Solutions (TSS)
- Car Parking
- Shared Service: Archives
- Cultural services, including: Tourism and Visitor Economy, Tatton Park, Parks and Park Rangers and Arts and Culture
- Green Infrastructure

## **Responsibilities of Housing and Planning Portfolio Holder**

The Portfolio Holder is responsible for all matters relating to the Council's affairs in respect of the Housing and Planning Portfolio and is responsible for liaising with other Members of the Cabinet, particularly where those matters affect other aspects of Council business or the Borough.

In particular, and subject to the Council's Executive Arrangements, which empower officers to make certain decisions, and which require the collective Cabinet to make other

decisions, the Portfolio Holder has individual responsibility to make all executive decisions in respect of the following matters:

- Planning Policy
- S106 & Community Infrastructure Levy
- Street naming & numbering
- Land charges
- Housing, Housing Associations, and Homelessness
- Development Management and Building Control
- Neighbourhood Planning
- Heritage
- Macclesfield Town Centre
- Planning Support Company (Civicanace)
- Masterplanning Crewe
- Regulatory Services: Trading Standards, Licensing, Environment Health including Air Quality matters, contaminated land and pest and vermin control

## **Responsibilities of Children and Families Portfolio Holder**

The Portfolio Holder is responsible for all matters relating to the Council's affairs in respect of the Children and Families Services and is responsible for liaising with other Members of the Cabinet, particularly where those matters affect other aspects of Council business or the Borough.

In particular, and subject to the Council's Executive Arrangements, which empower officers to make certain decisions, and which require the collective Cabinet to make other decisions, the Portfolio Holder has individual responsibility to make all executive decisions in respect of the following matters:

- Lead under Children's Act 2004
- All aspects of Education and Schools
- Youth Support and Offending
- Lifelong learning/Skills
- Prevention and Early Intervention Strategies
- Corporate Parenting Lead
- All aspects of Children's social work, including:
  - Cared for children and care leavers
  - Fostering, Adoption and Residential Services
  - Children's Trust and Children's Board
  - Children's Safeguarding (including Children's Safeguarding Board)
  - Children and Young People up to 25 years old (SEND)
- Health and Wellbeing Board (with Adult Care and Integration, and Health)
- Lead for 0-19 Health and Health Promotion (in consultation with Health)
- Lead for 0-19 Mental Health (in consultation with Health)
- Domestic Violence

## Responsibilities of Adult Care and Integration Portfolio Holder

The Portfolio Holder is responsible for all matters relating to in the Adult Care and Integration Portfolio and is responsible for liaising with other Members of the Cabinet, particularly where those matters affect other aspects of Council business or the Borough.

In particular, and subject to the Council's Executive Arrangements, which empower officers to make certain decisions, and which require the collective Cabinet to make other decisions, the Portfolio Holder has individual responsibility to make all executive decisions in respect of the following matters:

- Lead under Care Act 2014
- Adult Safeguarding: Board/CQC/CEC Quality Assurance Team
- Care and Carer Assessment (i) personalisation.
- Carer Services including: (ii) Respite Care and Short Breaks.
- Care Service Commissioning, including: (iii) Residential & Domiciliary Care (iv) Disability & Sensory Impairment services (v) Mental Health & Substance (vi) Re-ablement Services (vii) Occupational Therapy and Community Equipment (viii) Assistive Technology.
- Equality in Service Access & Delivery
- Extra Care Housing (jointly with Housing and Planning)
- Lead for Adult (19 plus) Mental Health Services and Health Promotion (in consultation with Health)
- Health and Wellbeing Board (with Children and Families and Health)
- Rural Affairs

## Responsibilities of **Health** Portfolio Holder

**Comment [BB9]:** Should this be Health and Wellbeing?

The Portfolio Holder is responsible for all matters relating to the Council's affairs in respect of the Health Portfolio and is responsible for liaising with other Members of the Cabinet, particularly where those matters affect other aspects of Council business or the Borough.

In particular, and subject to the Council's Executive Arrangements, which empower officers to make certain decisions, and which require the collective Cabinet to make other decisions, the Portfolio Holder has individual responsibility to make all executive decisions in respect of the following matters:

- Joint Strategic Needs Assessment
- Public Health
- Health and Wellbeing Strategy
- Lead for Health (i) Health and Wellbeing Board (ii) Health & Social Care Integration (Better Care Fund/Sustainability & Transformation, Caring together/Connecting Care)
- NHS England/Acute Trusts
- Leisure Strategies and Leisure Services
- Engagement with Everybody Sports and Recreation (ESAR)

## **Responsibilities of Corporate Policy and Legal Services Portfolio Holder**

The Portfolio Holder is responsible for all matters relating to the Council's affairs in respect of the Corporate Policy and Legal Services Portfolio and is responsible for liaising with other Members of the Cabinet, particularly where those matters affect other aspects of Council business or the Borough. This includes chairing the Executive Monitoring Board (although this function can be delegated as required).

In particular, and subject to the Council's Executive Arrangements, which empower officers to make certain decisions, and which require the collective Cabinet to make other decisions, the Portfolio Holder has individual responsibility to make all decisions in respect of the following matters:

- Human Resources, Workforce and Organisational Development
- Corporate Health and Safety and Occupational Health
- Shared Services
- Business Improvement Programme
- Executive Monitoring Board
- Legal Services
- Monitoring compliance with the Council's decision-making processes
- Information governance (e.g. Senior Information Risk Owner and Caldicott Guardian)
- Equality and Diversity

## **Responsibilities of Finance and Communities Portfolio Holder**

The Portfolio Holder is responsible for all matters relating to the Council's affairs in respect of the Finance and Communities Portfolio and is responsible for liaising with other Members of the Cabinet, particularly where those matters affect other aspects of Council business or the Borough. This includes sitting on the Executive Monitoring Board in the capacity of Vice-Chairman (although this function can be delegated as required).

In particular, and subject to the Council's Executive Arrangements, which empower officers to make certain decisions, and which require the collective Cabinet to make other decisions, the Portfolio Holder has individual responsibility to make all executive decisions in respect of the following matters:

- The Financing of the Council and its Budget, and Corporate Business Planning
- Capital Programme and Strategy
- Reserves, Income and Funding Strategy
- Treasury and Business Management
- Procurement, Corporate Contracts and Contract Monitoring
- Insurance
- External Audit
- Pensions



- Revenues and Exchequer Functions, Including Benefits
- Voluntary, Community and Faith Sector, including Citizens' Advice Bureaux
- All aspects of safer communities: Wardens, ASB and CCTV.
- Gypsies and Travellers
- Community Strategy
- Crewe Market Scheme
- Governance and Performance of Alternative Service Delivery Vehicles (ASDVs).

## Responsibilities of Regeneration Portfolio Holder

The Portfolio Holder is responsible for all matters relating to the Council's affairs in respect of the Regeneration Portfolio and is responsible for liaising with other Members of the Cabinet, particularly where those matters affect other aspects of Council business or the Borough.

In particular, and subject to the Council's Executive Arrangements, which empower officers to make certain decisions, and which require the collective Cabinet to make other decisions, the Portfolio Holder has individual responsibility to make all executive decisions in respect of the following matters:

- Economic Development
- Regeneration
- Employment and Skills
- Northern Powerhouse
- Waste and Environmental Services
- Economic Twinning
- Lead for land assets: maintenance, purchase, development and sale of.
- Farms
- Energy Issues
- Carbon Reduction
- Engagement with the following ASDVs:
  - ANSA
  - Orbitas
  - Engine of the North
  - Skills and Growth

## Responsibilities of Portfolio Holder for Democratic and Public Engagement, Assurance and ICT

The Portfolio Holder is responsible for all matters relating to the Council's affairs in respect of the Portfolio for Democratic and Public Engagement, Assurance and ICT and is responsible for liaising with other Members of the Cabinet, particularly where those matters affect other aspects of Council business or the Borough.

**Comment [BB10]:** It is not clear what "engagement" means here. Does this portfolio holder act as shareholder for the Council on its ASDVs? This would usually be a Cabinet role or a specific Cabinet shareholder committee. The Constitution is silent on the arrangements for dealing with ASDVs (other than through scrutiny) and this needs to be addressed. This issue has not yet been addressed in the redraft as we are not clear where responsibility sits?

Please also confirm whether there are any further ASDVs which need to be included.

In particular, and subject to the Council's Executive Arrangements, which empower officers to make certain decisions, and which require the collective Cabinet to make other decisions, the Portfolio Holder has individual responsibility to make all executive decisions in respect of the following matters:

- Democratic Services, including:
  - Electoral Functions
  - Civic Functions
  - Member Training and Development
- Public engagement
- Customer Complaints and Resources
- Registration Service (Births, Marriages and Deaths)
- ICT
- Digital/Customer Access Service
- Customer operations and engagement, complaints and resources
- Communications and Media Relations
- Libraries
- Corporate Risk Management /Performance
- Civil Protection and Emergency Planning

### **Scope of, and Limitations to, Portfolio Holder Decision-Making**

Individual Portfolio Holders are empowered to make all executive decisions in respect of their own portfolio area of responsibility **except**

- Decisions already taken by the Cabinet or by an Officer acting under delegated powers.
- Decisions involving a departure from the Council's Budget and Policy Framework or any Cabinet or Regulatory Committee Policy. (This would include any virements or supplementary estimates and is subject to the provisions of the Finance and Contract Procedure Rules.)
- Decisions involving expenditure or savings of **£1 million or more**.
- Decisions which the Leader requests are not taken by an individual portfolio holder but are referred to Cabinet because of their significance or sensitivity.

A Portfolio Holder may take a Key Decision subject to the limitations above and subject to the usual requirements in relation to Key Decisions (including advance publication).

A Portfolio Holder may refer a decision to the full Cabinet.

A Portfolio Holder may delegate a function or decision to an Officer. If a function is so delegated, the Portfolio Holder shall complete a Specific Delegation record in the agreed form to be recorded in the [Specific Delegation Register](#).

## Procedure for Taking Portfolio Holder Decisions

Decisions must be made following consultation with one or more of the following officers/councillors as appropriate:

- Chief Executive
- Appropriate Director or Head of Service
- Monitoring Officer
- Chief Finance Officer
- Where there are cross-cutting implications - other appropriate Portfolio Holder(s)

The Portfolio Holder must take into account professional, legal and financial advice and implications.

If any of the above officers give advice that a decision would fall outside the powers of the Portfolio Holder, the Portfolio Holder shall refer the matter to the Cabinet.

Where it is not clear in which Portfolio an issue sits, the Leader will decide.

Decisions by individual Portfolio Holders which are [Key Decisions](#) will be taken at formally constituted meetings open to the public and press (except during consideration of confidential or exempt information). The arrangements for the meeting must be publicised in advance in accordance with the Access to Information Procedure Rules.

Decisions by individual Portfolio Holders which are not key decisions and are therefore made without a meeting being convened must be recorded on a Decision Notice in an agreed format. The signed copy of the Decision Notice will be held by the Democratic Services team. The decision will be published electronically and will usually be subject to call-in.

### Role of Deputy Cabinet Members

There are a number of Deputy Cabinet Members whose role and functions are as follows.

- To ensure that the Cabinet Member is kept aware of issues which are of concern to Members, liaising with non-executive Members in order to do so.
- To provide advice and support to, and work closely alongside, the relevant Cabinet Member, liaising regularly with them upon key issues.
- To take the lead at meetings with the relevant Corporate Leadership Team officer, and other senior officers, in order to develop policies, at the direction of the Cabinet Member.
- To meet regularly with senior officers, in order to keep fully apprised of relevant service issues, including budget meetings, and to advise the Cabinet accordingly.

**Comment [BB11]:** I have amended this to reflect my concerns at the previous drafting which went beyond what is a legitimate role.

- To advise the Cabinet Member of relevant service issues, undertaking independent research, meeting regularly with senior officers, and keeping apprised of relevant service issues in order to do so.
- To accompany the Cabinet Member when attending overview and scrutiny committee meetings, where required, and to do so on their behalf.
- To take the lead executive role at conferences, seminars and meetings, including those of outside bodies at the request of the Cabinet Member, thereafter providing prompt feedback to the Cabinet Member and relevant officers.
- To advise the Cabinet Member upon which diary appointments would benefit from the attendance of the Deputy Cabinet Member, on those occasions when the Cabinet Member is unable to do so, ensuring that the Cabinet Member's diary is monitored for this purpose.
- To assist the Cabinet Member in establishing and maintaining professional, effective and efficient working relationships with opposition groups, Chairs of Committees, other Members, and ASDVs.
- To attend Portfolio Holder decision-making meetings and to communicate with officers, Members, and staff, as appropriate, the decisions made.
- To communicate to staff, Members, partner agencies and service users, the policies of the Council and information about excellent Council activities.
- To undertake such other roles and responsibilities as may arise, or as are allocated by the Cabinet Member, except for formal decision-making.

**A Deputy Cabinet Member cannot:**

- Exercise a vote on behalf of a Cabinet member at a formal meeting of the Cabinet
- Be a member of an overview and scrutiny committee

## (D) Functions of Committees

This section sets out the functions, roles and responsibilities of the Committees of the Council. In summary, these are:

- Overview and Scrutiny Committees
  - Corporate
  - Environment and Regeneration
  - Childrens and Families
  - Health and Adult Social Care and Communities
- Planning
  - Strategic Planning Board
  - Northern and Southern Planning Committees
- Public Rights of Way Committee
- Licensing Committee
- Staffing Committee
- Investigation and Disciplinary Committee
- Disciplinary Appeals Committee
- Independent Persons Panel
- Lay Members Appointment Committee
- Constitution Committee
- Audit and Governance Committee
- Independent Remuneration Panel
- Corporate Parenting Panel
- Health and Wellbeing Board

**Comment [BB12]:** Does this need a separate section or can it be added to Planning?

## OVERVIEW AND SCRUTINY COMMITTEES

1. As is required by the Local Government Act 2000, the Council has established an effective, robust and constructive overview and scrutiny function. This comprises 4 overview and scrutiny committees.
  - Corporate

- Environment and Regeneration
  - Childrens and Families
  - Health and Adult Social Care and Communities
2. The Health, Adult Social Care and Communities Overview and Scrutiny Committee will undertake the scrutiny role in relation to health service provision in the Council's area. The Committee discharges the duties imposed on the Council under the relevant Health legislation.
3. The Council fully supports the role of its overview and scrutiny committees in holding the Cabinet and others to account in discharging their functions. The Council believes that the important parts of the role are:
- To assist the Council and Cabinet in reviewing its major plans, policies and strategies, which will set the climate in which the Cabinet and other decision-making bodies are required to operate
  - To undertake specific reviews of the Council's organisation and service provision so that improvements can be made to service delivery.
4. The Council's overview and scrutiny functions include responsibility for reviewing the health service provision within its area and beyond, health promotion and the health and well-being of local communities. This may be done in conjunction with other bodies/agencies.

## **Role of the Overview and Scrutiny Committees**

5. The Overview and Scrutiny Committees:
- will discharge the Council's functions under Section 9F of the Local Government Act 2000 (Overview and Scrutiny Committees);
  - will be responsible for the Council's scrutiny function including the preparation, implementation, monitoring and review of an annual work programme for overview and scrutiny in accordance with the objectives of the Corporate Plan and arrangements for the scrutiny of other public bodies particularly where required to do so by law;
  - may establish such task and finish groups, appointing the Chairman in accordance with the Council's criteria and with such membership as it sees fit, to undertake scrutiny on a task and finish basis;
  - may ensure the Chief Executive and Corporate Leadership Team discharge their responsibilities effectively and efficiently in relation to the overview and scrutiny function;
  - will scrutinise decisions of or actions taken by the Cabinet, and offer advice or make recommendations on the matter under scrutiny once the Committee has considered the issues;

- may scrutinise matters coming before Cabinet for decision and respond appropriately to the Cabinet on the matter once the Committee has considered the issues fully;
- will review or scrutinise decisions or actions taken in respect of any functions which are not the responsibility of the Cabinet and make reports or recommendations to the Council, or appropriate body of the Council;
- may refer to the Council or appropriate Committee/Sub-Committee any matter which, following scrutiny, the Committee determines should be brought to the attention of the Council or the Committee or Sub-Committee;
- may, if requested, offer any views or advice to the Cabinet in relation to any matter referred to the Committee for consideration;
- may undertake reviews with a cross-service approach wherever possible and make reports and recommendations to the Council (or other appropriate Council body) or the Cabinet to assist in the review of policies and strategies;
- may offer advice and make recommendations to the appropriate body of the Council on the review of policy;
- in performing its role, the Committee may consult and involve the local community and other local public, private and voluntary bodies or organisations;
- may review the Council's response to its obligations in respect of the overall performance management regime and, where appropriate, to advise the Cabinet or appropriate body of the Council of its findings;
- may advise the Cabinet and Council, as appropriate, of the Scrutiny response to the formulation of the Council's Budget and performance management reports;
- may recommend that a decision made but not yet implemented, and taken in respect of a function which is the responsibility of the Cabinet be reconsidered by the Cabinet;
- may scrutinise decisions after implementation to examine their effect and outcomes;
- may make reports or recommendations to the appropriate body of the Council in respect of any matters which affect the Council's area or its inhabitants;
- may review and make recommendations in relation to matters which are not the direct responsibility of the Council but which affect the social, economic or environmental well-being of an area or the Council's area as a whole or under any statutory requirement or Council contract, procedure or practice;

- may give partner authority notice in writing requiring them to have regard to the report or recommendations of the Committee in exercising their functions;
- Will discuss matters raised by individual members under the Councillor Call for Action;
- May invite expert witnesses, members, officers and partners to answer questions;
- will monitor policies and procedures for handling complaints made against the Council and monitor on a regular basis the level and nature of complaints received and ensure that advice is formulated regarding action to be taken to address areas of concern;
- will monitor the level and nature of Ombudsman complaints and advise the Cabinet, Committees, Sub-Committees and Departments and Services on remedial action as appropriate;
- will ensure, in conjunction with the Constitution Committee, that the Council has in place appropriate mechanisms to protect organisational integrity, including the development of appropriate policies and guidance;
- will consider and advise the Cabinet in respect of “call-in” notices under the Council’s relevant procedures.

## **Chairs and Vice-Chairs of Overview and Scrutiny Committees**

6. Nominees for appointment to these offices shall be notified by the political group leaders or group whips, and the Committee shall appoint the Chair and Vice Chair.

## **Membership of Overview and Scrutiny Committees**

7. Overview and Scrutiny Committees will comprise 12 Members (15 for Health and Adult Social Care and Communities)
8. The [Overview and Scrutiny Procedure Rules](#), set out arrangements for co-option to Overview and Scrutiny Committees.

## **General Responsibilities of all Overview and Scrutiny Committees**

9. Any of the Committees may be invited to provide advice and recommendations on the development and updating of the policies of the Council, Wholly Owned Companies (WOCs), Alternative Service Delivery Vehicles (ASDVs) and other bodies.
10. The Committee memberships are appointed on a politically proportionate basis (plus appropriate co-option).



## **Specific Responsibilities of Overview and Scrutiny Committees**

### **Corporate Overview and Scrutiny Committee (12 members)**

The Corporate Overview and Scrutiny Committee will include the chair and vice-chair of each of the other three Committees. It will

- Ensure that the three other Committees operate in a coherent and integrated manner;
- Act as an informal discussion forum with the Cabinet regarding the Committees' work programmes and priorities;
- Undertake (typically using the task-and-finish model) pieces of work which do not fall within the remit of any of the three thematic Committees;
- Decide which thematic committee will take the lead on cross cutting issues, or undertake the task itself;
- Co-ordinate and ensure the effectiveness of the Council's Overview and Scrutiny function;
- Act as a sounding board for matters of common interest across all committees, including new legislation and best practice;
- Monitor progress of the three thematic Committees with work programmes and where necessary review the workloads of the Committees;
- Co-ordinate the formal consultation response to the draft budget proposals on behalf of the thematic Committees.

The Committee is also responsible for scrutinising the Council's corporate core. It is responsible for the monitoring and review of the following Cabinet portfolios: Leader, Finance and Assets, Corporate Policy and Legal Services, and will liaise with those portfolio holders and the lead officers assigned to them.

### **Health and Adult Social Care and Communities Overview and Scrutiny Committee (15 Members)**

The Health and Adult Social Care and Communities Overview and Scrutiny Committee will undertake the scrutiny role in relation to health and wellbeing service provision in the Council's areas. The Committee discharges the duties imposed on the Council under the relevant Health legislation.

The Committee is responsible for the monitoring and review of the following Cabinet portfolios: Communities and Health, Adult Care and Integration, and will liaise with those portfolio holders and the lead officers assigned to them. The Committee will fulfil the Council's statutory responsibility to scrutinise community safety.

## **Environment and Regeneration Overview and Scrutiny Committee (12 Members)**

The Environment and Regeneration Overview and Scrutiny Committee will fulfil the functions of an Overview and Scrutiny Committee as they relate to performance management, policy development and review. The Committee is responsible for the monitoring and review of the following Cabinet portfolios: Housing and Planning, Regeneration, Highways and Infrastructure, and will liaise with those portfolio holders and the lead officers assigned to them.

The Committee is also responsible for any functions relating to Flood Risk Management as required by Section 9FH of the Local Government Act 2000.

## **Children and Families Overview and Scrutiny Committee (12 members)**

The Committee is responsible for the monitoring and review of the Children and Families Cabinet portfolio and will liaise with the portfolio holder and associated lead officers.

The four statutory co-optees in respect of the Council's Education function will also sit on this Committee.

## **PLANNING AND DEVELOPMENT CONTROL COMMITTEE STRUCTURE AND DELEGATIONS**

Development control functions will be discharged by a Strategic Planning Board, supported by two Planning Committees as follows:-

### **Strategic Planning Board (12)**

This Board includes two Portfolio Holders responsible for Development Management and the Local Development Framework with a quorum of 3

### **Northern Planning Committee (12)**

### **Southern Planning Committee (12)**

with a quorum of 3, comprising councillors to be nominated at the first meeting of the Strategic Planning Board, meeting on a 4-weekly cycle

### **Substitutes and Pool of Planning Substitutes**

There are to be no substitutes at planning committees save for named substitutes who have received planning training and are members of another planning committee.

A cross party pool of 9 planning substitutes shall be maintained to supplement the substitution arrangements referred to above. Each member of the pool must receive appropriate and up to date planning training without which they may not serve as a member of a planning committee. Political groups may nominate their own members to the pool in accordance with the proportionalities in force at the time and may vary their nominees as and when required subject to the training requirements referred to.

## **STRATEGIC PLANNING BOARD**

### **Terms of Reference**

**1.** To ensure timely and consistent decision-making at the most appropriate level, and to that end

- (a) to monitor the volume and type of applications determined; assessing the performance of the Development Management service, and, if appropriate
- (b) to vary the division of functions and delegations between the Board, the Planning Committees and the Director of Planning and Sustainable Development;
- (c) to adopt working protocols and procedures: e.g. protocols governing the direction of applications between the Planning Committees, public speaking rights, call-in procedure and others.

**2.** To exercise the Council's functions relating to town and country planning and development control, the protection of important hedgerows, the preservation of trees and the regulation of high hedges. Most of these functions are delegated to the Planning

Committees and then onwards to the Director of Planning and Sustainable Development, but the following are reserved to the Board:

- (a) applications for [Large Scale Major Development](#) as defined by the Strategic Planning Board from time to time.

This does not include re-applications for extant schemes or detailed applications where outline consent has been given or removal/variation of conditions.

Where the application is to vary or remove a condition that was imposed by the Planning Committee it will not be delegated.

However, there will be a presumption that a call in request by a local ward member will be agreed where applications are for the renewal (or extension of time) of extant unimplemented permissions.

- (b) applications for major minerals or waste development other than small scale works which are ancillary to an existing mineral working or waste disposal facility.
- (c) applications involving a significant departure from policy which a Planning Committee is recommended to approve.
- (d) any other matters which have strategic implications by reason of their scale, nature or location.
- (e) any other matters referred up to it at the discretion of the Director of Planning and Sustainable Development, including major development of less than the thresholds set out in (a) above which have wider strategic implications.

**3.** To exercise a consultation and advisory role, commenting upon the content of proposed planning policy and upon the effectiveness of existing policies employed in development control decisions.

**4.** To exercise on behalf of the Council the function of final approval of the Area Action Plans, and any other document including a Site Allocation Policy, which form part of the Local Plan.

## **NORTHERN AND SOUTHERN PLANNING COMMITTEES**

### **Terms of Reference**

**1.** To exercise the Council's functions relating to town and country planning and development control, the protection of important hedgerows, the preservation of trees and the regulation of high hedges. Some applications have been reserved to the Strategic Planning Board: others are delegated on to the Director of Planning and Sustainable Development: the following are retained for the Planning Committees,

- applications for Small Scale Major Development for
  - residential developments of 20-199 dwellings or between 1 and 4ha

- retail or commercial/industrial or other floor space of between 5,000 and 9,999 square metres or 2-4ha.

This does not include re-applications for extant schemes or detailed applications where outline consent has been given or removal/variation of conditions.

Where the application is to vary or remove a condition that was imposed by the Planning Committee it will not be delegated.

However, there will be a presumption that a **call in** request by a local ward member will be agreed where applications are for the renewal (or extension of time) of extant, unimplemented permissions.

**Comment [BB13]:** Call in to where? Is it to Planning Committee or is it to the Scrutiny Committee.

## 2. To determine any other planning & development control matters

(a) advertised as a departure from policy, which the Director of Planning and Sustainable Development is minded to approve.

(b) submitted by a councillor, senior Council officer (Grade 12 or above) or a member of staff employed within the Development Management and Policy service area; or by an immediate family member or partner of these where representations objecting to the application have been received. Where objections have been received, applications recommended for refusal can be dealt with by officers under delegated powers.

(c) significant applications by the Council either as applicant or land owner. This category will not normally include minor developments which accord with planning policy and to which no objection has been made.

(d) referred up to them by a councillor in accordance with the Committees' **call-in** procedure. However:

**Comment [BB14]:** Call in to where? Is it to Planning Committee or is it to the Scrutiny Committee.

i. Any request must be received within 15 working days of the issue of the electronic notification of the application, and set out the material planning consideration(s) which warrant the application going before committee.

ii. Applications for householder development, listed building consents to alter/extend and conservation area consents will normally be dealt with under delegated powers.

iii. Applications for advertisements, tree work, prior approvals, Certificates of Lawfulness and notifications will not be eligible for **call in** and will be dealt with under delegated powers.

**Comment [BB15]:** Call in to where? Is it to Planning Committee or is it to the Scrutiny Committee.

iv. There will be a presumption that a **call in** request by a local ward member will be agreed where applications are for the renewal (or extension of time) of extant, unimplemented permissions.

**Comment [BB16]:** Call in to where? Is it to Planning Committee or is it to the Scrutiny Committee.

- (e) any other matters referred up to them at the discretion of the Director of Planning and Sustainable Development.

The Committees will refer up to the Strategic Planning Board matters involving a significant departure from policy which they are minded to approve contrary to recommendation by the Director of Planning and Sustainable Development.

## **PUBLIC RIGHTS OF WAY COMMITTEE**

**Membership:** 7 Councillors.

Functions:

The Public Rights of Way Committee shall

- discharge all the functions of the Council in relation to all matters relating to public rights of way.
- discharge the authority's functions in respect of Commons and Village Greens.
- be apprised of, approve, and comment on a range of policies, programmes and practices relating to Rights of Way, Commons and Village Greens and countryside matters including but not limited to:-
  - Progress reports on implementation of the Rights of Way improvement Plan (part of the Annual Progress Review for the Local Transport Plan)
  - Statements of Priorities
  - Enforcement Protocols
  - Charging Policy for Public Path Order applications

## LICENSING

The Licensing functions of the Council shall be carried out by the following bodies:

- (1) A full Licensing Committee of 15 Members (with a quorum of 8)
- (2) Sub-Committees to be established by the Licensing Committee on an ad hoc basis, comprising 3 Members drawn from the full Committee, to deal with matters under the Licensing Act 2003 and the Gambling Act 2003.
- (3) Sub-Committees to be established by the Licensing Committee on an ad hoc basis, comprising 5 Members (with a quorum of 3) drawn from the full Committee (of which at least one shall, subject to availability, be the Chairman or Vice Chairman of the full Committee), to deal with 'general' licensing matters.
- (4) The requirement of political proportionality under section 15 of the Local Government and Housing Act 1989 is waived in relation to the sub-committee established under (3) above.
- (5) Before any Councillor who is a member of the Licensing Committee can attend a meeting and participate in the determination of an application or appeal by any individual or body, that Councillor must have attended a suitable training course dealing with the quasi-judicial nature of the role of the Committee.

**Comment [BB17]:** We have re written this section significantly to make sense of the various parts of it, taking into account officer comments and what we understand to be the aim – it needs a thorough review by licensing officers to ensure it covers everything and is accurate.

All references to officer delegations have been taken out as these will be picked up in the LSDs.

**Comment [BB18]:** Should this be waived for (2) as well.

## SCHEDULE OF FUNCTIONS

The Licensing Committee and its sub committees have responsibility for the following licensing and registration functions of the Council:

- (i) Caravan sites and moveable dwellings/camping sites
- (ii) Hackney carriages and private hire vehicles, drivers and operators
- (iii) Sex shops and sex cinemas
- (iv) Performances of hypnotism
- (v) Acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis
- (vi) Pleasure boats and vessels
- (vii) Market and street trading
- (viii) Premises for the preparation of food
- (ix) Scrap yards and motor salvage operators
- (x) Dog breeding, pet shops, animal breeding, animal trainers and exhibitors, zoos and wild animals
- (xi) Employment of children
- (xii) Charitable collections
- (xiii) Operation of loudspeakers
- (xiv) Storage of celluloid
- (xv) Meat product premises and dairy establishments
- (xvi) Egg products, butchers and fish products
- (xvii) Auction and wholesale markets
- (xviii) Food business premises



- (xix) Licensed premises
- (xx) Gambling
- (xxi) Alcohol Disorder Zones
- (xxii) Public Place Orders

With the exception that the power to resolve not to issue a casino licence is reserved to Full Council.

The functions of the Licensing Committee or Sub-Committee shall be determined by the full committee based on the delegations set out below.

These delegations to Sub-Committees shall be subject to the proviso that the Chairman or Vice Chairman of the full Committee may refer a matter up from a Sub-Committee to the full Committee where that matter is significant or controversial in nature.

### **AD HOC LICENSING ACT 2003/GAMBLING ACT 2005 SUB-COMMITTEE**

All functions under the Licensing Act 2003 and the Gambling Act 2005 shall be determined by the Sub Committee other than the power to set fees for Premises Licences (section 212 2005 Act) which shall be reserved to the full Licensing Committee

### **GENERAL LICENSING SUB-COMMITTEE**

All functions relating to:-

- licensing of hackney carriages and private hire vehicles
- licensing of sex establishments
- licensing of street collections
- licensing of house to house collections
- licensing of street trading
- licensing of scrap metal dealers
- any other functions referred it by officers (with the exception of matters under the Licensing Act 2003/Gambling Act 2005).

shall be determined by the General Licensing Sub Committee other than the following functions which are reserved to the full Licensing Committee:-

- Power to set fees in relation to hackney carriage and private hire drivers, vehicles and operators
- Power to set fees for sex establishments
- Power to designate streets as consent streets, licence streets or prohibited streets.
- Power to set fees in relation to street trading
- Power to approve policy in relation to the Scrap Metal Dealers Act 2013
- Power to set fees and charges in relation to scrap metal dealers licences

## STAFFING COMMITTEE

**Membership:** 8 Members

### Statement of Purpose

- 1 The Staffing Committee is a key component of the Council's corporate governance. It provides an independent and high level focus on Human Resources, Organisational Development and Health & Safety matters affecting the Council.
- 2 The purpose of the Staffing Committee is:-
  - (a) to provide independent assurance to the members of the adequacy of the HR service and staffing related matters,
  - (b) with regard to the designated Head of Paid Service, Monitoring Officer and Section 151 Officer (Statutory Officers):
    - To undertake the recruitment and selection process in accordance with the Staff Employment Procedure Rules; and
    - Make a recommendation to the Council to approve the proposed appointment before an offer of appointment is made to that person.
  - (c) appoint/dismiss the Statutory Chief Officers, namely:
    - The Executive Director of People and Deputy Chief Executive (Director of Children's Services);
    - Strategic Director of Adult Social Care and Health (Director of Adult Social Services); and
    - Director of Public Health.including undertaking the recruitment and selection process.
  - (d) to appoint/dismiss the Executive Director of Place including undertaking the recruitment and selection process.
  - (e) to approve "in year" salary or other benefit increases to the Head of Paid Service provided that this is within the agreed annual pay policy.

### Functions of the Committee

#### Recruitment and Selection

- 3 With regard to Statutory Chief Officers:

**Comment [BB19]:** Needs to be defined so there is no confusion with the Chief Officer definition used for the officer scheme of delegations

- To undertake the recruitment and selection process in accordance with the [Staff Employment Procedure Rules](#); and
- make a recommendation to the Council to approve the proposed appointment

before an offer of appointment is made to that person.

## 4. To appoint/dismiss Statutory Chief Officers and the Executive Director of Place

### HR Policies

- 5.1 To have the opportunity to review the Council's HR Policies and Procedures as required and to make recommendations to the Portfolio Holder. It is noted that the authority to approve HR Policies and Procedures remains with the Executive
- 5.2 To make recommendations to Council in relation to the annual Pay Policy Statement and any amendments to such statement.
- 5.3 To make recommendations to Council in relation to decisions affecting the remuneration of any new post whose remuneration is or is proposed to be or would become [£100,000 p.a. or more].
- 5.4 To make decisions in relation to proposed severance packages with a value of £100,000 or more as appropriate (including any pension strain).
- 5.5 To exercise the functions relating to local government pensions, so far as they relate to Regulations made under sections 7, 12, or 24 of the Superannuation Act 1972 or subsequent equivalent legal provisions.

### Appeals

- 6.1 To establish a Staffing Appeals Sub Committee of [3/5] members on an ad hoc basis:
  - to consider appeals from Staff in the following circumstances:-
    - Appeals against dismissal
    - Appeals against grievance
    - Appeals against policy (but only the first appeal where the appeals are based on the same issues/circumstances)
- 6.2 Councillors appointed to the Staffing Appeals Sub Committee may only hear appeals if they have received the mandatory training on appeals procedures offered by the Council (tailored in accordance with the individual Councillor's Member's existing knowledge and experience).

**Comment [BB20]:** Is there a level below which appeals will be dealt with by officers e.g Principal Officer grades?

### Organisational Performance

- 7 To receive regular updates on performance information in order to assess the

effectiveness of current Human Resources Organisational Development and Health & Safety policies and practices .These will include as a minimum:

- Appeals against dismissal
- Headcount Data
- Sickness Absence
- Turnover
- HR Casework (including disciplinary, grievance and capability)
- Health and Safety Accidents Records
- Health and Safety Training

## INVESTIGATION AND DISCIPLINARY COMMITTEE

**Membership:** 7 Members

The Committee shall be politically balanced, shall consist of 7 Members of the Council and at least 1 member of the committee shall be a member of the Cabinet. Members of the committee must have completed mandatory training.

### 1.0 Statement of Purpose

- 1.1 Members shall be appointed to the committee, as and when a committee is required to be convened, under the normal processes for making appointments to committees (via group leader/whip notification to the Head of Governance and Democratic Services). In accordance with the Model Disciplinary Procedure contained in the JNC Handbook for Chief Executives, IDC meetings shall be convened by the Monitoring Officer (overseen by the Chair of Staffing Committee) who will, together, filter out and deal with allegations which are clearly unfounded, trivial or can best be dealt with under some other procedure.
- 1.2 For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of.
- 1.3 (To consider allegations/issues regarding disciplinary matters relating to the designated statutory officers of the Council (the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer) (the 'DSOs') and to authorise initial investigation.)
- 1.4 To appoint an Independent Investigator ("II") to investigate allegations of misconduct against any DSO and to commission reports from an II.
- 1.5 To determine appropriate action upon receipt of any preliminary investigation.
- 1.6 To decide whether to suspend a DSO and to review decisions taken to suspend a statutory officer.

**Comment [BB21]:** Ensure consistency of definitions re statutory chief officers, statutory officers and designated statutory officers

- 1.7 To determine what action should be taken against a DSO following an investigation. This could include action short of dismissal or dismissal.
- 1.8 In the event that the Committee recommends dismissal then that recommendation shall be referred to the Independent Persons Panel prior to being referred to Council for a determination in accordance with the Staff Employment Procedure Rules.
- 1.9 With the exception of a decision to recommend to Council that a DSO be dismissed, there shall be a right of appeal to the Disciplinary Appeals Committee against any decisions made by the Committee to take disciplinary action against a DSO.

### **3.0 Procedure for Investigation and Disciplinary Committee**

#### **Investigation**

- 3.1 It is in the interests of all parties that the proceedings be conducted expeditiously and fairly.
- 3.2 In the exercise of its function, the Committee is to receive and consider any complaint/allegations made. It may:
  - make such enquiries of the relevant officer or any other person as it considers appropriate
  - request additional information, explanations or documents from any person
  - Invite or receive representations from any person.
- 3.3 The Committee having carried out such steps as it considers appropriate and having heard representations from the DSO or his or her adviser shall decide whether the issues;
  - a) require no further formal action, or
  - b) should be referred to an II
- 3.4 In considering whether the threshold in deciding to appoint an II has been met the Committee will assess whether:
  - if the allegations are proved it would be such as to lead to the dismissal or other action which would be recorded on the DSO's personal file; and
  - there is evidence in support of the allegation/issue sufficient to require further investigation.
- 3.5 In deciding whether the threshold for the appointment of an II has been reached the Committee may carry out such preliminary investigations as it considers appropriate or necessary or authorise officers to do so. This shall be solely for the purpose of

establishing whether or not the threshold for appointing an II to carry out an investigation has been met.

- 3.6 Before deciding to appoint an II or suspend a DSO the Committee shall invite the representations of the DSO unless it is impracticable to do so. The DSO shall have the right to be accompanied at the Committee Meeting.

## **Receiving the II's Report/ Hearing**

- 3.7 The Committee should receive any report produced by an II in relation to a DSO within one month of the receipt of the report by the Council.
- 3.8 The DSO shall have the right to attend and be accompanied at the Committee Meeting which considers the II's report.
- 3.9 The Committee shall consider the II's report and shall invite representations from the DSO and/or his/her representative. The Committee may impose disciplinary sanctions as set out in the Council's disciplinary procedures, the JNC Terms and Conditions Handbook for Chief Officers and the JNC Terms and Conditions Handbook for Chief Executives. In conducting any hearing the Committee shall have regard to the model disciplinary procedure in the JNC handbook for Chief Executives.

## **Decision**

- 3.10 If the Committee decides that the DSO shall be dismissed the Full Council shall consider the Committee's recommendation of dismissal. Prior to consideration by Full Council the Independent Persons Panel shall consider the matter and the Proper Officer shall give all members of the Cabinet the opportunity to raise any objections prior to the decision. This process is governed by the Staff Employment Procedure Rules set out in this Constitution. [Note the Independent Persons Panel may meet concurrently with the Investigation and Disciplinary Committee]
- 3.11 In the case of any disciplinary action other than dismissal the DSO may appeal to the Disciplinary Appeals Committee against the decision.

## **Suspension**

- 3.12 If a DSO has been suspended for a period of 2 months (or in the case of a decision to suspend taken under urgency provisions) then the Committee shall review that suspension. The Committee shall continue to review any continuing suspension every 2 months. In carrying out such review the Committee shall consider any representations made by the II and the DSO and/or his or her representative..

## **Access to Information**

- 3.13 The Council's [Access to Information Procedure Rules](#) shall apply to meetings of the Committee.

## **Access to Advice and Representation**

- 3.14 For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.
- 3.15 For the avoidance of doubt, if a DSO chooses to retain professional advice and/or representation at or in respect of any meeting of or hearing before the Committee, then the DSO in question shall be responsible for the cost of that advice or representation.

## **DISCIPLINARY APPEAL COMMITTEE**

### **Membership: 7 Members**

The Committee shall be politically balanced, shall consist of 7 Members of the Council at least 1 member of the committee shall be a member of the Cabinet. 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.

### **1.0 Statement of Purpose**

- 1.1 Members shall be appointed to the committee, as and when a committee is required to be convened, under the normal processes for making appointments to committees (via group leader/whip notification to the Head of Governance and Democratic Services). For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of.
- 1.2 To consider any appeals brought by the designated statutory officers of the Council (the Head of Paid Service, the Monitoring Officer or Chief Finance Officer/S151 Officer) (the 'DSOs') against any decision made by the Investigation and Disciplinary Committee to take disciplinary action against a DSO short of dismissal.
- 1.3 In the event that the Investigation and Disciplinary Committee recommends dismissal, then that recommendation shall be referred to the Independent Persons Panel prior to being referred to Council for a determination in accordance with the Staff Employment Procedure Rules.

### **2.0 Procedure for the Disciplinary Appeals Committee**

- 2.1 The DSO shall have the right to attend and be accompanied at the Committee Meeting which considers the appeal.
- 2.2 The Committee shall consider the appeal in accordance with the Council's normal procedure for dealing with appeals.

### **3.0 Access to Information**

- 3.1 The Council's [Access to Information Procedure Rules](#) shall apply to meetings of the Committee.

### **4.0 Access to Advice and Representation**

- 4.1 For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.
- 4.2 For the avoidance of doubt, if a DSO chooses to retain professional advice and/or representation at or in respect of any meeting of or hearing before the Committee, then the DSO in question shall be responsible for the cost of that advice or representation.

## **INDEPENDENT PERSONS PANEL**

### **1.0 Statement of Purpose**

- 1.1 The Independent Persons Panel is an advisory committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of the officers designated as the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer (together the “Designated Statutory Officers” or “DSOs”) in accordance with Schedule 3 to The Local Authorities (Standing Orders) (England) Regulations 2001.
- 1.2 The Panel must be convened having invited at least two of the Independent Persons appointed under section 28(7) of the Localism Act 2011 (to advise on member conduct allegations) by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.
- 1.3 It shall be for the Monitoring Officer to invite the Council's current Independent Persons (being those persons appointed to advise on member conduct complaints under the Localism Act 2011) and if necessary one or more of the Independent Persons of neighbouring authorities (following consultation with the Monitoring Officers of those authorities), to be considered for appointment to the Independent Persons Panel. [It shall be for the Constitution Committee to confirm appointments to the Independent Persons Panel.]
- 1.3 The Panel will be appointed from those Independent Persons who have accepted an invitation to be considered for appointment, in accordance with the following priority order—
- (a) an Independent Person who has been appointed by the authority and who is a local government elector in the Council's area;



(b) any other Independent Person who has been appointed by the authority;

(b) a Independent Person who has been appointed by another authority or authorities.

1.4 One or more reserve members will be appointed to the Panel from Independent Persons who have been appointed under section 28(7) of the Localism Act 2011 by the authority or by another authority or authorities. A reserve member will take the place of any member of the Panel who is unable to act for the duration of the Panel meeting in question, or any adjournment of it. If more than one reserve member is available for the meeting then selection will be by the alphabetical order of their surnames so long as it does not conflict with the priority order set out in 1.3 above .

1.5 The appointment of a Panel Member to preside at the meeting will be the first item of business at each Independent Persons Panel meeting. Where there are equal votes cast at a meeting on any matter the Chairman may exercise a second or casting vote.

1.6 The quorum for a meeting shall be two members of the Panel.

## **2.0 Terms of reference**

2.1 To advise the Council on matters relating to the dismissal of a DSO.

2.2 The advice of the Independent Persons Panel must be sought in accordance with the Staff Employment Procedure Rules where the Investigation and Disciplinary Committee propose to recommend the dismissal of a DSO.

2.3 The advice of the Independent Persons Panel may (but need not) be sought by the Investigation and Disciplinary Committee at any other point in an investigation of disciplinary process or (if not conflicted) by the Disciplinary Appeals Committee.

2.4 For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.

## **LAY MEMBERS APPOINTMENTS COMMITTEE**

Membership: 5 Members

Terms of Reference of the Committee

To appoint Lay Members (who shall not be Members of the Council) to serve on the Independent Admissions and Exclusion Appeals Panel as required under the relevant legislation.

**Comment [BB22]:** BB Comment:  
Add to Constitution Committee terms of Reference.

## CONSTITUTION COMMITTEE

**Membership:** 14 Members

### Terms of Reference

The Constitution Committee is responsible for:

1. overseeing, monitoring, co-ordinating and implementing the Council's administrative and political business, including electoral matters; administrative boundaries and parishing; support for and facilities for Members, including Members' learning and development and party groups for the purpose of their duties as councillors; and administrative arrangements for and the conduct of the Council and other meetings;
2. determining policies and conventions in relation to the political management of the Council, including statutory requirements concerning political balance and rights to information;
3. reviewing the Council's Constitution and recommending any changes to the Council, except that:  
  
the Committee may make any changes which are not major, subject to the Monitoring Officer and the s.151 Officer agreeing that the proposed changes are not major and to Council subsequently being informed of such changes. Changes that are considered by the Committee and agreed by the Monitoring Officer and the s.151 Officer to be major shall be referred to Council for approval.
4. advising the Council on, and overseeing the promotion of private legislation on behalf of the Council;
5. recommending to the Council, as appropriate, the appointment of Members to Committees and Sub-Committees (including any co-opted members other than in respect of overview and scrutiny committees);
6. appointing representatives to serve on outside bodies and organisations (including education bodies and establishments) not falling to the Cabinet to appoint;
7. overseeing and monitoring the Members' Allowance budget and keeping under review the scheme for the payment of allowances to Members through the appointment of an Independent Remuneration Panel to advise the Council on the adoption of the scheme and on any proposed amendments;
8. approving annual conference and seminar attendance;
9. making recommendations to the Council on civic issues, including those affecting the Mayor, Freeman and Aldermen;
10. approving reasons for absence for Members;

11. approving the overall seating plan for Council meetings;
12. appointing persons to fill vacancies on parish councils where such councils are otherwise unable to act;
13. confirming appointments to the Independent Persons Panel;
14. approving the payment of a reasonable and proper allowance/expenses for the work undertaken by those Independent Persons appointed to the Independent Persons Panel.

**Comment [BB23]:** BB Commnet:  
Is this necessary?

The Constitution Committee has appointed a number of sub-committees as follows:

- [Civic Sub-Committee](#)
- [Outside Organisations Sub-Committee](#)
- [Appeals Sub-Committee](#)
- [Community Governance Review Sub-Committee](#)
- [Polling Districts and Polling Places Review Sub-Committee](#)

## Civic Sub-Committee

**Membership:** 8 Members

### Functions:

The Sub-Committee is responsible for:

- reviewing and making recommendations to the Constitution Committee on the Mayoralty, including the Mayoral Code of Practice;
- reviewing and making recommendations to the Constitution Committee on all matters relating to Honorary Aldermen and Freemen, including upon the benefits, rights and privileges to which they should be entitled;
- determining all matters relating to **nationally significant events** except for those matters which the Sub-Committee considers it appropriate to refer to the Constitution Committee for determination; and
- reviewing and making recommendations to the Constitution Committee on civic matters such as the Council's flag flying policy and civic regalia.

## **Outside Organisations Sub-Committee**

**Membership:** 6 Members

**Functions:**

The Sub-Committee is responsible for

- overseeing the Council's appointments to outside organisations and making recommendations to the Constitution Committee or the Cabinet as appropriate; and
- reviewing the process for considering appointments to outside organisations and recommending any changes to the Constitution Committee.

## **Appeals Sub-Committee**

**Membership:** 5 Members drawn from a pool of 10

**Functions:**

The Sub-Committee is responsible for:

1. Hearing and determining appeals lodged under the Marriage Acts.
2. Hearing and determining any appeals lodged with the Council for determination, as authorised under all relevant education legislation, excluding those duties falling to the Independent Appeals Panel (schools admissions and exclusions).
3. Hearing and determining any appeals lodged with the Council in respect of school transport.
4. Hearing and determining appeals from bus contractors in accordance with contract procedures.
5. Hearing and determining any appeals lodged with the Council as Social Services Authority, and as authorised under all relevant social services legislation.
6. Hearing and determining any other appeals (other than staffing matters).

## **Community Governance Review Sub-Committee**

**Membership:** 6 Members

**Functions:**

The Sub-Committee is responsible for conducting a Borough-wide review of community governance arrangements for Cheshire East.

## Polling Districts and Polling Places Review Sub-Committee

**Membership:** 6 Members

**Functions:**

The Sub-Committee is responsible for conducting a review of Polling Districts and Polling Places as required by the Electoral Administration Act 2006.

**Comment [BB24]:** BB Comment:  
Delegate to Officers?

## AUDIT AND GOVERNANCE COMMITTEE

### Membership: 11 Members

The success of the Audit and Governance Committee depends upon its ability to remain apolitical. It must adopt a non-political approach to its meetings and discussions at all times. Remaining apolitical also places a duty on members not to make inappropriate use of information provided to the Committee for other purposes.

The Committee is composed of 11 Members, comprising 10 members of the Council and one independent (non-voting) member (a member who is not a Councillor) with the Chairman and Vice-Chairman being appointed at full Council. The co-option of an independent member is intended to bring additional knowledge and expertise to the Committee and reinforce its political neutrality and independence. To ensure that the Committee remains focussed on its assurance role, all members of the Committee, and any designated substitute, must be appropriately trained.

**Comment [BB25]:** BB Comment: We have removed the voting rights because of the concerns previously expressed about this

### Statement of Purpose

- 1 The Audit Committee is a key component of the Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
- 2 It provides an independent assurance to the Council of the adequacy of the risk management framework and the internal control environment.
- 3 It provides independent review of the Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes.
- 4 It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.
- 5 It promotes high standards of ethical behaviour by developing, maintaining and monitoring Codes of Conduct for Members of the Council (including co-opted Members and other persons acting in a similar capacity).

### Functions

The Committee has responsibility for the following areas of the Council's activities and Operations.

Detailed explanations of the areas covered in each heading are available by clicking on the links

- [Governance, Risk and Control](#)
- [Internal Audit](#)
- [External Audit](#)

**Comment [BB26]:** BB Comment: I suggest the detailed list of activities of the Committee is put behind the Constitution and accessed through links – the headline areas are sufficient for this section.

I have extracted what look to be the most important formal/statutory functions below

- [Financial Reporting](#)
- [Accountability arrangements](#)
- [Whistleblowing](#)
- [Anti-fraud](#)
- [Complaints](#)
- [Ombudsman](#)
- [Member Conduct and Standards](#)

The powers of the Committee in delivering these functions shall include (but not be limited to) the following:-

- To review and monitor the Council's treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice
- To consider the head of internal audit's annual report
- To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- To consider specific reports as agreed with the external auditor
- To review and approve the annual statement of accounts
- To approve and monitor Council policies relating to "whistleblowing" and anti-fraud and corruption
- To consider all findings of the Local Government Ombudsman (subject to statutory requirements relating to reporting and timings) including reports resulting in a finding of maladministration against the Council, and to make recommendations as to actions that may be necessary in connection with the Ombudsman's findings
- To promote high standards of ethical behaviour by developing, maintaining and monitoring Codes of Conduct for Members of the Council
- To grant dispensations under the provisions of the Localism Act 2011 to enable a member or co-opted Member to participate in a meeting of the Authority.
- To deal with complaints about member conduct under the [Code of Conduct](#)
- To convene a Hearing sub-committee to hear complaints about member conduct when required

## HEARINGS SUB-COMMITTEE

### Membership:

3 members drawn from a cross party panel of 15 members of the Council. An Independent Person is invited to attend all meetings of the Hearings Sub-committee and his/her views are sought and taken into consideration before the Hearings Sub-committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

An Independent Person is a person who is appointed under the Localism Act and has applied for the post following advertisement. He/she is appointed by Council.

### Functions:

To consider complaints about member conduct under the Code of Conduct in accordance with the [procedure](#) for dealing with such complaints.

## INDEPENDENT REMUNERATION PANEL

Membership: ???

Functions:

The Council's Independent Remuneration Panel has the following responsibilities:

To make recommendations to the Council:

- as to the amount of basic allowances that should be paid to Members;
- about the responsibilities or duties which should lead to the payment of a special responsibility allowance and as to the amount of such allowance;
- about the duties for which a travelling and subsistence allowance can be paid and as to the amount of such allowance;
- as to the amount of the co-optees' allowance;
- as to whether the Council's allowances scheme should include an allowance in respect of the expenses for arranging for the care of children and dependants and, if it does make such recommendation, the amount of such allowance and the means by which it is determined;
- on whether any allowance should be backdated to the beginning of a financial year in the event of the scheme being amended;
- as to whether annual adjustments of allowance levels may be made by reference to an index and, if so, for how long such a measure should run;
- as to treating basic allowance and special responsibility allowance as amounts in respect of which such pensions are payable.

Comment [BB27]: BB Comment: Membership?



## **CORPORATE PARENTING COMMITTEE**

**Membership:** 12 Members

Functions:

This is a cross party advisory committee appointed by the Cabinet.

It has 12 members who are appointed on a politically proportionate basis and nominated by the political groups.

The Committee includes representative young people from the Children in Care Council to advise the Committee.

### **Purpose**

The purpose of the Corporate Parenting Committee in its role as an advisory committee to the Cabinet is to ensure that the Council effectively discharges its role as Corporate Parent for all children and young people in care and care leavers from 0- 25 years of age and holds partners to account for the discharge of their responsibilities.

### **Terms of Reference**

1. Act as advocates for cared for children and care leavers, ensuring that their needs are addressed through key plans, policies and strategies throughout the Council and its commissioned services.
2. Ensure key strategic plans and reports relating to children in care and care leavers including the Children's Improvement Plan, Corporate Parenting Strategy and Sufficiency Statement.
3. Oversee the implementation of Cheshire East's Corporate Parenting Strategy and action plan and monitor the quality and effectiveness of services to ensure they fulfil the council's responsibilities.
4. Monitor the quality of care delivered by Cheshire East's residential children's homes via the provision of regular reports including summary reports of Regulation 44 visits and Ofsted inspections.
5. Review the performance of the Council in relation to outcomes for children and young people in care via the scrutiny of both quarterly performance reports and the annual reports of the Cared for Children Service, the Independent Reviewing Service and the Virtual School.
6. Establish an environment whereby Elected Members and young people work together to address the needs and aspirations of Cheshire East's children and young people in care and empower children and young people to participate in decision making with adults.

7. Oversee, with the Children and Families Overview and Scrutiny Committee, the implementation of best practice principles in all aspects of service delivery, with the aim of producing positive outcomes for children and young people in care.
8. Support the work of foster carers and adopters in making a difference to the care and support they provide to children and young people in care and those adopted.
9. Make sure that staff and partners follow Cheshire East's pledge for cared for children and young people and the care leaver's charter.
10. Receive and scrutinise the Independent Review Officers' Annual Report.

## **Governance**

The Committee will:

- meet bi-monthly;
- report to the Council's Cabinet on at least an annual basis;
- report to the relevant Council's Scrutiny Committee annually; and
- include young people representatives from the Children in Care Council.

## **Administration**

Minutes and agendas will be distributed and published no later than 5 clear working days prior to the meeting.

The meetings will take place out of school hours to enable cared for children and young people to participate.

## CHESHIRE EAST STATUTORY HEALTH AND WELLBEING BOARD

### Membership:

The Core membership of the CEHWB will comprise the following:

Voting members:

- **Three** councillors from Cheshire East Council
- The Strategic Director of Adult Social Care and Health
- The Director of Children's Services
- A local Healthwatch representative
- Two representatives of NHS Eastern Cheshire CCG
- Two representatives of NHS South Cheshire CCG
- Independent NHS representative (nominated by the CCGs)

Non-voting members

- The Chief Executive of the Council
- The Director of Public Health
- A nominated representative of NHS England

The councillor membership of the CEHWB is nominated by the Leader of the Council. The Leader can be a member of the CEHWB as one of the three councillors who are voting members.

The **Core** Members will keep under review the Membership of the CEHWB and if appropriate will make recommendations to Council on any changes to the Core Membership.

**Comment [BB28]:** BB Comment:  
Is "Voting" better than "Core" as a description?

The above **Core** Members through a majority vote have the authority to appoint individuals as Non-Voting Associate Members of the CEHWB. The length of their membership will be for up to one year and will be subject to re-selection at the next Annual General Meeting "AGM" of the CEHWB. Associate Members will assist the CEHWB in achieving the priorities agreed within the Joint Health and Wellbeing Strategy and may indeed be chairs of sub structure forums where they are not actual Core Members of the CEHWB.

**Comment [BB29]:** BB Comment:  
Or Voting?

The above **Core** Members through a majority vote have the authority to recommend to Council that individuals be appointed as Voting Associate Members of the CEHWB. The length of their membership will be for up to one year and will be subject to re-selection at the next Annual General Meeting "AGM" of the CEHWB.

**Comment [BB30]:** BB Comment:  
Or Voting?

Each **Core** Member has the power to nominate a single named substitute. If a Substitute Member be required, advance notice of not less than 2 working days should be given to the Council whenever practicable. The Substitute Members shall have the same powers and responsibilities as the **Core** Members.

**Comment [BB31]:** BB Comment:  
Or Voting?

**Comment [BB32]:** BB Comment:  
Or Voting?

### Functions:

- To work in partnership to make a positive difference to the health and wellbeing of the residents of Cheshire East through an evidence based focus on improved outcomes and reducing health inequalities.
- To prepare, approve and keep up to date the Joint Strategic Needs Assessments (JSNAs) and Joint Health and Wellbeing Strategies (JHWSs)
- To lead integrated working between health and social care commissioners, including providing advice, assistance or other support to encourage arrangements under section 75 of the National Health Service Act 2006 (ie lead commissioning, pooled budgets and/or integrated provision) in connection with the provision of health and social care services.
- To be a forum that enables member organisations of the Board to hold each other to account for their responsibilities for improving the health of the population
- To assist in fostering good working relationships between commissioners of health-related services and the CEHWB itself.
- To assist in fostering good working relationships between commissioners of health-related services (such as housing and many other local government services) and commissioners of health and social care services
- To undertake any other functions that may be delegated to it by the Council pursuant to section 196(2) of the Health and Social Care Act 2012. Such delegated functions need not be confined to public health and social care.
- To provide advice assistance and support for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 in connection with the provision of such services.

## **Roles and Responsibilities of CEHWB members:**

- 3.1 To work with the Council and CCGs effectively to ensure the delivery of the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy.
- 3.2 To work within the CEHWB to build a collaborative partnership to key decision making that embeds health and wellbeing challenge, issue resolution and provides strategic system leadership.
- 3.3 To participate in CEHWB discussions to reflect the views of their partner organisations, being sufficiently briefed to be able to make recommendations about future policy developments and service delivery.
- 3.4 To champion the work of the CEHWB in their wider work and networks and in all individual community engagement activities.

- 3.5 To ensure that there are communication mechanisms in place within partner organisations to enable information about the CEHWB's priorities and recommendations to be effectively disseminated.
- 3.6 To share any changes to strategy, policy, and the system consequences of such on budgets and service delivery within their own partner organisations with the CEHWB to consider the wider system implications.

## 4. Accountability

- 4.1 The CEHWB carries no formal delegated authority from any of the individual statutory bodies.
- 4.2 **Core** Members of the CEHWB have responsibility and accountability for their individual duties and their role on the CEHWB.
- 4.3 The CEHWB will discharge its responsibilities by means of recommendations to the relevant partner organisations, which will act in accordance with their respective powers and duties.
- 4.4 The Council's **Core** Members will ensure that they keep Cabinet and wider Council advised of the work of the CEHWB.
- 4.5 The CEHWB may report and be accountable to Full Council and to both NHS Clinical Commissioning Groups (CCG's) Governing Bodies by ensuring access to meeting minutes and presenting papers as required.
- 4.6 The CEHWB will not exercise scrutiny duties around health or adult social care services directly. This will remain the role of the Cheshire East Health and Adult Social Care Overview and Scrutiny Committee and in respect of children's health, the Children and Families Overview and Scrutiny Committee. Decisions taken and work progressed by the CEHWB will be subject to scrutiny by the Health and Adult Social Care Overview and Scrutiny Committee.
- 4.7 The CEHWB will provide information to the public through publications, local media, and wider public activities by publishing the minutes of its meetings on the Council's website. The CEHWB is supported by an Engagement and Communications Network across HWB organisations to ensure this function can operate successfully.

Comment [BB33]: BB Comment:  
Or Voting?

Comment [BB34]: BB Comment:  
Or Voting?

## 6. Frequency of Meetings

- 6.1 There will be no fewer than four public meetings per year (including an AGM), usually once every three months as a formal CEHWB.
- 6.2 Additional meetings of the CEHWB may be convened with agreement of the CEHWB's Chair.

## 7. Agenda and Notice of Meetings

- 7.1 Any agenda items or reports to be tabled at the meeting should be submitted to the Council's Democratic Services no later than seven working days in advance of the next meeting. Generally, no business will be conducted that is not on the agenda.
- 7.2 Any voting member of the Board may approach the Chair of the Board to deal with an item of business which the voting member believes is urgent and under the circumstances requires a decision of the Board. The Chairman's ruling of whether the requested item is considered / tabled or not at the meeting will be recorded in the minutes of the meeting.
- 7.3 In accordance with the Access to Information legislation, Democratic Services will circulate and publish the agenda and reports prior to the next meeting. Exempt or Confidential Information shall only be circulated to **Core** Members.

**Comment [BB35]:** BB Comment:  
Why is it not circulated to all members?

## 8. Annual General Meeting

- 8.1 The CEHWB shall elect the Chairman and Vice Chairman at each AGM, the appointment will be by majority vote of all Core Members present at the meeting.
- 8.2 The CEHWB will approve the representative nominations by the partner organisations as **Core** Members.

**Comment [BB36]:** BB Comment:  
Or Voting?

## 9. Quorum

- 9.1 Any full meeting of the CEHWB shall be quorate if there is representation of any four of the following statutory members: NHS Eastern Cheshire CCG, NHS South Cheshire CCG, Local Health Watch, a Councillor and an Officer of Cheshire East Council.
- 9.2 Failure to achieve a quorum within fifteen minutes of the scheduled start of the meeting, or should the meeting become inquorate after it has started, shall mean that the meeting will proceed as an informal meeting but that any decisions shall require appropriate ratification at the next quorate meeting.

## 10. Procedure at Meetings

- 10.1 General meetings of the CEHWB are open to the public and in accordance with the Council's Committee Procedure Rules will include a Public Question Time Session. Papers, agendas and minutes will be published on the Cheshire East Health and Wellbeing website.
- 10.2 The Council's Committee Procedure Rules will apply in respect of formal meetings subject to the following:-
- 10.3 The CEHWB will also hold development/informal sessions throughout the year where all members are expected to attend and partake as the agenda suggests.
- 10.4 **Core** Members are entitled to speak through the Chairman. Associate Members are entitled to speak at the invitation of the Chairman.

**Comment [BB37]:** BB Comment:  
Or Voting?

- 10.5 With the agreement of the CEHWB, subgroups can be set up to consider distinct areas of work. The subgroup will be responsible for arranging the frequency and venue of their meetings. The CEHWB will approve the membership of the subgroups.
- 10.6 Any subgroup recommendations will be made to the CEHWB who will consider them in accordance with these terms of reference and their relevance to the priorities within the Joint Health and Wellbeing Strategy and its delivery plan.
- 10.7 Whenever possible decisions will be reached by consensus or failing that a simple majority vote by those members entitled to vote.

## **11. Expenses**

- 11.1 The partnership organisations are responsible for meeting the expenses of their own representatives.
- 11.2 A modest CEHWB budget will be agreed annually to support engagement and communication and the business of the CEHWB.

## **12. Conflict of Interest**

- 12.1 In accordance with the Council's Committee Procedure Rules, at the commencement of all meetings all CEHWB Members shall declare disclosable pecuniary or non-pecuniary interests and any conflicts of interest.
- 12.2 In the case of non pecuniary matters Members may remain for all or part of the meeting, participate and vote at the meeting on the item in question.
- 12.3 In the case of pecuniary matters Members must leave the meeting during consideration of that item.

### **12. Conduct of Members at Meetings**

- 13.1 CEHWB members will agree to adhere to the seven principles of Public Life outlined in the CEHWB [Code of Conduct](#) and the Code when carrying out their duties as a CEHWB member.

## **14. Review**

- 14.1 The above terms of reference will be reviewed every two years at the CEHWB AGM.
- 14.2 Any proposed amendments shall be referred to the Constitution Committee and Council.

## **SHARED SERVICES JOINT COMMITTEE**

### **TERMS OF REFERENCE OF THE JOINT COMMITTEE**

- 1 The Joint Committee's role is to oversee the management of those services which are provided on a Cheshire wide basis on behalf of Cheshire West and Chester Borough Council and Cheshire East Borough Council, to ensure effective delivery of such services and to provide strategic direction.
- 2 The Joint Committee is specifically responsible for:
  - 2.1 Developing and agreeing the strategy for each of the services
  - 2.2 Agreeing the responsibilities of each Council to support the delivery of the approved Business Plan Service Delivery Statements and agreed strategy, including any specific responsibilities falling to the Discharging Council
  - 2.3 Ensuring that such responsibilities are clearly documented in a Business Plan (or similar)
  - 2.4 Ensuring that the services are provided within the policy and budget set by the Councils
  - 2.5 Ensuring the provision of adequate funds and other resources
  - 2.6 Approving the Business Plan and Service Delivery Statements for the Specified Functions, including targets for service quality, performance and efficiency
  - 2.7 Ensuring that there are robust plans for any disaggregation of services and that there is smooth transition to the separate arrangements
  - 2.8 Ensuring that the arrangements for the management of the Cheshire Shared Services enable each Council's statutory requirements to be met
  - 2.9 Ensuring that clear policies are in place and that these are complied with
  - 2.10 Agreeing the basis for apportioning cost between the two Councils and the amount to be apportioned
  - 2.11 Reviewing the performance of the services and initiating additional/remedial action where appropriate
  - 2.12 Approving business cases for proposed changes and overseeing the progress of the subsequent work
  - 2.13 Ensuring that effective risk management arrangements are in place, that the services are subject to adequate and independent audit and that any audit recommendations are acted upon



- 2.14 Maintaining an up to date list of the respective Chief Officers and supporting them in the performance of their duties
- 2.15 Resolving issues that have been referred to the Joint Committee by Chief Officers
- 2.16 Providing an Annual Report to each of the two Councils.

## **CONSTITUTION OF THE JOINT COMMITTEE**

- 1 Each of the Councils shall appoint three Members (being elected members of that Council) as its nominated Members of the Joint Committee; the Members appointed shall have full voting rights.
- 2 Each Council may nominate one or more substitute Members to attend any meeting in place of an appointed Member from that Council, subject to notification being given to the Lawyer and Secretary to the Joint Committee before the start of the meeting. The Member appointed as a substitute shall have full voting rights where the Member for whom they are substituting does not attend. If a Council's nominated Members attend a meeting of the Joint Committee, any named substitute may also attend as an observer but shall not be entitled to vote.
- 3 Each Member of the Joint Committee shall comply with the Code of Conduct of their Council when acting as a Member of the Joint Committee.
- 4 Each of the Councils may remove any of its nominated Members or substitute Members of the Joint Committee and appoint a different Member or substitute to the Joint Committee by giving written notice to the Lawyer and Secretary to the Joint Committee.
- 5 Each Council shall have three votes. These shall be exercised by the nominated Member who are elected members of the Council. In the absence of a Council's nominated Member, a vote may be exercised by the named substitute who is an elected member of the Council.
- 6 Each Member of the Joint Committee shall serve upon the Joint Committee for as long as he or she is appointed to the Joint Committee by the relevant Council but a Member shall cease to be a member of the Joint Committee if he or she ceases to be a Member of the Council appointing him or her or if the relevant Council removes him or her as a Member of the Joint Committee.
- 7 Any casual vacancies howsoever arising shall be filled by the Council from which the vacancy arises by notice in writing sent to the Lawyer and Secretary to the Joint Committee.
- 8 Meetings of the Joint Committee shall be held at the offices of the Member appointed as Chair.
- 9 The Council hosting the first Meeting shall appoint one of its nominated members as Chair and that member shall remain Chair until the first meeting taking place after the elapse of one year from the time of his or her appointment unless he or she ceases to be a Member of the Joint Committee. On the expiry of the first Chair's

term of office, the Council which did not appoint the first Chair shall appoint one of its nominated members as Chair for a period of one year from the date of his or her appointment. The same procedure shall be followed for the appointment of Chair in subsequent years.

- 10 The Council which has not appointed the Chair of the Joint Committee In any year shall appoint one of its nominated Members as Vice Chair.

**ASDVs?**

***Contracting out of functions?***

## Cheshire East Council – New Constitution

### Explanatory note to new Part 2 (e) Responsibility for Functions – Officer Delegations/Scheme of Delegation

This Part is a fundamental rewriting of what was Part 3 – Responsibilities for Functions/Scheme of Delegation to Senior Officers. It would not be helpful to track the changes on to the original constitution as the new Part adopts a very different approach. Much of what was in the original constitution will now appear in the Local Schemes of Delegation which will sit behind the constitution (but will be easily accessed through a hyperlink in the document).

The approach adopted is as follows

1. All the words coloured blue indicate where there will be hyperlinks to allow access to other parts of the document and/or to other documents e.g. Local Schemes of Delegation, the Proper Officer Register etc.
2. Any financial thresholds have been highlighted yellow as these remain subject to an overall review across the new Constitution.
3. There are a few queries where the document needs to avoid acronyms/be clearer on what a certain area of responsibility means.
4. The structure and content of the document is as follows:-

Section	Title	Contents
1	Introduction	Sets out what this Part of the Constitution (the "Scheme of Delegation") covers and relevant definitions. It sets the scene for the cascade approach to delegations with all decisions being taken at the appropriate level.
2	<a href="#">General Principles</a>	Sets out the general principles which apply to all decision making by officers. These include the need to act in compliance with the law, relevant policies and procedures, take advice, consult if appropriate etc. It also makes the document as future proof as possible by making clear that the Scheme of Delegation continues to apply despite management reviews, officer changes, post changes and law changes.
3	<a href="#">General Delegations to all Chief Officers</a>	Sets out the delegations which apply to all officers called "Chief Officers" for the purposes of the Constitution i.e. the six roles set out below (which might be carried out by fewer than six people – for example currently the COO is also the s.151 officer) General delegations cover such areas as finance, staffing, land and assets. The Scheme gives authority for all decisions in those areas of activity relevant to the officer's functions, unless the constitution says otherwise
4	<a href="#">Delegations to the Chief Executive/Head of Paid Service</a>	Sets out the specific delegations which apply to this post including power to act in emergencies.
5	<a href="#">Delegations to the Executive Director (People)</a>	Sets out the specific delegations to this post by reference to the headline areas of responsibility of the post – all other officer delegations will be set out in the Local Scheme of

Section	Title	Contents
		Delegation for the Directorate.
6	<a href="#">Delegations to the Executive Director (Place)</a>	Ditto
7	<a href="#">Delegations to the Chief Operating Officer</a>	Ditto
8	<a href="#">Delegations to the s.151 Officer</a>	Sets out the specific statutory functions of this post, whichever post-holder undertakes it.
9	<a href="#">Monitoring Officer</a>	Ditto. Gives the Monitoring Officer all Proper Officer Functions unless he/she appoints other officers to these roles
10	<a href="#">Proper Officer arrangements</a>	Sets out what this means and a link to the <a href="#">Proper Officer Register</a> . This new approach means the lists of proper officer functions can be accessed through a hyper link and not be part of the core constitution. It will be for the Monitoring Officer/ <b>Head of Paid Service (to be decided)</b> to review and keep this up to date. <b>It will be possible to provide a comparison document which shows the amendments that have been made to the Proper Officer Register.</b>

If the approach to this Part of the document is agreed, the next step will be to prepare and populate the following documents:-

- The Local Schemes of Delegation to cover the onward delegations to the next tier of officers in the directorates for the
  - Executive Director (People)
  - Executive Director (Place)
  - Chief Operating Officer
- The Specific Delegation Register (where one-off delegations will be captured)

# Cheshire East Council

## New Constitution

### Part 2 (e)

### Responsibility for Functions – Officer Delegations

### Scheme of Delegation

#### 1 INTRODUCTION

1.1 This part of the Constitution sets out the ways in which the officers of the Council can make decisions and which decisions they have the power to make. It is called the "Scheme of Delegation"

1.2 This Scheme of Delegation is set out as follows:-

Section	Title	Contents
1	Introduction	This section.  Sets out what this Part of the Constitution (the "Scheme of Delegation") covers and relevant definitions
2	<a href="#">General Principles</a>	Sets out the general principles which apply to all decision making by officers
3	<a href="#">General Delegations to all Chief Officers</a>	Sets out the delegations which apply to all officers called "Chief Officers"
4	<a href="#">Delegations to the Chief Executive/Head of Paid Service</a>	Sets out the delegations which apply to this officer
5	<a href="#">Delegations to the Executive Director (People)</a>	Ditto
6	<a href="#">Delegations to the Executive Director (Place)</a>	Ditto
7	<a href="#">Delegations to the Chief Operating Officer</a>	Ditto

Section	Title	Contents
8	<a href="#">Delegations to the s.151 Officer</a>	Ditto
9	<a href="#">Monitoring Officer</a>	Ditto
10	<a href="#">Proper Officer arrangements</a>	Sets out the legal requirements for "proper officers", what this means and a link to the <a href="#">Proper Officer Register</a>

- 1.3 “Officers” is the term used to refer to the people employed, retained or appointed by the Council to advise and support Councillors and implement their decisions. The term “officers” in this Constitution includes all the people who operate in this capacity including contractors, consultants, agency staff and volunteers.
- 1.4 The Council operates a “Cascade” principle of delegation to ensure that decisions are taken at the most appropriate level closest to those who will be affected. This means that the vast majority of the Council's decisions and actions will fall into the category of operational day to day decisions taken by its officers.
- 1.5 In order to ensure the smooth functioning of the Council and the efficient delivery of services, Full Council and the Cabinet have delegated to officers all of the powers that they need to perform their roles.
- 1.6 Certain officers have specific legal duties to ensure that the Council acts within the law, uses its resources wisely and exercises its powers properly. These officers are known as “Statutory” or “Proper” Officers and some have specific legal titles in addition to their job titles. Sections 9 and 10 of this Part of the Constitution explain these roles.
- 1.7 The way the Council structures its services and its officer arrangements changes from time to time to reflect changes in service delivery and best practice. The current arrangements include a **Chief Executive/Head of Paid Service** (as the most senior officer of the Council) supported by five other senior roles called:-
- **Executive Director (People)**
  - **Executive Director (Place)**
  - **Chief Operating Officer**
  - **Section 151 Officer**
  - **Monitoring Officer**
- 1.8 These officers are called, for the purposes of this Constitution, “**Chief Officers**”.
- 1.9 The Head of Paid Service, the Section 151 Officer and the Monitoring Officer are also called “statutory officers” (because every council is required by statute – the law – to have these posts).

- 1.10 It is possible (subject to any legal restrictions) for the roles of Section 151 officer and/or the Monitoring Officer to be combined with another of the Chief Officer posts (or with other officer posts in the Council) so the five roles in 1.7 might be delivered by fewer than five officers, depending on the officer arrangements in place at any time.
- 1.11 There are also a number of formal functions which the Council has to allocate to named officers called "Proper Officers". There is a [Proper Officer Register](#) which sets out these details.
- 1.12 Click to see the [current organisational structure](#) of the Council, showing more detail about the roles and responsibilities of the Chief Officers and the officers supporting them to deliver all the Council's services.

## 2 GENERAL PRINCIPLES RELATING TO OFFICER DELEGATION

- 2.1 This scheme gives the power for the Chief Officers and Statutory Officers to take decisions in relation to all the functions in their areas of responsibility except where:-
  - 2.1.1 A matter is prohibited by law from being delegated to an officer and;
  - 2.1.2 A matter has been specifically excluded from delegation by this scheme, by a decision of the Council, the Cabinet/Executive or a Committee or Sub-Committee.
- 2.2 The cascade principle under which this scheme operates means that any officer given powers under this scheme can further delegate those powers to other officers either:-
  - through a Local Scheme of Delegation (which sets out all the standing delegations given to specific officers in defined areas of the Council's service areas). This is a [full list of the Local Schemes of Delegation](#) and you can look at any of the schemes in detail or
  - through a Specific Delegation in relation to an individual decision which must be evidenced in writing using the agreed standard form, dated and signed by the officer delegating the power with a copy supplied to the Monitoring Officer – here is a [register of these Specific Delegations](#). A Specific Delegation does not need to be given where an officer is given delegated powers to action a particular decision by Council, Cabinet or a Committee or Sub Committee
- 2.3 All Local Schemes of Delegation (and any changes to them) must be agreed by the Chief Operating Officer and the Monitoring Officer.
- 2.4 Where a function has been delegated to an officer (including where sub-delegated through the Cascade principle), the person or body making the delegation may at any time take back responsibility for the function and may therefore exercise the function (make the decision) despite the delegation.

- 2.5 In some circumstances the officer to whom a power has been delegated may consider a matter to be of such importance or sensitivity that their delegated authority should not be exercised. In these circumstances he or she may refer the matter back to the delegator for determination.
- 2.6 Any power delegated or cascaded under this Scheme can be exercised by the relevant Chief Officer or Statutory Officer and in all cases by the Chief Executive personally.
- 2.7 The powers of this Scheme are delegated to the officers referred to by title within this Scheme of Delegation. So the delegations apply to whoever holds that post title at any time – not to the individual person. The powers are automatically transferred to any successor officer, to whom the functions are allocated following any reorganisation of the Council's management arrangements, irrespective of a change in the title/name of the officer post.
- 2.8 Delegations relate to all provisions for the time being in force under any applicable legislation and cover executive, non-executive and local choice functions of the Council and all powers and duties incidental to that legislation.
- 2.9 Any delegation must be exercised:-
- 2.9.1 In compliance with all the Council's Procedure Rules, the Pay Policy Statement approved annually and the Officer Code of Conduct;
  - 2.9.2 In accordance with the decision-making requirements set out in [xxx], including requirements for decision-records and access to information;
  - 2.9.3 Having identified and managed appropriate strategic and operational risks within the officer's area of responsibility;
  - 2.9.4 Within the approved budget and policy framework approved by the Council (or separate approval must be sought) and
  - 2.9.5 Following any appropriate legislative, regulatory, consultation, equalities or procedural requirements that may be required.
- 2.10 An officer, in exercising delegated powers may consult the relevant portfolio holder or chair of committee if he/she considers it appropriate to do so and shall consult other appropriate officers for professional advice including legal, financial and technical officers and shall have regard to any views and advice received.
- 2.11 Whenever legislation is amended or replaced by new provisions, then the relevant delegated authority in this scheme applies to those new provisions. Whenever new legislation relevant or related to the functions exercised by the Chief Officer is introduced, that Officer will have the delegated authority to exercise powers or otherwise take action under that legislation until such time as the Council, Cabinet, a committee or the Chief Executive decides to whom to allocate responsibility for the new legislation.
- 2.12 Chief Officers may appoint another officer as their deputy and such deputy shall have all the powers of a Chief Officer as set out in this Constitution. A deputy may



be appointed in relation to all the areas of service delegated to the Chief Officer under this Constitution or in relation to a particular area of service only. A deputy may be appointed for a specific period of time (for example to cover the absence of a Chief Officer) or without time limitation. The appointment of a deputy shall not prevent the exercise by the Chief Officer of any delegation set out in this Constitution.

- 2.13 If there is any dispute or lack of clarity as to which Chief Officer has power to make decisions on specific areas of service, the Chief Executive shall have power to determine where the delegation should be exercised.

### **3 GENERAL DELEGATIONS TO ALL CHIEF OFFICERS**

- 3.1 The following delegations shall apply to all Chief Officers (and to any appointed deputies).

#### **Urgent action**

- 3.2 To act on behalf of the Council in cases of urgency in the discharge of any function of the Council for which his/her Directorate or Service has responsibility, other than those functions which by law can be discharged only by the Council or a specific Committee. This delegation is subject to the conditions that any urgent action

- (a) shall be reported to the Cabinet, the appropriate Cabinet Member or the appropriate Committee;
- (b) shall take account of advice of the Monitoring Officer and the Section 151 Officer and
- (c) shall be exercised in consultation with the appropriate Cabinet Member or the Chairman of the appropriate Committee.

#### **Implementation of decisions**

- 3.3 To take all necessary actions (including the letting of contracts, undertaking statutory processes and incurring expenditure) to implement decisions of Cabinet and Council.

#### **General Operational**

- 3.4 To have overall responsibility for the operational management of the relevant area of service and for bringing forward such strategic plans and policies, and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to exercise the functions for which the service is responsible.

#### **Consultation**

- 3.5 To undertake and consider the outcome of statutory and non-statutory consultations on service provision.

- 3.6 To respond to Government Consultations and consultations from other bodies, in consultation with the relevant Portfolio Holder(s) or committee chairman.
- 3.7 To undertake all steps required to complete Government Statistical Returns.

**Finance**

- 3.8 To manage the finance of their departments to ensure value for money and the development of budget policy options with a detailed assessment of financial implications.
- 3.9 To enter into contracts and incur expenditure.
- 3.10 To determine the level of fees or charges payable in respect of any goods or services supplied, work undertaken or the loan or use of plant, equipment or machinery.

**Staffing**

- 3.11 To deal with the full range of employment and staff management issues, below Chief Officer level including but not limited to appointments, terms and conditions (other than those negotiated nationally) training, discipline, dismissal, performance, progression, promotion, shifts and working hours, grievance, grading, emoluments, expenses, allowances, sick pay, leave, equal opportunities and health and safety in accordance with approved policies and the Staff Employment Procedure Rules.
- 3.12 To implement changes to staffing structures subject to prior consultation with all appropriate parties affected by the decision, including any Trades Union, except where the restructure:
  - 3.12.1 Involves the loss of one or more posts not currently vacant.
  - 3.12.2 Involves re-grading of posts or the grading of new posts.
  - 3.12.3 Involves changes to existing National or Local Agreements and policies.
  - 3.12.4 Cannot be achieved within the delegated powers in respect of budgets.
- 3.13 To enter into reciprocal arrangements for the authorisation and appointment of officers to facilitate cross-border co-operation in the discharge of delegated functions with any other local authority

**Land and assets**

- 3.14 To manage land, premises, vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture appliances and uniforms necessary for the provision of services.
- 3.15 To administer the supply of goods and services to other public authorities and bodies under the Local Authorities (Goods and Services) Act 1970 and all other enabling legislation.

- 3.16 To make application for planning permission and any other necessary applications for other consents required for the development of land.

**Legal authorisation and enforcement**

- 3.17 To authorise officers possessing such qualifications as may be required by law and where Chief Officers are satisfied that appropriate training has been undertaken, to:-

- 3.17.1 take samples, carry out inspections or surveys, enter land and premises and generally perform the functions of and/or act as a duly authorised, officer of the Council (howsoever described);
- 3.17.2 issue certificates of authority or certify copies of documents;
- 3.17.3 enforce the requirements of legislation and
- 3.17.4 instruct the Monitoring Officer to consider whether or not legal proceedings to enforce the requirements of legislation are appropriate.

- 3.18 With the approval of the Monitoring Officer, to:-

- 3.18.1 authorise the issue and service of requisitions for information, any notice, order or direction;
- 3.18.2 approve or issue any licence which may be required or authorised by or under any legislation or byelaws (not otherwise mentioned in this scheme of delegation);
- 3.18.3 authorise the institution of legal and quasi-legal proceedings and/or other action (including debt recovery) as is considered necessary to protect the interests of the Council and
- 3.18.4 sign certificates for contracts

- 3.19 To exercise the role of authorising officer and designated person under the Regulation of Investigatory Powers Act 2000.

**Safeguarding children and vulnerable adults**

- 3.20 To ensure that arrangements are in place to discharge the responsibilities of the Council within their functional responsibilities in respect of the need to safeguard and promote the welfare of children and of vulnerable adults.

#### 4 DELEGATIONS TO THE CHIEF EXECUTIVE/HEAD OF PAID SERVICE

- 4.1 The Chief Executive is the most senior officer in the Council. It is his/her role to support the Councillors and to provide leadership for the Council.
- 4.2 The Chief Executive is empowered to operate all the services of the Council and except where powers, duties and functions are delegated to a councillor decision-making body or Cabinet member, to exercise all powers, duties and functions of the Council, including those delegated to other officers.
- 4.3 Every Council has to, by law, appoint one of its officers as the Head of Paid Service. The Chief Executive is also the Council's Head of Paid Service. His/her responsibility in this role is to make proposals to the Council about the manner in which the discharge of the Council's functions is co-ordinated and the numbers, grades and organisation of staff required and the proper management of those staff.
- 4.4 The Chief Executive is given delegated power to undertake the following roles and responsibilities and to take the following decisions subject to the terms of this Constitution:-
  - 4.4.1 To be the Council's principal officer representative and to promote its good image and reputation;
  - 4.4.2 To lead and direct the strategic management of the Council;
  - 4.4.3 To exercise any executive functions where the Council does not have a Leader and Deputy Leader in office;
  - 4.4.4 To discharge emergency planning and civil protection functions;
  - 4.4.5 To take such steps (including the incurring of expenditure where necessary) as may be required in the event of any national or local emergency requiring immediate action by the Council;
  - 4.4.6 To sign settlement agreements for employees/ex-employees, in consultation with the Leader of the Council and Chairman of the Staffing Committee;
  - 4.4.7 Subject to 4.4.6 above, to approve the pay, terms and conditions of service and training of any employee except where an approval would be contrary to the provisions of the annual Senior Officer Pay Policy Statement which is reserved to full Council or where an approval falls within the responsibilities of the Staffing Committee or would be contrary to the employment policies of the Council;
  - 4.4.8 To make decisions affecting the remuneration of any existing post whose remuneration is or is proposed to be or would become **£100,000 p.a.** or more in consultation with the Leader and Chairman of the Staffing Committee;
  - 4.4.9 To undertake the communications, marketing and media functions of the Council

**Comment [BB1]:** Is this correct or is this now with the COO?

## 5 DELEGATIONS TO THE EXECUTIVE DIRECTOR (PEOPLE)

### 5.1 The Executive Director (People) holds a number of statutory roles for the Council

- 5.1.1 the Director of Children's Services (required by Section 18 of the Children Act 2004)
- 5.1.2 the Chief Education Officer (required by Section 532 of the Education Act 1996) and
- 5.1.3 the Director of Adult Services (required by Section 6 of the Local Authority Social Services Act 1970)

### 5.2 The Executive Director (People) is given delegated power to take any decisions in relation to the following areas of the Council's operations and services, subject to the terms of this Constitution.

#### • Children and Families

- Children's Social Care
  - Cared for Children
  - Children in Need and Child Protection
  - Children's Safeguarding
  - Children's Commissioning
- Education and 14-19 Skills
  - Education and Infrastructure and Outcomes
  - Education Participation and Pupil Support
- Children's Prevention and Support
  - Preventative Services
  - Special Education Needs and Disability
- Children's Development and Partnerships

#### • Adult Social Care

- Adult Social Care Services
- Care4CE
- Mental Health and Learning Disability Services
- Professional Social Work Standards
- Social Work Support
- Deprivation of Liberty Safeguards

Comment [BB2]: This needs to be explained

#### • Public Health

- Public Health Commissioning
- Health Improvement
- Public Health Protection

#### • Adults Commissioning

- **Community and Partnerships**

- Local Area Working and Partnerships
- Community Safety
- Regulatory Services and Environmental Health

## 6 DELEGATIONS TO THE EXECUTIVE DIRECTOR (PLACE)

6.1 The Executive Director (Place) is given delegated power to take any decisions in relation to the following areas of the Council's operations and services, subject to the terms of this Constitution.

- **Planning and Sustainable Development**

- Spatial Planning
- Neighbourhood Planning
- Development Management
- Regulation and Protection

- **Infrastructure and Highways**

- Strategic Infrastructure
- HS2
- Highways Contract Management
- Parking Services

- **Growth and Regeneration**

- Assets and Property
- HS2 Growth Strategy
- Regeneration
- Strategic Housing
- Energy and Waste

- **Rural and Green Infrastructure**

- Tatton Park
- Public Rights of Way
- Countryside
- Visitor Economy
- Cultural Economy
- Rural Economy

- **Client Commissioning**

- Civicance
- Skills and Growth
- Engine of the North

Comment [BB3]: Needs to be explained

- TSSL
- TPE

Comment [BB4]: Ditto

## 7 DELEGATIONS TO THE CHIEF OPERATING OFFICER

7.1 The Chief Operating Officer is given delegated power to take any decisions in relation to the following areas of the Council's operations and services, subject to the terms of this Constitution.

- **Legal and Democratic Services**

- Legal Services
- Governance and Democratic Services
- Audit and Compliance

- **Finance and Performance**

- Strategic and Corporate Finance
- Business Intelligence and Performance
- Programme Management Office

- **Professional Services**

- Facilities
- Service Finance/Accountancy Services
- Project Finance
- Procurement
- Business Solutions
- Collaboration and Shared Services

- **ICT Services**

- **Human Resources**

- Operational HR
- Schools HR Consultancy
- Organisational Development and HR Strategy
- Workforce Strategy
- Health and Safety
- Occupational Health

- **Customer Operations**

- Libraries
- Revenues
- Benefits
- Online Services
- Customer Service Centre
- Emergency Planning

- **Client Commissioning**

- ESAR
- ANSA
- Orbitas

## **8 DELEGATIONS TO THE SECTION 151 OFFICER**

### **8.1 The section 151 officer is:**

- The financial adviser to the Council, the Cabinet and Officers
- The Authority's 'responsible financial officer' under all relevant legislation and
- Responsible for the proper administration of the Council's financial affairs as specified in, and undertakes the duties required by, Section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Local Government and Housing Act 1989, the Local Government Act 2003, and all other relevant legislation.

### **8.2 The section 151 officer shall have the following delegated powers and responsibilities:-**

- 8.2.1 To carry out the functions and responsibilities which are detailed in the Finance Procedure Rules;
- 8.2.2 To secure effective treasury management, including taking all action necessary in relation to all debts, payment of accounts, loans (including guarantees and indemnities), grants, advances, investments, financing and banking generally;
- 8.2.3 To take all action necessary to ensure the safeguarding of assets by maintaining and administering appropriate insurance and approving requests to postpone legal charges;
- 8.2.4 To take all necessary action in respect of the Council's role in relation to the administration and operation of the Cheshire Pension Fund;
- 8.2.5 To make recommendations to the Council on Council Tax requirements, on the Council tax base and to administer and manage generally all matters relating to Council Tax, Non Domestic Rates, Community Charge and General Rates including the awarding of discounts, relief, and exemptions and the levying, collection, recovery, and disbursement of all sums due to the Council in respect of the same in accordance with all governing Regulations and
- 8.2.6 To negotiate, enter into arrangements and act generally on behalf of the Council in respect of continuing financial matters arising from arrangements and obligations existing between the former Cheshire County and six District Councils.



## 9 DELEGATIONS TO THE MONITORING OFFICER

- 9.1 The Monitoring Officer is appointed in accordance with Section 5 of the Local Government and Housing Act 1989 and is responsible for supporting and advising the Council in relation to
- the lawfulness and fairness of the decision making of the Council
  - the Council's compliance with its legal responsibilities and requirements and
  - matters relating to the conduct of elected Councillors
- 9.2 The Monitoring Officer will provide advice to ensure that decisions are taken on proper authority, by due process, and in accordance with the budget and policy framework.
- 9.3 The Monitoring Officer shall, where necessary, and in consultation with the Head of Paid Service and the section 151 officer, report any proposal, decision or omission considered to be unlawful or to amount to maladministration to the Council or the Executive, as appropriate in accordance with Section 5 of the Local Government and Housing Act 1989.
- 9.4 The Monitoring Officer shall have the following delegated powers and responsibilities:-
- 9.4.1 To appoint other officers as Proper Officers for the purposes of any specific Council service area or function
  - 9.4.2 Unless another officer is appointed as Proper Officer by the Monitoring Officer under 9.4.1. above, or by the Council itself, to act as Proper Officer for the Council for the purposes of all Council service areas and functions
  - 9.4.3 To maintain an up to date Proper Officer Register showing who is appointed to act as the Proper Officer for all Council service areas and functions
  - 9.4.4 To authorise the settlement of actual or potential uninsured claims or Local Government Ombudsman cases across all functions of the Council up to **£5000** (claims above this level shall be determined by the relevant Portfolio Holder)
  - 9.4.5 To prosecute, defend, make application, serve any notice or appear on behalf of the Council in any Court, Tribunal or hearing on any criminal, civil or other matter (including appeals).
  - 9.4.6 To institute legal proceedings for any offences under any local Byelaws or Orders in force within the Council's area
  - 9.4.7 To lodge objections to any proposal affecting the Council's interests.

- 9.4.8 To determine applications for the display of the crest or logo of the Council.
- 9.4.9 To take all action including the completion of agreements, the service of notices, giving of directions, obtaining or issuing orders, authorising the execution of powers of entry, and the institution and defence of legal proceedings necessary or desirable to protect and advance the interests of or discharge the roles, functions and responsibilities of the Authority.
- 9.4.10 To make discretionary payments under Land Compensation Act 1973 on the recommendation of the District Valuer
- 9.4.11 In accordance with the Council's approved policy to monitor the integrity of the operation of the Regulation of Investigatory Powers Act 2000 by:
- Ensuring compliance with all relevant legislation and with the Codes of Practice.
  - Engagement with the Inspectors from the Office of the Surveillance Commissioner when they conduct their inspections, and, where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.
  - Monitoring authorisations and conducting a quarterly review of applications, authorisations and refusals, and reviewing renewals and cancellations.
- 9.4.12 To make Orders for the Temporary Closure of Highways and Regulation of Traffic.
- 9.4.13 To attest the affixing of the Council's seal to all documents approved for sealing.
- 9.4.14 To authorise appropriate Officers to administer formal cautions in respect of criminal offences.
- 9.4.15 To determine whether a particular claim for payment under the Members Allowances Scheme is appropriate
- 9.4.16 To authorise appropriately qualified employees or persons acting on behalf of the Council:
- 9.4.17 To appear in, and conduct legal proceedings in, any Court or Tribunal on behalf of the Authority;
- 9.4.18 To prove debts owed to the Authority in bankruptcy and liquidation proceedings.
- 9.4.19 In consultation with the Chairman and Vice-Chairman of the Constitution Committee, to make such changes to the Council's Constitution as he/she deems to be necessary and which are in the Council's interests and not major in nature, including, but not limited to, changes:-

- amounting to routine revisions;
- to provide appropriate clarity;
- to correct typographical and other drafting errors;
- to reflect new legislation;
- to correct inconsistencies in drafting;
- to reflect new officer structures and job titles, properly approved through Council processes.

## **10 ARRANGEMENTS FOR PROPER OFFICER FUNCTIONS**

- 10.1 Many legislative provisions require the appointment of a "Proper Officer" to undertake formal responsibilities on behalf of the Council.
- 10.2 The Monitoring Officer shall be the Proper Officer of the Council for the purposes of the Local Government Act 1972, the Local Government Act 2000 and for all other statutory purposes unless
- such designation is given by the Council to any other officer or
  - the Monitoring Officer, exercising the powers given to him/her by this Constitution, appoints another officer of the Council to be the Proper Officer for a specific service area or function.
- 10.3 The Proper Officer shall maintain a [Proper Officer Register](#) which shall record all Proper Officer appointments.

**This page is intentionally left blank**

## Cheshire East Council – New Constitution

### Explanatory note to new Part 3 Procedure Rules

This Part is a fundamental rewriting of what was Part 4 – Procedure Rules. This Part largely follows the form of the current constitution.

The approach adopted is as follows

1. All the words coloured blue indicate where there will be hyperlinks to allow access to other parts of the document and/or to other documents e.g. to the Committee Terms of Reference..
2. The structure and content of the document is as follows:

Part	Title	Contents
A	<a href="#">Rules of Procedure</a>	<p>Set out the rules of procedure relating to meetings and decisions of the Council covering</p> <ul style="list-style-type: none"> <li>• Full Council Meetings</li> <li>• Committees and Sub Committee Meetings</li> <li>• Cabinet Meetings</li> <li>• General Provisions relating to Procedure Rules</li> <li>• Budget and Policy Framework Rules</li> <li>• Overview and Scrutiny Procedure Rules</li> </ul> <p>To avoid repetition, rather than listing each Committee/Sub-Committee and the number of members, this is now linked to where the information appears in Part 2 of the Constitution.</p> <p>Feedback from the working group questioned whether a "need to know" requirement should be introduced for Members attending meetings of Committees or Sub-Committees of which they are not members where exempt or private and confidential matters are being discussed or from viewing exempt papers of that Committee/Sub-Committee. Bevan Brittan has suggested a requirement for such attendance to be agreed in advance by the Monitoring Officer and the Chair on the basis that the Member has a need to know.</p> <p>Bevan Brittan has reviewed the Rules of Procedure and they are currently with Council Officers for review/ comment.</p>
B	<a href="#">Access to Documents and Information</a>	<p>Sets out the rights to access documents and information of the Council and the obligations to publish and make information available</p> <p>Bevan Brittan has reviewed the Access to Documents and Information procedure rules and they are currently with Council Officers for review/ comment.</p>

Part	Title	Contents
C	<a href="#">Budget and Policy Framework Procedure Rules</a>	<p>Set out the Council's budget and policy framework rules and will link to the rules providing for the management of the Council's financial affairs.</p> <p>Bevan Brittan has undertaken an initial review and the Council intends to conduct a substantial review of the Finance Procedure Rules in conjunction with Bevan Brittan.</p>
D	<a href="#">Contract Rules</a>	<p>Set out the rules covering the way in which the Council contracts with other organisations.</p> <p>Bevan Brittan is reviewing the content of the Contract Procedure Rules.</p>
E	<a href="#">Employment Rules</a>	<p>Set out the rules relating to the recruitment, appointment and dismissal of senior staff.</p> <p>Bevan Brittan has reviewed the Employment Rules and they are currently with Council Officers for review/comment.</p>

If the approach to this Part of the document is agreed, the next step will be to:

- Receive Council Officer comments on the draft Rules, particularly Financial Procedure Rules
- Finalise and Rules of Procedure;
- Finalise and approve the Access to Documents and Information Procedure Rules;
- Finalise and approve the Contract Procedure Rules;
- Finalise and approve the Employment Rules;
- Conduct a comprehensive review of the Finance Procedure Rules and produce a new Finance Procedure Rules for Members to comment on.

## Cheshire East Council – New Constitution

### Explanatory note to new Part 4 – Codes and Protocols

This Part is a fundamental rewriting of what was previously in (part of) Part 5 of the old constitution – Codes and Protocols.

The approach adopted is as follows

1. All the words coloured blue indicate where there will be hyperlinks to allow access to other parts of the document and/or to other documents e.g. Local Schemes of Delegation, the Proper Officer Register etc.
2. Any financial thresholds have been highlighted yellow as these remain subject to an overall review across the new Constitution.
3. The structure and content of the document is as follows:-

Section	Title	Contents
1	<a href="#">Councillor Call for Action Protocol</a>	<p>This protocol provides members with a means of raising matters which concern their ward or the Council's area to a relevant Scrutiny Committee.</p> <p>Bevan Brittan has received member comments and is reviewing – this could be incorporated into the Procedure Rules.</p>
2	<a href="#">Local Ward member Protocol</a>	<p>This protocol governs the role that ward members play in relation to matters that specifically affect their ward.</p> <p>Bevan Brittan is reviewing – this can sit outside the constitution and be hyperlinked.</p>
3	<a href="#">Mayoralty Code of Practice</a>	<p>This code provides guidance as to the role of the Mayor within the Council.</p> <p>Bevan Brittan is reviewing – this can sit outside the constitution and be hyperlinked.</p>
4	<a href="#">Petitions Scheme</a>	<p>This scheme provides guidance as to what a petition should contain, to whom it should be sent, and sets out the process of how the Council deals with petitions it receives.</p> <p>Bevan Brittan would recommend a significant reduction as there is no legal requirement to have a scheme any more – basic requirements could instead be incorporated into the Procedure Rules</p>
5	<a href="#">Member Code of Conduct</a>	<p>This code sets out the standards expected of Members and co-opted. It will include general obligations on members and specific obligations regarding the declaration of and registering of disclosable pecuniary and non-pecuniary interests.</p> <p>Members' detailed comments are awaited.</p>
6	<a href="#">Officer Code of Conduct</a>	<p>This code sets out the standards required of officers.</p> <p>Members' detailed comments are awaited.</p>
7	<a href="#">Member/Officer Relations Protocol</a>	<p>This protocol provides guidance to officers and Members as to how they work together, and aims to build good working relationship between them.</p> <p>Members' detailed comments are awaited.</p>

Section	Title	Contents
8	<a href="#">Planning Protocol</a>	<p>This protocol is a guide to Members in exercising their functions as members of the Council's Strategic Planning Board and Planning Committees.</p> <p>Members' detailed comments are awaited.</p> <p>It is long and could be cut down.</p>
9	<a href="#">Public Speaking Protocol</a>	<p>This document provides guidance as to who can speak at meetings of the Council's Strategic Planning Board and the Planning Committees.</p> <p>Members' detailed comments are awaited.</p> <p>Should this not cover all public speaking opportunities?</p>
10	<a href="#">Whistleblowing Policy</a>	<p>This policy is sets out how employees, Members and others working with the Council are able to raise concerns that they may have about the Council, and it sets out how such concerns will be dealt with.</p> <p>Council comments are awaited.</p>
11	<a href="#">Scheme of Members' Allowances</a>	<p>This document sets out the allowances for the elected Members of the Council.</p> <p>Members' comments are awaited, but limited opportunity to change due to Independent Remuneration Panel Process and recommendations to Council.</p>