

APPENDIX C

SECTIONS FROM CURRENT CONSTITUTION NOW REMOVED FROM THE FORMAL DOCUMENT

A. Summary and Explanation (pp. 7-9)

These sections have been removed as they were considered repetitious and are not necessary. This approach was approved by the Sub-Committee on 17 September 2017. These have not been reproduced here.

B. Introductory Chapters (pp. 17-52)

These sections were largely repetitious and explained information contained elsewhere in the Constitution. They have been deleted as standalone sections in their current form, but all relevant elements have been included elsewhere (as referred to in the revised document and Explanatory Note). This approach was approved by the Sub-Committee on 17 September 2017. These have not been reproduced here.

C. Job Description of Committee Chairman (pp. 127-128)

Tier 2 Hyperlink. Now owned by Constitution Committee.

D. Whistleblowing Policy (pp. 409-417)

Tier 2 Hyperlink. Now owned by Audit & Governance Committee.

E. Planning Protocol of Conduct in relation to the Determination of Planning Matters (pp. 417-435)

Tier 2 Hyperlink. Now owned by Strategic Planning Board.

F. Protocol on Public Speaking Rights at Strategic Planning Board and Planning Committees (pp. 437-440)

Tier 2 Hyperlink. Now owned by Strategic Planning Board.

G. Local Ward Member Protocol (pp. 441-445)

Although not required by law, this will be treated as a Tier 1 Hyperlink at the request of the Sub-Committee.

H. Councillor Call for Action (pp. 446-451)

Removed – no longer required (covered by legislation and revised wording in rest of the Constitution).

I. Mayoralty Code of Practice (pp. 453-458)

Tier 2 Hyperlink. Now owned by Constitution Committee.

J. Petitions Scheme (pp. 459-456)

Tier 2 Hyperlink. Now owned by Constitution Committee.

K. Scheme of Members' Allowances (pp. 467-477)

Removed – no longer required to be part of the Constitution.

Note – Explanation of hyperlinks:

- Tier 1 links are links which take readers to factual documents which are required to be part of the Constitution and will need to be updated from time to time but which are self-standing.
- Tier 2 links are links which take readers to documents which support the Constitution but are not required legally to be part of it – sometimes referred to as "ancillary documents".
- Tier 3 links are links which take readers to documents completely outside the Constitution and possibly outside the Council itself but where it is useful to signpost readers to a particular source.
- Tier 4 links are links which take readers quickly from one part of the Constitution to another.

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C. Job Description of Committee Chairman

The Role of Chairman

Responsibilities include:

Preparation for the meeting

- To inform himself/herself of the business and objects of the meeting, familiarising him/herself with the content of reports and, in all other respects ensuring that he/she is properly prepared for the meeting.
- To determine that the meeting is properly constituted, that there is a quorum present, and that the meeting can continue to proceed lawfully.
- To be familiar with the rules of debate, as contained in the Council's Constitution
- To guide officers in the administration of committee business e.g. where meeting arrangements need to change, such as time and venue changes.

During the meeting

- Regulation of the conduct of the meeting he/she chairs, including by adopting measures to aid debate:
 - To make the business of the meeting efficient and effective
 - Encouraging members of the committee not to repeat points already made in debate
 - Ensuring that all those participating keep to their allocated speaking time and are succinct in making contributions, always ensuring that appropriate opportunity is given for those entitled to speak to do so
 - Taking appropriate advice from officers prior to, and in attendance at, the meeting.
- To confine discussion to ensure that it is within the scope of the meeting and within reasonable limits of time
- To decide whether proposed motions and amendments are in order, taking legal advice where necessary
- To formulate for discussion and decision, questions that have been moved for consideration of the meeting
- To decide points of order and other incidental questions that require decision at the time

- To seek to ensure that Members of the Council who are visiting planning committee meetings to speak are permitted to do so, if necessary delaying the consideration of the item in question in order to facilitate this, only insofar as it is practicable to do so within the meeting.
- To ascertain the sense of the meeting by putting relevant questions to the meeting and taking a vote thereon
- Where appropriate, to summarise the outcome of the debate
- To declare the result of each vote
- To determine when to take a vote upon the proposed adjournment of the meeting when circumstances justify or require that course
- To exercise a second or casting vote where there is an equality of votes cast.

Preserving order at the meeting

- To call upon any disorderly person to behave properly and to ask that person to withdraw from the meeting if they fail to do so
- To direct that such person be removed from the meeting; provided that only such force as is reasonable may be used in doing so
- To determine whether to call for the meeting to be suspended or adjourned in circumstances where there is disorder
- To determine whether to propose that a Member “be not further heard” in circumstances of misconduct and, where such misconduct continues after the vote:
 - to propose that the Member “do leave the meeting”
 - to order that such Member be removed from the meeting, provided that only such force as is reasonable may be used in doing so
- To determine whether to order, where general disturbance occurs, that the appropriate part of the meeting room be cleared.

At the end of the meeting

To declare the meeting closed when its business has been completed.

D. Whistleblowing Policy

1. INTRODUCTION

- 1.1 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice. Issues of concern may also come to the attention of Members, contractors, suppliers or consultants working for the Council and they too should also feel confident that there are proper procedures in place to enable them to report any areas of concern.
- 1.2 Cheshire East Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we encourage employees, and others who work with us, with serious concerns about any aspect of the Council's work to come forward and voice those concerns. This policy makes it clear that this can be done without fear of victimisation, discrimination or disadvantage.
- 1.3 This whistleblowing policy is intended to encourage and enable employees, Members and others working for the Council to raise serious concerns **within** the Council rather than overlooking a problem or 'blowing the whistle' outside as premature or unnecessary publicity may damage the Council's reputation, impede proper investigations, or hurt individuals unnecessarily.
- 1.4 The policy applies to all employees, Members, contractors, suppliers and consultants and provides them with a secure basis for reporting suspicions of impropriety, in the knowledge that if requested the matter will be treated confidentially.
- 1.5 The procedures contained within this policy are in addition to the Council's complaints process and any other statutory reporting procedure that applies within individual departments.
- 1.6 This policy has been discussed with the relevant trade unions and has their support.

2. AIMS AND SCOPE OF THIS POLICY

- 2.1 The Whistleblowing Arrangements Code of Practice Publicly Available Specification developed by the British Standards Institute and Public Concern at Work defines whistleblowing as;

The popular term used when someone who works for or in an organisation raises a concern about a possible fraud, crime, danger or other serious risk that could threaten customers, colleagues, shareholders, the public or the organisation's own reputation.

- 2.2 Whistleblowing can therefore be described in simple terms as a disclosure made by an employee, Member or third party working for the Council who has concerns about a danger or illegality that has a public interest to it, usually because it threatens others.
- 2.3 A grievance or private complaint is, by contrast, a dispute about an individual's own employment or personal position and has no public interest to it.
- 2.4 This Whistleblowing Policy has been developed in line with best practice as described in the code of practice and aims to:
- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice
 - provide avenues for you to raise those concerns and receive feedback on any action taken
 - provide reassurance that you will be protected from possible detriment if you have a reasonable belief that any disclosure you have made is true.

- 2.5 The whistle-blowing policy is intended to cover major concerns that fall outside the scope of other procedures. These include:
- criminal offences
 - failure to comply with legal obligations
 - miscarriages of justice
 - dangers to health or safety, including risks to the public as well as other employees
 - damage to the environment
 - the unauthorised use of public funds
 - possible fraud and corruption
 - sexual or physical abuse of clients
 - other unethical conduct, or
 - deliberate concealment of any of the above categories

- 2.6 If your concerns relate to your own employment, contractual position or your personal position as an elected member then they do not fall under the scope of this policy and should be raised via the Grievance Procedure or Dignity at Work Policy, under the terms of the contract with the Council or, in the case of an elected Member with either your Group Leader or the Chief Executive.
- 2.7 This policy does not cover members of the public and any report received will be dealt with under the corporate comments, compliments and complaints policy or as a tip off via the Anti Fraud and Corruption Strategy.
- 2.8 Staff in schools should report any concerns that they may have through their school's own whistleblowing policy.

3. SAFEGUARDS

- 3.1 Cheshire East Council is committed to good practice and high standards and wants to be supportive of employees, Members and those contractors, suppliers or consultants who work with the Council.
- 3.2 We recognise that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice.
- 3.3 As a result, we will not tolerate any detrimental treatment (including informal pressures) and will take appropriate action to protect you when you raise a concern that you believe to be true.
- 3.4 Subjecting a worker to a detriment means subjecting the worker to "any disadvantage" because they blew the whistle. This could include (but is not limited to) any of the following:
 - failure to promote
 - denial of training
 - closer monitoring
 - ostracism
 - blocking access to resources
 - unrequested re-assignment or re-location
 - demotion
 - suspension
 - disciplinary sanction
 - bullying or harassment
 - victimisation

- dismissal
 - failure to provide an appropriate reference
 - failing to investigate a subsequent concern
- 3.5 If someone is found to have subjected a bona fide whistleblower to any detriment this will be dealt with under the council's disciplinary procedure or through the Member Code of Conduct as appropriate.
- 3.6 Should you believe that you have suffered a detriment as a result of raising a concern you can report this to any of the officers named in section 8.2 of this policy.
- 3.7 Please be aware however, that should you already be the subject of disciplinary or redundancy procedures, the procedures will not be halted as a result of the whistleblowing report.

4. OPEN DISCLOSURES

- 4.1 The best culture is one where individuals have sufficient faith in the whistleblowing arrangements and culture of the council to allow them the confidence to make open disclosures. This is where those involved know what the issues are along with who raised them.
- 4.2 This is the aim for Cheshire East Council and it is hoped that any individual with a whistleblowing concern will feel able to raise their issues openly.
- 4.3 This openness makes it easier to assess the report, gather additional information and carry out an investigation.
- 4.4 It also allows any hidden agendas to be identified, helps to prevent witch hunts and reduces the risk of mistrust and paranoia developing within the area being investigated.

5. CONFIDENTIALITY

- 5.1 It is, however, recognised that some individuals may not feel that they can make such a report. Where this is the case the policy provides the whistleblower with the option of requesting that their name remains confidential.
- 5.2 Where confidentiality is requested we will do our best to ensure that your name is not revealed. This cannot, however, be guaranteed as there are certain circumstances where the name of the whistleblower may be made known. For example:
- The report is found to be knowingly false or malicious, or
 - Disclosure is ordered by the courts.
 - A formal statement is required as part of a police investigation.

5.3 Whilst it is possible to keep the name of a whistleblower confidential, it is not possible to prevent others from trying, often successfully, to work out the source of a report. This can lead to speculation and an unpleasant atmosphere that could have been avoided by making an open disclosure.

6. ANONYMOUS ALLEGATIONS

6.1 This policy encourages you to put your name to your allegation whenever possible and actively discourages anonymous reports.

6.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.

6.3 In exercising this discretion the factors to be taken into account would include:

- the seriousness of the issues raised
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

6.4 Anonymous reports also raise a specific problem with regard to the legal requirement that personal data should only be collected fairly.

6.5 In addition, people making anonymous reports are not covered by the safeguards put in place to protect named whistleblowers.

7. UNTRUE ALLEGATIONS

7.1 If you make an allegation that you believe to be true, but it is not confirmed by the investigation, no action will be taken against you.

7.2 If, however, you make allegations that you know to be false, then disciplinary action may be taken against you under the Council's procedures or if you are an elected member through appropriate channels including the Member Code of Conduct.

8. HOW TO RAISE A CONCERN

8.1 As a first step, if you are a Council employee you should normally raise concerns with your immediate manager or their superior. However, depending upon the seriousness and sensitivity of the issues involved and who is suspected of the malpractice, this may not be appropriate.

8.2 Where this is the case the following officers are identified as appropriate contacts within this policy;

- Chief Executive
- Director of Legal Services, who is also the Monitoring Officer
- Audit Manager

If you are a Member you may feel it is appropriate to raise the issue initially with your Group Leader or alternatively you may contact the Chief Executive, Monitoring Officer or Audit Manager to raise your concerns. Third parties working for the Council may also raise any concerns with any of these officers.

- 8.3 There are two ways to formally make a whistleblowing disclosure;
- Verbally, either face to face or by telephone, or
 - In writing, either by sending a letter to one of the named contacts or by emailing whistleblowing@cheshireeast.gov.uk.
- In exceptional circumstances, you may not feel able to contact any of the officers detailed above. Where this is the case, you may approach the Chairman, Vice-Chairman or any other member of the Audit and Governance Committee with your concerns.
- 8.4 It is preferable for concerns to be raised in writing and where this is the case the following details are requested;
- Your name and contact details
 - background information and history including details as to why you are concerned
 - whether the issue has already been reported to management and the outcome of this
 - whether you wish your name to remain confidential
 - whether you want feedback
 - the names and jobs of any other employees/Members who may support your concern.
- 8.5 Where reports are made verbally to one of the named officers they should attempt to ascertain the same information.
- 8.6 The earlier you express the concern the easier it is to take action.
- 8.7 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 8.8 Should you wish to obtain independent advice in relation to a potential whistleblowing report then Public Concern at Work operate a confidential helpline 02074046609. Further advice and guidance can also be found on their website www.pcaw.co.uk.
- 8.9 You may wish to consider discussing your concern with a colleague first, or if you are an elected member another member or your Group Leader, and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

8.10 You may invite your trade union, professional association representative or a friend, or if you are an elected member another member or your Group Leader, to be present during any meetings or interviews in connection with the concerns you have raised.

9. HOW THE COUNCIL WILL RESPOND

9.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

9.2 As part of this process contact will be made with you to clarify your concerns and obtain any further information that you may have. You will also be provided with details of who to contact should you require further support.

9.3 Where appropriate, the matters raised may:

- be investigated by management, internal audit, or through the disciplinary process
- be referred to the police
- be referred to the external auditor
- form the subject of an independent inquiry.

9.4 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

9.5 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

9.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the officer will seek further information from you.

9.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend or if you are an elected member by another member or your Group Leader.

9.8 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.

9.9 The Council understands that you may wish to be assured that the matter has been properly addressed. Therefore, where possible an estimate of the length of any investigation will be provided and, subject to legal constraints, if requested we will keep you updated at least on a monthly basis during the process and will inform you of the outcome of any investigation. This may include where disciplinary action is taken as a result of an investigation but not details of any sanctions that may be issued.

10. THE RESPONSIBLE OFFICER

- 10.1 The Council's Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer will maintain a record of concerns raised and the outcome and will report as necessary to the Council.
- 10.2 If requested the Monitoring Officer will do everything that can lawfully be done to protect your identity but you should be aware that it may need to be disclosed to the police or courts as part of an investigation or subsequent prosecution.

11. HOW THE MATTER CAN BE TAKEN FURTHER

- 11.1 This policy is intended to provide you with an avenue to raise concerns within the Council and it is hoped that you will utilise it. However, should you feel unable to raise your concerns internally, the following are possible alternative contact points:
- Public Concern at Work 020 7404 6609
 - the external auditor
 - Audit Commission whistleblower's hotline 0303 4448 346
 - the police.
- 11.2 It is stressed that this list is not exhaustive and you are free to contact any organisation that you feel will be able to deal properly with your concerns. This may include;
- your solicitor
 - other relevant professional or regulatory bodies as prescribed by the Secretary of State

You should, however, take further advice before reporting an issue to a body other than those specified above to ensure that you are making a protected disclosure.

- 11.3 You will be protected under the Public Interest Disclosure Act 1988 if you raise your concerns with any of the above, provided that;
- you believe the disclosure to be in the public interest

- you reasonably believe that the information disclosed, and any allegation contained in it, are substantially true
- you do not make the disclosure for personal gain.

11.4 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information.

12. THE LAW

12.1 This policy has been written to take into account the Public Interest Disclosure Act 1988, which protects workers making disclosures about certain matters of concern, where those disclosures are made within the act's provisions. The Act is incorporated into the Employment Rights Act 1996, which already protects employees who take action over, or raise concerns about, health and safety at work.

13. EQUALITY

13.1 Cheshire East Council will ensure that, when implementing the Whistleblowing Policy, no employee or individual whistleblower will be disadvantaged on the basis of their gender or transgender, marital status or civil partnership, racial group, religion or belief, sexual orientation, age, disability, pregnancy or maternity, social or economic status or caring responsibility. This means that the Policy may need to be adjusted to cater for the specific needs of an individual including the provision of information in alternative formats where necessary.

14. MONITORING

14.1 Data relating to Whistleblowing cases will be collated and monitored regularly to ensure that the Policy is operating fairly, consistently and effectively. Issues that are identified from the data will be dealt with appropriately.

15. REVIEW

15.1 The policy will be reviewed in the light of operating experience and/or changes in legislation.

E. PLANNING PROTOCOL OF CONDUCT IN RELATION TO THE DETERMINATION OF PLANNING MATTERS

Section	Subject
	Summary
1	Development proposals and interests under the Code of Conduct for Members – 2012
2	Pre-determination (fettering discretion) in the planning process
3	Membership of Parish Councils and outside bodies
4	Cabinet Members
5	Contact with Applicants, Developers, Objectors
6	Pre-Application discussions
7	Lobbying of Planning Committee members
8	Membership of lobby or general interest groups
9	Site Inspections
10	Public Speaking at Meetings
11	Officers
12	Decision Making
13	Training
14	Involvement in s106 Agreements
15	Monitoring and review

The aim of this Planning Protocol is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well-founded in any way and **applies to members of the Strategic Planning Board and Northern and Southern Planning Committees and visiting Councillors to any of the three Planning Committees when they are involved in the planning process.**

The Council was required under section 27 of the Localism Act 2011 to adopt a new code of conduct from July 2012 based on the core principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty, respect for others and leadership. The new code of conduct is entitled 'Cheshire East Council Code of Conduct for Members – 2012' and this Planning Protocol (and the Public Speaking Protocol mentioned in it) has been reviewed and amended in light of it. It is referred to as the Code of Conduct for Members throughout this Planning Protocol.

The Code of Conduct for Members should be applied throughout the decision making process and this Planning Protocol seeks to explain and supplement the Code of Conduct for Members in relation to planning control. If you do not follow this Planning Protocol you may put the Council and yourself at risk of proceedings on the legality or maladministration of the related decision. Furthermore section 34 of the Localism Act 2011 introduced new criminal offences of failing to declare or register certain interests and debating or voting whilst having such an interest.

The Code of Conduct for Members requires Disclosable Pecuniary Interests (which are specified and defined in it) to be notified to the Monitoring Officer. Non Pecuniary Interests may be required to be notified but none have yet been specified.

If you have any doubts about the application of this Planning Protocol to your own circumstances you should seek advice early, from the Monitoring Officer, and preferably well before any planning meeting takes place.

In this Planning Protocol “planning meeting” covers all meetings of the Strategic Planning Board and the Northern and Southern Planning Committees.

SUMMARY

Important things to remember:

1. apply the rules in the Code of Conduct for Members first, and continue to comply with them throughout the decision making process, and disclose the existence and nature of any interest set out in the Code at the relevant planning meeting unless you have already registered it.
2. understand what Disclosable Pecuniary Interests as referred to in the Code of Conduct for Members are, and the implications of such interests arising. If you have a Disclosable Pecuniary Interest in a matter you must not speak or vote on it.
3. If you have a non-pecuniary private interest in a planning matter, declare it and leave the room, although you may exercise public speaking rights before you go.
4. don't make your mind up on how you will vote on a matter before the formal consideration of the matter at the planning meeting
5. be aware that if you do lobby or campaign on a particular issue it may mean you can't take part in the decision making process
6. if you are a cabinet member, don't take part in a planning meeting in a matter where you appear to be the advocate of a proposal
7. if you are approached for technical planning advice or receive any materials relating to an application (other than those circulated by an Officer), refer the person who approached you or the material to Officers
8. if you attend meetings individually with developers or lobby groups be careful not to put yourself in a position where you appear to favour a person or a group over another

9. if you do attend a meeting with a developer or lobby group make sure it is clear that you do not bind the authority to a particular course of action, or views, and that the meeting is noted in your diary
10. you can ask that Officers attend and/or organise meetings
11. avoid accepting gifts, benefits or hospitality from anyone involved in a planning proposal
12. it is not advisable to become a member of a group or organisation whose primary purpose is to promote or oppose specific planning proposals in your area
13. a site inspection is the opportunity to seek information and observe the site, not to start the debate into the merits of the application.
14. you can call-in an application to be determined by Committee that would otherwise be delegated to Officers, and can seek advice from Officers over the wording. Take care that the wording of your call-in does not give the impression of bias for or against an application
15. you can discuss applications with Officers but the Officer must be able to reach their own conclusion
16. make sure you are present at the planning meeting for the entire item, including the Officer's introduction and update, otherwise you cannot take part in the debate or vote on that item
17. do not allow members of the public to communicate with you during planning meetings
18. you must not exercise your public speaking rights on a matter at a planning meeting if you have a Disclosable Pecuniary Interest in that matter
19. make sure your decisions at a planning meeting take into account the development plan and other relevant material planning considerations
20. put your and your local community concerns forward at the planning meeting, and consider whether planning gain requirements under s106 could help make acceptable development that would otherwise be unacceptable in planning terms
21. include the content of s106 agreements in the debate at a planning meeting
22. if you are proposing or seconding a decision that is contrary to Officer recommendation, you need to identify the planning reasons for doing so, if necessary with the assistance of the Officers at the planning meeting
23. you must attend mandatory training and should try to attend all training sessions arranged by the Council

This summary provides a list of the main points to remember while the body of the

Protocol provides more detailed information, explanation and assistance.

1 DEVELOPMENT PROPOSALS AND INTERESTS UNDER THE CODE OF CONDUCT FOR MEMBERS

1.1 DISCLOSABLE PECUNIARY INTERESTS

It is your responsibility to register Disclosable Pecuniary Interests and where such an interest has not been registered to declare its existence at the relevant planning meeting, and any informal meetings or discussions with Officers and other Councillors. Preferably, disclose any Disclosable Pecuniary Interest that you have not already registered at the beginning of the planning (or other) meeting and not just at the commencement of discussion on that particular matter. The requirements for you to declare any Disclosable Pecuniary Interest that you have not already registered apply whenever you are in attendance at a planning (or other) meeting, regardless of whether you are a member of the Committee.

1.2 Where you have a Disclosable Pecuniary Interest:

- You must register it in the register of interests held by the Monitoring Officer
- If a matter related to it is on the agenda of a planning meeting, you must not participate in, or give the appearance of trying to participate in, the making of any decision on the matter by the planning authority, including the processing of the application. You must withdraw from the planning meeting room when the matter is announced and you must not exercise public speaking rights in respect of it.
- You shouldn't try to represent local, Ward or Area views; get another Member to do so instead.
- Be careful not to seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a Disclosable Pecuniary Interest in a proposal, using your position to discuss that proposal with Officers or Councillors when other members of the public would not be able to do the same.
- Whilst you are not prevented from seeking to explain and justify a proposal in which you have a Disclosable Pecuniary Interest to an appropriate Officer, in person or in writing, be aware that the Code of Conduct for Members places greater limitations on you than would apply to a normal member of the public.

1.3 You do need to notify the Monitoring Officer and Development Management and Building Control Manager (“DMBCM”) in writing if you are submitting your own application, or if you are employed as an agent and:-

- The notification to the Monitoring Officer and the DMBCM should be made no later than submission of the application;

- the proposal will always be reported to a planning meeting and not dealt with by Officers under the scheme of delegation; and
- it is advisable that you employ an agent to act on your behalf on the proposal in dealing with Officers and any public speaking at the planning meeting (where appropriate) to avoid public criticism
- you can make written representations to Officers about the proposal but may not address the planning meeting pursuant to the Public Speaking Protocol.

1.4 NON PECUNIARY INTERESTS

The Code of Conduct for Members has not specified any Disclosable Non Pecuniary Interests. However, the general obligation of honesty requires you to declare any non-pecuniary private interests relating to your public duties and to resolve any conflicts arising, in a way which protects the public interest. In practice this will mean declaring a non-pecuniary interest at the Planning Meeting and leaving the room for the duration of the item, although you may exercise public speaking rights before you go. So, if you attend a planning meeting at which a proposal is to be considered and you have some close association or connection with the site or applicant or objector by reason of, for example, a friendship or membership of a body or organisation then you should not take part in the debate or vote and should leave the planning meeting room prior to consideration of the proposal. In the interest of openness you should declare the nature of your interest.

If you have an association or connection with the site, applicant, consultee or objector which is not close enough to affect your judgment but which it would be advisable to declare in the interests of openness, do this but then stay to take part in the debate and vote. This is likely to happen where you are a member of a consultee body which has expressed an opinion regarding an application.

2 PRE-DETERMINATION (FETTERING DISCRETION) IN THE PLANNING PROCESS

- 2.1 Councillors making decisions in planning meetings should exercise an independent mind and decide proposals in accordance with the relevant planning considerations, so must not favour any person, company, group or locality or commit themselves to a particular point of view on a planning application prior to its full consideration at the Council's planning meetings. Not to do so puts the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination.

- 2.2 S25 Localism Act 2011 provides that previous acts shall not be taken by themselves as proof of predetermination. However, predetermination is still unlawful: the intention of this provision is just to make it easier for members to form legitimate predispositions and to discuss planning matters in the community before they make up their minds and come to a final decision at the Planning Meeting. Prior involvement with an application could still justify a challenge on grounds other than predetermination, for example on grounds of bias or of taking an immaterial consideration into account and should be approached with caution. In the rest of this Protocol references to bias include these other grounds of challenge. However, paragraph 2.11 should be taken into account.
- 2.3 In order to avoid allegations of bias and therefore jeopardising your ability to participate in planning decision-making, wait until the formal planning meeting to hear the Officers' presentation, any public speakers and arguments on both sides before expressing your view on an application.
- 2.4 Take care in the wording of your planning reasons on a call-in that you do not suggest that you have already formed a view on the application, if you have not done so, and that you are biased for or against it. Seek advice on this from Officers if necessary prior to completion of your form. Wording such as "I consider that this application may raise issues of ..." will help avoid claims of pre-determination if you have not done so.
- 2.5 If the Council is the landowner, developer or applicant and you have acted as, or could be viewed as being, a chief advocate for the proposal then you may appear biased in its favour. This is more than a matter of dual membership: it arises where significant personal involvement in preparing or advocating the proposal means that you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.
- 2.6 You are always free to listen to a person's point of view about a planning proposal, give basic procedural advice and can agree to forward any comments, but beyond this you should refer the person to the appropriate planning Officer.
- 2.7 If there are other ward Councillors available that do not sit as a member of the same planning meeting then they will not be subject to the same restrictions regarding pre-determination and can therefore be an alternative contact for members of the public or lobby groups.
- 2.8 Political group meetings prior to the planning meeting should not determine how you or other Councillors should vote. There is no objection to a political group having a predisposition, short of predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available but you should not make up your mind until you have read the planning Officer's report and update and heard any further representations and the debate at the planning meeting.

- 2.9 You should not speak and vote on a proposal as a member of the planning meeting where you have pre-determined an application. You are not legally obliged to withdraw from the room but in most circumstances doing so will counter any suggestion that you influenced the remaining members by your continued presence. If in any doubt you should seek advice from the Monitoring Officer. If you do not withdraw, as a minimum you must withdraw to the public area of the meeting room for the whole of the consideration of the matter, whether or not you are also exercising your right to speak.
- 2.10 If you have pre-determined an application you should explain that you have already made up your mind on an application so that this can be recorded in the minutes. You may then exercise separate speaking rights, where you do wish to speak:
- advise the democratic services Officer or Chairman that you wish to speak in this capacity before the planning meeting;
 - remove yourself from the member seating area to the public gallery for all of that item and consider whether you need to leave the room; and
 - ensure that your actions are recorded in the minutes.
- 2.11 If you foresee that prior involvement in a planning matter could give you an appearance of bias (to a fair-minded and informed observer), make it plain beforehand and again at the Planning Meeting that you will retain and have retained an open mind throughout and are going to take the final decision on planning merit. If the appearance of bias is so strong, in the circumstances, that an assurance will not be sufficient to rebut it, then you should declare an appearance of bias or predetermination and, unless you want to exercise public speaking rights, you should take no part in the item and, ideally, leave the room.

3 MEMBERSHIP OF PARISH COUNCILS AND OUTSIDE BODIES

- 3.2 The Code of Conduct for Members that you are bound by because you are a member of Cheshire East Council may be the same as or different from the one you are bound by because you are also a member of a town or parish council. Nonetheless, all Member Codes are based on the same principles including selflessness, integrity, objectivity, accountability, openness, honesty, respect for others and leadership. If you are bound by different Codes, you need to be aware of this, and if necessary you may want to seek advice on any issues you are not clear about.
- 3.3 You need to exercise discretion in deciding whether or not to participate where you have been significantly involved in the preparation, submission or advancement of a planning proposal on behalf of:
- (a) another local or public authority of which you are a member; or
 - (b) a body to which you have been appointed or nominated by the Council as its representative; or

(c) you are a trustee or company director of the body submitting the proposal and were appointed by the Council

In such cases, whilst no Disclosable Pecuniary Interest arises, an issue of lack of impartiality arises, and you should withdraw from the planning meeting.

- 3.3 You can take part in the debate on a proposal when acting as part of a consultee body for a planning application (where you are a member of the Parish Council, for example), provided:
- the proposal does not relate to any Disclosable Pecuniary Interest you may have
 - you make it clear to the consultee body at the time they consider the matter that:
 - (a) your views are expressed on the limited information before you only;
 - (b) you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Planning meetings and you hear all of the relevant information; and
 - (c) you will not in any way commit yourself as to how you or others may vote when the proposal comes before the planning meeting.

It is also advisable in the interests of openness to mention your membership or role when the planning meeting ultimately comes to consider the proposal.

4 CABINET MEMBERS

- 4.1 There is no Constitutional or legal reason why a Cabinet member should not also be a member of the planning meeting and take part in the decision-making processes which are not part of the executive function.
- 4.2 You should not speak or vote as a member of any planning meeting on any matter which you have discussed at Cabinet unless you have declared in both meetings that you will approach the planning decision afresh, taking material planning considerations into account at the Planning Meeting. Again, if the assurance will not rebut appearances, declare an appearance of bias and, unless you want to exercise public speaking rights, take no part in the matter: ideally, leave the room.
- 4.3 Where you do wish to speak:
- advise the democratic services Officer or Chairman that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the member seating area to the public gallery for the duration of that item and consider leaving the room after you have spoken; and
 - ensure that your actions are recorded in the minutes

5 CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS

- 5.1 If you are approached for technical planning advice you should refer the person to Officers, and can always refer a person to Officers if you are uncomfortable giving procedural or other advice.
- 5.2 Where you feel that a formal meeting would be useful in clarifying issues, you should request the DMBCM to organise this. The Officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action and that views expressed are provisional, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the planning meeting.
- 5.3 If you are invited to attend a meeting with applicants, developers or groups of objectors you should exercise care particularly between the submission of an application and the planning meeting where it is to be determined. You can attend meetings but, to avoid complaints of bias, you need to be careful not to express views or opinions on the application if you are intending to take part in the planning meeting.
- 5.4 In addition you should consider:
 - the advice on lobbying;
 - whether or not it would be prudent in the circumstances to make notes when contacted;
 - notifying the DMBCM of any significant contact with the applicant and other interested parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file;
 - asking relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other Councillors might vote.
- 5.5 Don't attend a planning presentation unless an Officer is present and/or it has been organised by Officers, as it is a form of lobbying and you need to be careful not to express any views on the application or give the impression you have made up your mind.
- 5.6 Remember that a presentation is not part of the formal process of debate and determination of any application, this will be carried out by the appropriate planning meeting of the planning authority, but you are able to ask relevant questions for the purposes of clarifying your understanding of the proposals.

6 PRE-APPLICATION DISCUSSIONS

- 6.1 It is recognised that pre-application discussions can be of great benefit to the planning process, however, this may create some risks for Councillors and for the integrity of the decision making process and therefore they should only take place within clear parameters and governance arrangements and always with Officers present and a written record of the discussions made and kept.
- 6.2 If you are involved by an Officer in pre-application discussions ensure that it is made clear that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional, as by their very nature not all relevant information will be available and no formal consultation will have taken place.
- 6.3 Officers should deal with any queries or give advice in pre-application discussions upon policies within the Development Plan and other material considerations that may be relevant to a particular proposal or be drawn into negotiations. This ensures a consistent and co-ordinated approach from the Council.
- 6.4 Where there is a legitimate reason justifying non-disclosure, respect a request for confidentiality. Seek advice from the Officers present if you are unsure.
- 6.5 Make sure you provide information on matters of fact, local knowledge and geography to any pre-application meeting rather than dealing with the merits of any proposed application.
- 6.6 Make sure you do not use your position to improperly influence decisions in pre-application meetings.
- 6.7 You can ask an Officer for a briefing or update on the content of pre-application meetings if you are uncomfortable about attending those meetings yourself.

7 LOBBYING OF PLANNING COMMITTEE MEMBERS

- 7.1 While you can listen to those lobbying or attempting to lobby you, you should explain that it prejudices your impartiality and therefore your ability to participate in the planning meeting's decision-making to form an intention to vote one way or another or express such a firm point of view that you could appear biased.
- 7.2 As a member of the planning meeting your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

- 7.3 You should not accept any gifts, benefits or hospitality from a person involved in or affected by a planning proposal. Where a degree of hospitality is entirely unavoidable, you must ensure it is of a minimum level, its acceptance is declared as soon as possible and remember the Code of Conduct for Members requires that you register any gift, benefit or hospitality which you have accepted where its value is over £100.
- 7.4 Remember you can copy or pass on lobbying correspondence you receive to the DMBCM, if relevant or raising new issues, or declare the receipt of lobbying information at the planning meeting.
- 7.5 If you receive any offer of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise, refer the offer to the DMBCM.
- 7.6 If you feel that you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts, benefits or hospitality), notify the Monitoring Officer who will in turn advise the appropriate Officers to follow the matter up.
- 7.7 Unless you have a Disclosable Pecuniary Interest, you will not have fettered your discretion or breached this Planning Protocol through:
 - listening to or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Councillors or appropriate Officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion or speaking at the meeting
 - as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

8 MEMBERSHIP OF LOBBY OR GENERAL INTEREST GROUPS

- 8.1 Avoid becoming a member of, lead or represent an organisation whose primary purpose is to lobby, to promote or oppose planning proposals or those within a limited geographical area, as if you do, you are likely to have fettered your discretion and have to withdraw from the planning meeting.
- 8.2 Depending on your degree of involvement with a group and its purpose, you can sometimes continue to participate but note that if it could realistically lead to allegations of bias, you should withdraw from the meeting.

- 8.3 If a matter relates directly to the lobby group of which you are a member rather than to the views it holds, or is submitted by the group you should ordinarily withdraw from considering the matter.
- 8.4 Where your lobby group has expressed a public view on a matter you need to consider whether a reasonable member of the public, knowing the relevant facts, would think that you appear biased. The factors you should consider are:
- the nature of the matter to be discussed
 - the nature of your involvement with the lobby group
 - the publicly expressed views of the lobby group
 - what you have said or done in relation to the particular issue
- 8.5 If the local branch of a general interest group has been vociferous or active on a particular issue or you are closely associated with the management or decision making process of that organisation such as its Chairperson or a member of the planning meeting, it will become increasingly difficult to demonstrate your ability to judge the matter with an open mind and you may appear biased and therefore you should consider whether it is appropriate for you to take part in the decision making process.
- 8.6 Remember that if you publicly support a particular outcome on a proposal within your Ward or actively campaign for it, you will not be able to take part in the decision making process. It would be very difficult for you to demonstrate that you had the necessary degree of impartiality to properly weigh the arguments presented and the decision would be open to challenge, particularly where the campaign included factors or expressed viewpoints which were not material planning considerations. This would, however, not prevent you from expressing the views of your constituents provided you are capable of determining any application in accordance with the law.
- 8.7 You are able to join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but it is sensible at a planning meeting to refer to your membership where that organisation has made representations on a particular proposal; you should also make it clear to that organisation and the planning meeting that you have reserved judgement and the independence to make up your own mind on each separate proposal.
- 8.8 Don't excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken. It is difficult to define "excessively" but you need to consider whether a member of the public, knowing the facts, would think that, through your representations, the lobbied member was no longer able to take a view on the matter in the public interest.

- 8.9 You should never decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Councillors should vote on a planning issue.

9 SITE INSPECTIONS

The Council has a separate protocol that deals with Site Inspections in more detail.

- 9.1 Site Inspections can play a legitimate part in the decision making exercise but must be limited to inspections by viewing and as a fact finding exercise. They are not to be used to determine a proposal prior to the meeting of the Planning meetings. It should be noted that this Section applies to both Councillors' requests for a Site Inspection and those the DMBCM may arrange without prior discussion where, in his professional opinion, there is a real benefit from viewing the site.
- 9.2 It is important to ensure that Councillors taking planning decisions are in possession of all the facts, including matters that may have been pointed out or come to light during a site visit. Attendance of Councillors at site visits will not only demonstrate that Councillors are fully informed but will also ensure that high quality consistent and sound decisions are made, and that the risks of legal challenge are minimised. The expectation is that all planning meeting members will attend all formal site inspections and a record of attendance will be maintained and monitored.
- 9.3 You should try to attend site inspections organised by the Council.
- 9.4 You can request a site inspection if you feel it is strictly necessary because:
- particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed; or
 - details of the proposed development cannot be ascertained from plans and any supporting information to Councillors' satisfaction at the planning meeting; or
 - where design considerations are of the highest importance particularly in relation to the surrounding locality.
- 9.5 The site inspection is an opportunity for you to seek information and to observe the site, and therefore you can ask the Officers at the site inspection questions or seek clarification from them on matters which are relevant to the site inspection. Officers may seek clarification from the applicant or an objector on your question, but you should not do this directly.

- 9.6 Be careful not to be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind while on a site inspection by expressing opinions or views to anyone. The decision can only be made at the planning meeting and you should make this clear to any applicant or other party who approaches you and suggest that they make written representations or use of the Public Speaking arrangements and direct them to, or inform, the Officer present.
- 9.7 Information that you gain from the site inspection should be reported back to the planning meetings, so that all Councillors have the same information.
- 9.8 You should not enter a site, which is subject to a proposal other than as part of an official site inspection, even in response to an invitation, as this may give the impression of bias. If you feel it is essential for you to visit the site other than through attending the official site inspection you should speak to the DMBCM about your intention to do so and give him the opportunity of an Officer accompanying you. If you do attend site on your own ensure you comply with these good practice rules on site inspections.

10 PUBLIC SPEAKING AT MEETINGS

The Council has a separate protocol that deals with the procedure for Public Speaking at meetings in more detail.

- 10.1 Members of the public and non-committee members should not communicate with you during the planning meeting (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- 10.2 Make sure that you comply with the Council's Protocol for Public Speaking at planning meetings if you are attending the planning meeting other than as a member.
- 10.3 Councillors are entitled to speak at a planning meeting in accordance with the Public Speaking Protocol either as an individual, representative or ward member.
- 10.4 Where you have a Disclosable Pecuniary Interest in an application then you must as soon as the item is announced leave the planning meeting room whilst the meeting considers the proposal.
- 10.5 Where you have a non-pecuniary interest in an application then you may exercise public speaking rights but leave the room immediately afterwards to counter any potential suggestion that the remaining members were influenced by your continued presence.
- 10.6 Planning Councillors who have pre-determined a matter may also exercise public speaking rights and should consider withdrawing from the meeting room having spoken on a matter to counter any potential suggestion that the remaining members were influenced by your continued presence.

11 OFFICERS

- 11.1 Councillors and Officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate whilst Officers are responsible to the Council as a whole. Their relationship is based upon mutual trust and understanding and this must never be abused or compromised. Instructions to Officers can only be given through a decision of the Council, the Cabinet, Board or Committee or under delegated powers and not by individual Councillors acting outside those powers.
- 11.2 You can submit views on current applications to the DMBCM, which can be incorporated into any committee report.
- 11.3 Officers are part of a management structure and you can discuss a proposal, outside of any arranged meeting, with those Officers who are authorised by the DMBCM to deal with the proposal at a Member level or the DMBCM. However, you should not seek to do anything that would compromise, or is likely to compromise, the impartiality of Officers who must be free to reach their own conclusion.
- 11.4 Officers who are involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning Officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the planning meeting or its Councillors.
- 11.5 Remember the Council's Member/Officer Relations Protocol.

12 DECISION MAKING

The Council has adopted a separate protocol that deals with the Call in of planning applications in more detail.

- 12.1 Ensure that the planning reasons in your request for a proposal to go before the planning meeting rather than be determined through Officer delegation are recorded and repeated correctly in the report to the planning meeting.
- 12.2 Comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless other material considerations indicate otherwise.
- 12.3 It is important that you reach your decision only after due consideration of all of the information reasonably required upon which to base a decision. You should come to meetings with an open mind and if you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information, and if necessary, defer or refuse the application.
- 12.4 It is vital that you have been present to hear the entire item, including the Officers' introduction to the matter before you vote or take part in the planning meeting's discussion on a proposal.

- 12.5 Check that the minutes of the meeting record correctly the reasons for the planning meeting's decision to grant, refuse or defer any proposal.
- 12.6 The planning meeting can delegate to the DMBCM in conjunction with the Chairman, if necessary, the specific wording of conditions that the planning meeting may wish to add or amend when they are considering an application for approval. An explanation of why the change or addition is required should be given to the planning meeting.
- 12.7 Be aware that if you are proposing, seconding or supporting a decision contrary to Officer recommendations or the development plan that you need to clearly identify and explain the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and will be recorded and Officers will be able to assist with formal wording. Be aware that you may have to assist in defending a resulting decision by giving evidence in the event of any challenge.
- 12.8 Where necessary, you can consider deferring the determination of sensitive applications that the planning meeting wish to approve against Officer recommendation to the next meeting of the planning meeting to allow Officers to formulate appropriate conditions and provide the planning meeting with any relevant further new information.
- 12.9 Where necessary, you can consider deferring the determination of an application to another meeting if there is a very strong objection from Officers on the validity of reasons for refusal against Officer recommendation, to allow the proposed reasons to be further investigated and form the basis of an updated report to a future meeting.
- 12.10 You should ensure that you are aware of, and comply with the Protocols adopted by the Council.

13 TRAINING

- 13.1 You must attend the mandatory planning training prescribed by the Council before you participate in decision-making at planning meetings.
- 13.2 You should try to attend any other specialised training sessions provided, as these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and assist you in carrying out your role properly and effectively.

14 INVOLVEMENT IN SECTION 106 AGREEMENTS

- 14.1 The guidance in respect of planning obligations is similar to that of planning conditions in that they must be relevant to planning and directly related to the proposed development if they are to be taken into account in making a decision on a planning application. Local Planning Authorities should not grant planning permission for unacceptable development because of unrelated benefits offered by the applicant and should not be unduly influenced by such benefits offered.

- 14.2 Remember that the purpose of Section 106 Agreements is to help make acceptable, development which would otherwise be unacceptable in planning terms, by prescribing the nature of the development, or compensating for loss or damage created by the development, or to mitigate a development's impact. They must therefore be relevant to planning and relate fairly and reasonably to the development.
- 14.3 Requirements of Section 106 Agreements should be considered and discussed at pre-application stage. The Officers will provide advice on general requirements, but if you are aware of any additional potential requirements please refer these to the DMBCM as soon as you become aware of them.
- 14.4 The content of Section 106 Agreements needs to be discussed at planning meetings, whether you are a member of the planning meeting or a visiting Member who wishes to speak on the application.
- 14.5 If you feel that a meeting would be useful to clarify issues of content of potential Section 106 agreements, you should ask the DMBCM to arrange a meeting with relevant Officers. Participants can be made aware that the discussions will not bind the authority, and that the meeting can be properly recorded on the application file and the record of the meeting disclosed when the application is considered.
- 14.6 Do remember **that it is imperative that** a Ward Councillor's role continues after the completion of the Section 106 Agreement, by assisting Officers in ensuring that the Agreements are complied with. This includes noting when development is being undertaken and assisting Officers in ensuring triggers within Section 106 Agreements are complied with. Ward Councillors can contact Officers for any information required on completed Section 106 Agreements.

15 MONITORING AND REVIEW

- 15.1 The DMBCM will report annually to the Portfolio Holder regarding compliance with the arrangements set out in this Planning Protocol and will identify any proposals for amendment in light of issues that have arisen, although any amendments would be required to go through the Council's formal process.
- 15.2 In particular, the DMBCM shall monitor the following:-
 - (a) the number of complaints made about breaches of the Planning Protocol and the outcome of those complaints;
 - (b) the number of appeals upheld;
 - (c) any external inspection reports in respect of relevant issues;
 - (d) the level of awareness of the Planning Protocol among Councillors and Officers; and
 - (e) the number of Ombudsman reports finding maladministration by Councillors in the conduct of planning issues.

F. PROTOCOL ON PUBLIC SPEAKING RIGHTS AT STRATEGIC PLANNING BOARD AND PLANNING COMMITTEES

- a) The Strategic Planning Board and Planning Committees have to make decisions on the merits of each individual application, upon the basis of what is in the Development Plan and other material considerations. All written representations made to the Council will be taken into account in the Officers' written report to Committee, but this procedure allows members of the public and Councillors who are not members of the Strategic Planning Board or Committees to attend a Strategic Planning Board or Planning Committee meeting and speak for or against an application prior to the Strategic Planning Board or Planning Committees making a decision about a planning application or other item on their public agenda.
- b) The Strategic Planning Board usually meets at Macclesfield at 10.30 am every 3 weeks.
- c) The Planning Committees usually meet at the Crewe Municipal Buildings, Earle Street, Crewe, CW1 2BJ (Southern) and at the Macclesfield Town Hall, Market Place, Macclesfield, SK10 1DX (Northern) every 3 weeks.
NB. As both venues and start times of meetings are subject to change, it is important that members of the public check details on the relevant agenda (available a week before the meeting) or contact Democratic Services for confirmation.
- d) The agenda for each Strategic Planning Board or Planning Committee meeting is available five clear working days before the meeting and is available via the Council's website. Interested groups and individuals should keep themselves informed about when a planning application will come to the Strategic Planning Board or Planning Committees. A list of meetings can be obtained from the Council Offices and officers will be able to advise on the progress of applications.
- e) This protocol has been amended in light of the Code of Conduct for Members – 2012

PROCEDURE:

1. WHO CAN SPEAK AND FOR HOW LONG

- 1.1 The following individuals/groups are eligible to speak
 - Objectors
 - Applicants or their agents
 - Supporters
 - The relevant Parish or Town Council

- Ward Members if they are not on the Board/Committee provided that they do not have a Disclosable Pecuniary Interest
- Members who are not on the Board/Committee and are not Ward Members provided that they do not have a Disclosable Pecuniary Interest

[Note: lobby groups shall be included within the time allowed for objectors/supporters to speak.]

- 1.2 Each person or group identified shall be entitled to speak for a period of up to three minutes (subject to paragraph 2.6) except for representatives of the relevant local parish or town council who may speak for up to five minutes. If there is more than one person wishing to speak from a particular group e.g. objectors, people are encouraged to consult each other and agree how to share their time slot. The Chairman has a general discretion which may be exercised to extend time limits, but this will normally only be exercised in exceptional cases.
- 1.3 The site plan will be shown and may be referred to throughout the consideration of the application. In order to be fair to all parties, no other presentation aids will be permitted. Similarly, the circulation of information, photographs and/or plans at the meeting will not be allowed.

2 HOW TO SPEAK AT STRATEGIC PLANNING BOARD AND PLANNING COMMITTEES

- 2.1 It is necessary to inform, in writing (email, fax or letter), the Democratic Services Section of an intention to speak at a Strategic Planning Board or Planning Committee meeting no later than 12.00 noon the day before the day of the planning meeting. Any emails should be sent to Speakingatplanning@cheshireeast.gov.uk Members should note that they still need to register their intention to speak even if they have called in an application.
- 2.2 Speakers are advised to arrive for meetings approximately 10-15 minutes prior to the start of the meeting in order to register with the Democratic Services Officer.
- 2.3 A statement to the Strategic Planning Board or Planning Committee should only refer to planning issues, for example:
 - exterior design, size, appearance, layout, etc.
 - residential amenity
 - highway safety
 - character of the area
 - trees and historic buildings
 - planning policy (Local Plan/Structure Plan)
 - Government guidance

- 2.4 The Strategic Planning Board or Planning Committee cannot take into account non-planning issues, for example:
- boundary disputes/property rights
 - personal comments about any individual
 - loss of property value or loss of view
 - matters covered in other laws
- 2.5 Speakers are reminded of the law relating to slander. If, at the meeting, they say something which is not true about another person, they could be at risk of legal action. Further, Race Relations and Human Rights legislation will not allow any discriminatory comments, for example race, religious beliefs or disability.
- 2.6 The order of speaking at the meetings of the Strategic Planning Board and Planning Committees is as follows -
- Announcement of the item by the Chairman
 - Introduction and description of the application by the Planning Officer, including any update of the Committee report and an oral report of any site visit and highlighting of the key issues
 - Ward Councillor(s) (5 mins) (NB. In single Member Wards, the Ward Member may at his or her discretion delegate the right to speak to an alternative Member.)
 - Members who are not on the Board/Committee and are also non-Ward Members (3 mins)
 - Parish/Town Council representations (5 mins)
 - Objectors' representations (3 mins)
 - Supporters' representations (3 mins)
 - Applicants' representations (3 mins)
 - Further comments by Planning Officer
 - Ward Councillor if a Member of the Board/Committee
 - Board/Committee Members debate and decision taken

- 2.7 At the Chairman's discretion, members of the Strategic Planning Board or Planning Committee may ask, through the Chairman, any of the speakers listed above to clarify an issue of fact after their statement is concluded. Visiting Members, including Ward Councillors, may be questioned for 5 minutes, or longer at the Chairman's discretion. The Chairman may also ask that questions of fact are answered by any speakers during the Members' discussion to clarify matters. Speakers will not be permitted to ask questions of the Strategic Planning Board or Planning Committee or other speakers or to interrupt the Members' discussion on an individual planning application. The Constitution (Paragraph 58 of the General Procedure Rules) provides Chairmen with powers to ensure good order during meetings.
- 2.8 In exceptional circumstances, the Chairman may (with the approval of the Board or Committee) extend the speaking period for some or all speakers or allow more speakers if appropriate. This power will be treated with caution for controversial or complex schemes and if additional time is granted to objectors, a similar allowance will be given to supporters and/or the applicant.
- 2.9 Members who have a Disclosable Pecuniary Interest in an application must not speak on it and must leave the planning meeting room as soon as the application is introduced. If a member has a non pecuniary private interest they should declare it and leave the planning meeting room but may exercise public speaking rights before doing so. If a member of the committee has pre determined an application they may exercise public speaking rights and then, ideally, leave the planning meeting room.

3 AFTER THE DECISION

- 3.1 Speakers are asked to respect the decision made by the Strategic Planning Board or Planning Committee during the course of the meeting. The Strategic Planning Board's or Planning Committee's decision is final, but the applicants do have the right to appeal to the Secretary of State if their application is refused or if conditions are attached which they do not like. Objectors do not have the right to appeal a decision to the Secretary of State but they can seek to have a decision quashed by an application to the High Court by way of judicial review.
- 3.2 If an application is deferred to a future meeting for consideration, speakers will be required to register to speak for that meeting in accordance with this protocol.
- 3.3 This scheme will be monitored and reviewed by the Strategic Planning Board annually.

G. LOCAL WARD MEMBER PROTOCOL

Local Ward Member Protocol

Community Champions

1. Local ward members, as community champions, have an important role to play in representing the Council in their wards:
 - a. responding to the concerns of their constituents;
 - b. in meetings with partners; and
 - c. serving on external bodies and organisations.

Keeping ward members informed

2. It is essential for the proper running of the Council that members are fully informed, in a timely manner, about matters upon which they may be required to make decisions, or which affect their wards; including, but not limited to, being informed about consultation exercises, planning applications, pre-planning application meetings, and public meetings or events; except where:
 - a. an individual's right to personal confidentiality overrides this;
 - b. any criminal investigation or police action might be prejudiced; or
 - c. where exempt information would be compromised.

Whilst the presumption will be in favour of information being provided to local members, the Monitoring Officer will decide any question as to whether the above exceptions apply.

3. Subject to this, it is accepted that members need to be made aware of issues within their wards if they are to be effective in their roles as spokespersons on behalf of their local communities.

Identifying local issues in reports

4. Reports to the Council's decision-making bodies should identify the wards affected by the issues contained in those reports. This will enable local ward members to make themselves aware of these issues, and may then decide to attend the meeting in question, or to make further enquiries about the decision which is proposed to be made.

Committing the Council to take action

5. Local ward members are reminded that they do not have the right to commit the Council or its officers to any particular course of action, and should ensure that they do not convey to the public any false impression of commitment or give any undertaking that they are not in a position to personally fulfil.

H. COUNCILLOR CALL FOR ACTION PROTOCOL

1. What is the Councillor Call for Action?

- 1.1 The Councillor Call for Action (CCfA) process provides ward Members with a means of escalating matters of ward concern to a Scrutiny Committee, for possible onwards recommendations to the Council's Cabinet and/or other agencies. **It is very important to note that a CCfA is intended to be a measure of “last resort” and may not be used until all other avenues have been exhausted.** The CCfA may not be used in relation to individual planning and licensing decisions or where other avenues of appeal exist.
- 1.2 This guide has been prepared to offer assistance to a Councillor who is thinking of pursuing a CCfA and has regard to a best practice guidance booklet published by the Centre for Public Scrutiny and the Improvement and Development Agency.

2. What is CCfA designed to achieve?

- 2.1 CCfA should be seen in the context of wider changes introduced to provide overview and scrutiny with greater powers to work more closely with partners and across organisational boundaries. It will enable Councillors, as the democratic representatives of their communities, to raise issues that it has not been possible to resolve by other means.
- 2.2 CCfA should not be seen in isolation. It is part of a range of measures available to a ward Councillor in support of his or her representative role, including the internal feedback process, petitions, call-in etc.

3. Who can raise a CCfA?

- 3.1 It is open to any Councillor to raise a CCfA at a meeting of one of the Council's Scrutiny Committees. The Councillor does not have to be a member of the relevant Committee.
- 3.2 A Councillor whose CCfA is listed on an agenda for a Scrutiny Committee meeting will be invited and expected to attend that meeting to speak to the item. However, in exceptional circumstances, the Councillor concerned can send a substitute. The decision to allow this will be taken by the Director of Legal Services in consultation with the relevant Scrutiny Committee Chairman and Vice-Chairman.

4. What can be raised through a CCfA?

- 4.1 A Councillor who is a member of a Scrutiny Committee can raise any matter that is within the terms of reference of the Committee. Any Councillor can raise a local government matter with any of the Council's Scrutiny Committees and in particular, issues relating to the local neighbourhood. A local government matter can relate to the discharge of any function of the Council

4.2 and, more locally, all or part of the Councillor's ward or any person who lives or works in it. In line with the area focus of Comprehensive Area Assessment and the fact that the Council's duties increasingly impact on other organisations and involve partners within and outside the Local Strategic Partnership, a Councillor can raise any issue that relates to the economic, social and environmental well-being of his or her ward.

5. Is any matter excluded from a CCfA?

5.1 Yes. There are certain exclusions from CCfA. The Scrutiny Committee may reject any Call for Action if it:

- is not a matter for which the local authority or its partners has a responsibility, or which does not affect the borough
- is defamatory, frivolous or offensive
- is substantially the same as a Councillor Call for Action which has been put to any meeting of the Council in the past 6 months
- is a matter relating to a planning decision
- is a matter relating to a licensing decision
- is a matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or appeal conferred by or under any enactment
- is vexatious, discriminatory or not reasonable* for inclusion on an agenda for discussion at a meeting of a Scrutiny Committee.

5.2 Although a CCfA can not be raised on a single licensing or planning decision, a CCfA can be raised about licensing and planning decisions and other decisions where there is a right to review or appeal if the CCfA consists of an allegation that the authority responsible has failed to discharge the function or is failing on a systematic basis.

6. What other avenues are available to resolve an issue?

6.1 There is a wide range of both formal and informal avenues available that a Councillor can use to influence, change and resolve problems. These include:

- Motions on the agenda for Council
- Local Area Partnerships (LAPs)
- Written and oral questions at Council
- Exercising the right to ask for items to be included on an agenda
- Organising a petition
- Organising a public meeting
- Informal discussions with officers or other Councillors
- Liaison and discussions with Councillors of other authorities, such as Town or Parish Councils
- Writing to or emailing an officer or an officer of another

authority on behalf of a constituent

- 6.2 It is important to recognise CCfA as a last resort rather than the primary route to getting constituency issues resolved. It would be an unnecessary waste of resources if a Councillor tried to deal with all constituency issues or matters of concern by raising them on a Scrutiny Committee agenda. A Councillor should try to resolve matters informally or at a local level before considering whether to pursue a CCfA. Advice can be sought from the Senior Scrutiny Officer on appropriate courses of action.
- 6.3 A ward Member requesting a call for action will be asked to demonstrate that he or she has sought to address the issue through all existing means and the call will not be considered unless the relevant Scrutiny Committee is satisfied that:
- the Councillor has made all reasonable efforts to resolve the matter via dialogue with Council officers and or relevant partners and particularly the Local Area Partnership;
 - the issue of concern is a matter in respect of which the Council has a statutory power or duty to deal with which is not precluded by legislation; and
 - the issue of concern has a demonstrable impact on a part of or the whole of a Councillor's ward.
- 6.4 Before a CCfA can be progressed to scrutiny, the Councillor must provide documentation to show that they have taken the following steps:
- made the relevant service request / Members' enquiry/letter to relevant other agency
 - raised the issue with the relevant Cabinet Member or senior representative of a partner agency
 - raised the issue of concern at relevant meetings dealing with crime and disorder matters
 - brought the matter to the attention of the Local Area Partnership.
- 6.5 Care should be taken by a Councillor not to offer definitive advice to a constituent about a particular issue which may lead to action or expenditure on the part of the constituent. Councillors are not insured to do so and any subsequent claim by a constituent that the advice was flawed could lead to embarrassment and costs.
- 7. How will the process work?**
- 7.1 The ward Councillor's role in the consideration of the CCfA, as with any formal Council business, is subject to compliance with the Members' Code of Conduct
- 7.2 A Councillor wishing to raise a CCfA should contact the Senior Scrutiny Officer with the appropriate details not less than ten working days prior to the despatch of an agenda for the Scrutiny Committee on which the item is to be included. He or she should explain:

- The background to the CCfA
 - What action the Councillor has already taken to try to resolve the issue informally
 - If the issue is being raised on behalf of a constituent, what action the constituent has taken to try to resolve the matter
 - What resolution the Councillor (or constituent) is seeking to achieve
 - The decision/recommendation(s) of the Local Area Partnership.
- 7.3 It is important to recognise that CCfA is not appropriate for an individual complaint, e.g. a complaint by an individual resident about a failure to collect refuse or about an incident in a leisure centre. Avenues for complaint already exist to deal with such matters through the Council's Complaints Procedure. However scrutiny can become involved where it is felt that a series of complaints demonstrates a systematic failure in a particular service.
- 7.4 On receipt of the request, the Senior Scrutiny Officer will obtain any further information thought to be necessary from the Councillor, including any documentation that may be available, and his or her availability to attend the Committee meeting when the CCfA is to be raised. The Senior Scrutiny Officer will consult with the Chairman of the relevant Scrutiny Committee on whether the CCfA can be accepted or whether it should be excluded under the statutory criteria.
- 7.5 Where a cross-cutting issue is raised under the CCfA arrangements, the Scrutiny Chairmen's Group shall determine which scrutiny committee should deal with the matter.
- 7.6 In considering whether to include the CCfA on an agenda, regard will be had to any representations made by the Councillor in support of his or her request. The Director of Legal Services, after consultation with the appropriate Chairman and Vice-Chairman, will consider whether a CCfA can now be accepted and, if so, which Committee it should be considered by. If the CCfA is rejected, the Councillor will be notified of the decision and the reason for it.
- 7.7 The relevant Cabinet Member will be invited to attend the Committee meeting at which the CCfA is to be raised, together with a senior officer from the appropriate directorate or service.
- 7.8 When an item is raised at a Committee meeting, the Councillor bringing the CCfA or, in exceptional circumstances the substitute, will be invited to speak to the Committee about the issue and what outcome is being sought. The Committee may:
- Challenge the expected outcome if it feels that this is unreasonable or inappropriate
 - Seek further information from the Councillor bringing the CCfA

- Invite the Cabinet Member or senior officer to respond to the issues raised by the Councillor
 - Decide to ask the Cabinet Member or senior officer to report back to a future meeting with further information, after investigating the issue raised
 - Decide whether to invite a representative of a partner or other organisation to attend a future meeting if the CCfA relates to an issue that is the responsibility of that organisation
 - Appoint a task and finish group to investigate the issue further and report back with recommendations
 - Recommend the Cabinet Member or Cabinet to pursue a particular resolution to the CCfA
 - Decide that it would be inappropriate to pursue the matter any further giving reasons
 - Refer it back to the Local Area Partnership setting out the reasons why it has decided on this course of action
- 7.9 If the Committee decides to submit a report and/or recommendations either to the authority or the Cabinet, it will provide the Councillor with a copy.
- 7.10 The decision of the Committee on the CCfA shall be final.
- 7.11 The same procedure will apply to Cabinet in respect of CCfAs that fall within its remit.
- 8. *Definitions**
- 8.1 Any matter which is vexatious, discriminatory or not reasonable is excluded from CCfA.
- 8.2 '**Vexatious**' is defined in guidance to the Freedom of Information Act as 'Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause'.
- 8.3 Issues around persistency are also implied in this definition. However, a persistent request may be entirely valid where it relates to a systematic problem. A request which some Councillors may regard as vexatious for political reasons may be entirely reasonable.
- 8.4 '**Discriminatory**' is defined in the Equality Act as 'A person ("A") discriminates against another person ("B") for the purposes of this Part if on the grounds of the religion or belief of B or of any other person except A (whether or not it is also A's religion or belief) A treats B less favourably than he treats or would treat others (in cases where there is no material difference in the relevant circumstances'. The definition can be applied to other forms of discrimination for reasons of sex and/or race.

- 8.5 ‘**Not reasonable**’ does not mean the same as unreasonable. It is best considered as a qualifier to the word ‘vexatious’ i.e. a vexatious request is likely to be not reasonable and vice versa.

I. MAYORALTY CODE OF PRACTICE

Mayoralty Code of Practice

1. The Mayoralty is the most exalted position within the gift of the Council. Officers, Members and staff must, at all times, respect the Mayor and show deference to his/her office.
2. The Mayor's construction or application of any of the Council's Constitution, or as to the proceedings of Council, should not be challenged.
3. Throughout the Mayor's term of office, he/she should remain politically impartial in all matters of policy and should not be involved in political matters or campaigns, or in controversial matters. The Mayor may therefore choose not to attend political group meetings during his/her year of office.
4. Any press enquiries about the Mayor should be made via the Communications Team.
5. The Mayor should not be appointed as Chairman or Vice Chairman or member of any committee or sub-committee of the Council, or as a Deputy Cabinet member, or be appointed to act as a Director of any of the Council's alternative service delivery vehicles. He/she may accept ex-officio positions with outside organisations or bodies where his/her membership stems from the position of Mayor. He/she may attend the annual meeting or other special meetings of an outside organisation or body and may accept the position of patron or president, but should not become actively involved during his/her term of office.
6. The Deputy Mayor will be chosen for election by the political group which has the majority of Council members. The other political groups may each put forward a nomination for consideration. The Deputy Mayor will normally succeed to the Mayoralty in the following year. The selection process should normally ensure that, upon election to office, the Mayor will have served at least one term of office as a local authority councillor.
7. The Deputy Mayor will support the Mayor in the fulfilment of civic engagements, and will take the chair in the absence of the Mayor at Council meetings.
8. The Mayor may choose to organise a civic service at a venue to be chosen by him/her, and may also choose to appoint a Chaplain.
9. In his/her capacity as civic head or first citizen, the Mayor represents the Sovereign in the Borough, ranking in precedence only after the Lord Lieutenant (if attending in his official capacity representing the Queen) and members of the Royal Family. He/she should therefore officiate at all formal civic events, involving the Council, the public and press. In the absence of the Mayor, the Deputy Mayor should officiate or, at the Mayor's discretion, and always subject to his/her ruling, the appropriate Portfolio Holder may do so.
10. The Mayor and Deputy Mayor should wear their robes, chains and badges of office on all formal occasions within the Borough. At meetings of the Council, the Mayor and Deputy Mayor should wear their robes, chains and badges of office except where they Mayor determines that robes should not be worn.

11. The Mayor and Deputy Mayor should wear their chains and badges of office when attending functions, unless they determine that the wearing of a ribbon would be more appropriate.
12. Members of the Council should be appropriately dressed at Council meetings and should stand when the Mayor enters and leaves the room or chamber where a meeting is taking place.
13. The mace should be used on all Borough ceremonial occasions and will be carried before the Mayor.
14. The offices of Mayoress or Consort and Deputy Mayoress or Consort have no legal status. The appointment to these offices is made upon the invitation of the Mayor and Deputy Mayor, but where persons other than relatives are proposed for appointment, these are at the discretion of the Civic Sub-Committee (or replacement).
15. Support is provided to the Mayor and Deputy Mayor by the Head of Governance and Democratic Services, and their accommodation shall be in the Mayor's Parlours at Macclesfield Town Hall and the Crewe Municipal Buildings.
16. In circumstances where the Mayor is indisposed, the Deputy Mayor will be requested to assume the full duties of the post of Mayor for that time, but will not take the title. Where the Deputy Mayor is similarly indisposed, the Deputy Mayor Elect or the Leader of the Council will assume his or her civic and social duties, but will not take the title.
17. The former Mayors of the Council will be presented with a medallion as a memento of their office, which should be worn on such occasions and at such event as they are advised to do so.
18. The Mayor may organise "Mayor's at Home" events, at which light refreshments will be provided.
19. The Mayor should accept as many invitations as possible to attend events and functions. Where there are conflicting invitations, the Mayor may ask the Deputy Mayor to assist.
20. Any fundraising activities undertaken for the Mayor's charity are the responsibility of the Mayor, the Mayoress and friends. Fundraising for the Mayor's charity is discretionary. Officers will only provide support to the Mayor in respect of charitable activity at formal civic occasions, the Mayoral Ball, and the selling of tickets/reservation of places. The Mayor may consider establishing a committee to assist him/her in the preparation for this activity.

J. PETITIONS SCHEME

Petitions

Cheshire East Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

We treat as a petition any communication which is signed by or sent to us on behalf of a number of people. For practical purposes, we normally set a requirement for at least 10 signatories or petitioners before we treat it as a petition. Whilst we like to hear from people who live, work or study in Cheshire East, this is not a requirement and we would take equally seriously a petition from, for example, 10 visitors to the District on the subject of facilities at one of our visitor attractions.

Petitions can also be presented to the Mayor prior to a meeting of the Council. These meetings take place on a bi monthly basis, dates and times can be found on the Cheshire East Website www.cheshireeast.gov.uk. If you would like to present your petition to the Mayor, or would like your councillor to present it on your behalf, please contact the Democratic Services Manager at the address below at least 10 working days before the meeting and they will talk you through the process.

What should a petition contain?

A petition should include –

A clear statement of your concerns and what you want the authority to do. This must relate to something which is the responsibility of the authority, or over which the authority has some influence. Where a petition relates to a matter which is within the responsibility of another public authority, we will ask the petition organiser whether s/he would like us to redirect the petition to that other authority. Where a petition relates to a matter over which the authority has no responsibility or influence, we will return the petition to the petition organiser with an explanation for that decision;

The name and contact details of the “petition-organiser” or someone to whom you would like any correspondence about the petition to be sent. Contact details may be either a postal address or an Email address;

The names of at least 10 petitioners (which can include the petition organiser). Where the petition is in paper form, this can include an actual signature from each petitioner, but actual signature is not essential. Where the petition is in electronic form, a list of the names of the petitioners will suffice. You may include the addresses of petitioners, which may be useful to the authority, for example, in assessing the degree of local support or opposition to a planning application, but this is not essential. If you want your petition to be debated at a meeting of the Council (“A Petition for Debate”), or to trigger a public meeting of an Overview and Scrutiny Committee at which a specific officer will be required to report (“A Petition to hold an

Officer to Account”), your petition will need to contain a higher number of signatories or petitioners (see below);

If you are submitting the petition in response to our consultation on a specific matter, please identify the matter which it relates to, so that we can ensure that your petition is considered along with original matter.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

Who should you send a petition to?

Where you submit a petition in response to consultation by the authority, please address it to the return address set out in the consultation invitation. This will ensure that it is reported at the same time as the matter to which it relates is considered.

We have appointed a Petitions Officer, who is responsible for receiving, managing and reporting all other petitions sent to the authority. Please address petitions to –

The Petitions Officer Cheshire East Council, Westfields,
Middlewich Road, Sandbach,
Cheshire CW11 1HZ

Or to petitions@cheshireeast.gov.uk.

The Petitions Officer will ensure that your petition is acknowledged to the petition organiser and entered on the authority's petitions website and that the website is regularly up-dated with information on the progress of your petition. The Petitions Officer can also provide you with advice about how to petition the authority or the progress of your petition, at either of the above addresses or by telephone at 01270 686458.

Types of Petition

There are five different types of petition, as set out below. How we deal with a petition depends on which type of petition you submit –

Ordinary Petitions

These are petitions which do not come within any of the following specific types. Please note that petitions which raise issues of possible Councillor misconduct will be taken as complaints arising under the Local Government Act 2000 and will be

reported to the Audit and Governance Sub-Committee, rather than considered under this Petitions Procedure.

Consultation Petitions

These are petitions in response to an invitation from the authority for representations on a particular proposal or application, for example on planning or licensing applications or proposals for parking restrictions or speed limits. Consultation petitions which are received by the response date in the consultation invitation will be reported to a public meeting of the person or body which will be taking the decision on the application or proposal.

Statutory Petitions

Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

Petitions for Debate

If you want your petition to be reported to and debated at a meeting of the Council, it must contain at least 3000⁴¹ signatories or petitioners (this is reduced to 1500 signatories or petitioners where the petition relates to a local issue, affecting no more than 2 electoral wards within the authority's area). The Petitions Officer will request the appropriate Chief Officer to prepare a report. This report together with the Petition will be presented to full Council who will debate it fully. Council may then refer the Petition to the appropriate decision making body for further consideration.

Petitions to Hold an Officer to Account

If you want your petition to be considered at a meeting of an Overview and Scrutiny Committee, where an officer, identified either by name or by post title, will be required to answer questions on the conduct of a particular matter, your petition should contain at least 2000 signatories or petitioners (this is reduced to 1000 signatories or petitioners where the petition relates to a local issue, affecting no more than 2 electoral wards within the authority's area). The authority has determined that such petitions must relate to the Chief Executive, a Director or a Head of Service of the authority. Please note that where the petition raises issues of competence or misconduct, the petition will be referred to the Chief Executive (or to the Head of Human Resources in respect of the Chief Executive) and will be considered under the authority's Disciplinary Procedures, and not under this Petitions Procedure.⁴²

⁴¹ The number of signatories or petitioners required for Petitions for Debate, and for Petitions to Hold and Officer to Account have been set by the authority to try to ensure that matters of genuine concern can be brought to the authority's attention. These requirements will be reviewed periodically in the light of the number of petitions received, to ensure that the requirements are not excessive.

⁴² Note that the Local Democracy, Economic Development and Construction Act 2009 makes no provision for handling petitions which raise issues of officer or member misconduct or officer competence, but in practice such petitions cannot be handled under the Petitions Procedure and must be handled under the procedures appropriate to such matters.

The Petitions Website

The authority maintains a petitions web page on its website.

When a petition is received, within 5 working days the Petitions Officer will open a new public file within the website and will put in that file the subject matter of the petition, its date of receipt and the number of signatories or petitioners. The petition organiser's name and contact details will only be included on the website if s/he so requests.

As soon as it is decided who the petition will be considered by within the authority, and when that consideration will occur, this information will be entered on the website at the same time as it is sent to the petition organiser. Once the petition has been considered, the authority's decision will be notified to the petition organiser and put on the website within 5 working days of that consideration.

Petitions are presented on the petitions website in the order in which they are received, but the website can be searched for key-words to identify all petitions relating to a particular topic. All petitions are kept on the website for 2 years from the date of receipt.

The role of Ward Councillors

When a petition is received which relates to a local matter (particularly affecting specific electoral wards), the Petition Officer will send a copy of the petition to each relevant Ward Councillor at the same time as acknowledging receipt of the petition to the petition organiser.

What happens when a petition is received?

Whenever a petition is received –

Within 5 working days of receipt, the Petitions Officer will acknowledge receipt to the petition organiser.

At the same time as responding to the petition organiser, the Petitions Officer will notify Ward Councillors of receipt of the petition and the relevant officers and Portfolio Holders.

In some cases, the Petitions Officer may be able to resolve the petitioners' request directly, by getting the relevant Portfolio Holder or officer to take appropriate action. For example where the petition relates to fly-tipping and the authority can arrange for it to be cleared up directly. Where this is done, the Petitions Officer will ask the petition organiser whether s/he considers that the matter is resolved.

Unless the matter has been resolved to the satisfaction of the petition organiser, the Petitions Officer will within 5 working days of receipt of the petition provide a substantive response to the petition organiser setting out who the petition will be reported to for consideration,

Within 5 working days of receipt of a petition, the Petitions Officer will open a new public file for the petition on the authority's petitions website, setting out the subject matter of the petition, the date of receipt and the number of petitioners. The petition organiser's name and contact details will only be included on the website if s/he so requests.

At each stage of the consideration of the petition, within 5 working days of any decision, the Petitions Officer will ensure that the petitions website is updated to ensure that petitioners can track progress of their petition.

The process after this stage differs for the various types of petitions – see below.
What happens to a Consultation Petition?

Consultations Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal or application, such as a planning or licensing application or a proposed traffic regulation order.

The petition will be reported to person or body who will take the decision on the proposal or application at the meeting when they are to take the decision on that application or proposal. The Council's Constitution defines who will take different types of decision, as set out in the Scheme of Delegations and the terms of Reference of Committees and Sub-Committees.

Where the petition relates to a matter which is within the delegated power of an officer, s/he will not exercise those delegated powers but will automatically refer the matter up to the relevant Portfolio Holders for decision.⁴³

Where the petition relates to a matter which is within the delegated powers of an individual Portfolio Holders, s/he may decide not to exercise those delegated powers but to refer the matter to Cabinet for decision.

What happens to a Statutory Petition?

Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

What happens to Petitions for Debate?

Petitions for Debate will be reported to the next convenient meeting of Council. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council which are not convened to consider the subject matter of the petition.

⁴³ The exceptions to delegated powers set out in Paragraphs 3.8.3 and 3.8.4 will need to be carried over to the Scheme of Delegations in the Council's Constitution

As set out below, the petition organiser will be invited to address the meeting on the subject of the petition.

What happens to a Petition to Hold an Officer to Account?

Petitions to hold an officer to account will be reported to the next convenient meeting of the relevant Overview and Scrutiny Committee.

In advance of the Committee meeting, the petition organiser will be invited to submit a list of questions which s/he would like put to the officer at the meeting. These questions will be provided to the Chairman of the Committee, who will decide whether they are appropriate, and to the officer concerned, in advance of the meeting.

At the meeting, the Chairman will invite the petition organiser to address the Committee on the issue⁴⁴, and the relevant officer will then be required to report to the Committee in relation to the conduct of the subject matter of the petition. Members of the Committee may question the officer, and the Chairman may invite the petition organiser to suggest questions for him/her to put to the officer.

What happens to an Ordinary Petition?

The Petitions Officer will arrange for each ordinary petition to be reported to the appropriate officer and Portfolio Holder which has responsibility for the subject matter of the Petition for them to deal with under delegated powers. If appropriate to do so the petition organiser will be invited to meet the Portfolio Holder to make representations in support of the petition

Within 5 working days of the consideration of the petition by the relevant Portfolio Holder, the Petitions Officer will notify the petition organiser of the Portfolio Holder's decision and advise him/her that if s/he is not satisfied with that decision, s/he may require the matter to be reported to the next convenient meeting of the appropriate Overview and Scrutiny Committee for review.

At each stage, the Petitions Officer will enter the relevant information on the website at the same time as it is sent to the petition organiser.

Appeal to an Overview and Scrutiny Committee

If the petition organiser is not satisfied with the outcome of the authority's consideration of his/her petition, he/she may appeal to an Overview and Scrutiny Committee by notifying the Petitions Officer of his/her intention to appeal within 20 working days of being notified of the authority's decision on the petition.

Within 5 working days of receipt of intention to appeal, the Petitions Officer will determine which is the relevant Overview and Scrutiny Committee and will notify the petition organiser of the time, date and place of the next convenient meeting of that

⁴⁴ Note that the 2009 Act does not give the petition organiser a right to speak at the Committee meeting, but the Council has decided that s/he should be invited to set out the petitioners' concerns in relation to the subject matter of the petition.

Overview and Scrutiny Committee and will invite the petition organiser to attend the meeting and to address the Committee on why they consider that the authority's decision on the petition is inadequate.

At that meeting, the Overview and Scrutiny Committee will invite the petition organiser and Ward Councillors to make their representations and to explain why s/he considers that the Council's response was insufficient. The Overview and Scrutiny Committee may not over-ride the decision maker's decision but must consider any recommendations made by the Overview and Scrutiny Committee.

The role of the Petition Organiser

The petition organiser will receive acknowledgement of receipt of the petition within 5 working days of its receipt by the authority.

Where the petition is not accepted for consideration the petition organiser will be advised by the Petitions Officer of the rejection and the grounds for such rejection.

Where the petition is accepted for consideration, the petition organiser will be advised by the Petitions Officer within 5 working days of receipt by the authority as to who the petition will be considered by, and the date, time and place of the meeting at which it will be considered, and will be invited to address the meeting for up to 3 minutes. The meeting may then ask the petition organiser questions on the subject matter of the petition.

The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.

The petition organiser will be regularly informed by the Petitions Officer of any decisions in respect of the petition and will be formally notified of the outcome of the petition's consideration within 5 working days of such decision.

The petition organiser may notify the Petitions Officer of his/her intention to appeal to an Overview and Scrutiny Committee against the decision of the authority relating to the petition within 20 working days of being notified of that decision, and may attend and address the meeting of the Overview and Scrutiny Committee as to why he/she considers that the authority's decision on the petition was inadequate.

Petitions which will not be reported

Duplicate Petitions

Where more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser, but only the petition organiser of the first petition to be received will be invited to address the relevant meeting.

Repeat Petitions

Where a petition will not normally be considered where they are received within 6 months of another petition being considered by the authority on the same matter.

Rejected Petitions

Petitions will not be reported if in the opinion of the Petitions Officer, they are rude, offensive, defamatory, scurrilous or time-wasting, or do not relate to something which is the responsibility of the authority, or over which the authority has some influence.

If your petition is about something over which the council has no direct control we will pass on the petition on behalf of the community to the relevant body. The council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you.

Wherever possible, it is expected that the petition will be dealt within six weeks of it being received by the Council. If this is not possible, then a holding response will be sent to the lead petitioner and relevant Portfolio Holder(s).

E-petitions

The council will be introducing e-petitions. It will be possible to create and submit E-petitions through our website and will follow the same guidelines as paper petitions. This Scheme will be revised when e-petitions are introduced.

K. SCHEME OF MEMBERS' ALLOWANCES

1. The Council is required to make a scheme of allowances for its elected Members. It must also have in place an Independent Remuneration Panel to make recommendations to Council about the scheme.
2. The following scheme has been adopted by Cheshire East Council in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003.
3. In making this scheme, the Council has considered the recommendations of the Independent Remuneration Panel and Constitution Committee contained in the report submitted to Council on 28 July 2016.

Indexation of Allowances

4. The Local Authorities (Members' Allowances) (England) Regulations 2003 enables Councils to make provision for the annual adjustment of allowances by reference to an index, which may apply for a period of no longer than four years.
5. With effect from 28 July 2016, any uplift to the allowances set out in the scheme⁴⁵ will be in line with the National Joint Council for Local Government Services ('the NJC') officer pay award. This means that the annual pay award (if applicable) agreed for officers, will also apply to the corresponding year's allowances scheme, up to 2020.

Submission of Claims

6. Claims are required to be submitted to Democratic Services for processing no later than three months after the performance of an approved duty (schedule 3). Any person requiring reimbursement of expenses which has not been submitted within this time limit will have the right of appeal to the Director of Legal Services

⁴¹ Excluding car mileage which is already linked to the NJC casual user officer rates.

Basic and Special Responsibility Allowances

Basic

7. Each elected Member of the Borough Council receives a sum of £11,872 per annum (£989.33 monthly) which is paid in arrears. If, during this period, the term of office of a Member begins or ends, the entitlement to payment is calculated based on calendar days served per month.
8. The basic allowance includes an amount to cover the cost of telephone calls made in the course of Council business. Notwithstanding this, where a Member uses or partly uses a personal broadband/telephone line for the purpose of carrying out Council duties; the associated line rental cost can be reclaimed on the submission of a bill.

Special Responsibility

9. Special responsibility allowances (SRA's) are paid in accordance with schedule 1 of this scheme. Where an elected Member holds two or more positions on Cheshire East Council which attract an SRA payment, the highest amount only is paid.
10. Payment of special responsibility allowances is monthly in arrears. If during this period a Member takes up or relinquishes such responsibilities as entitles him/her to an SRA, the entitlement to payment is calculated based on calendar days served per month.
11. Elected Members appointed as a company director to one of the wholly owned Cheshire East alternative service delivery vehicles (ASDVs) may receive payment for this role. To ensure that Councillors do not benefit twice when performing comparable roles, the value of the company payment is offset against their Council SRA so that the elected Member only receives a residual payment from Cheshire East Council.
12. Where the Director of Legal Services, in consultation with the Council's political Group Leaders, determines that the Member's roles are not comparable, the elected Member may elect to receive both their SRA and Director's remuneration in full.

Approved Duty Allowances

13. These allowances can only be claimed where an elected Member is undertaking an 'approved duty'. The list of approved duties against which a claim can be made is set out in schedule 3 of the scheme.

Travel and Subsistence Allowance: Elected Members

14. Elected Members may claim travel and subsistence allowances on the submission of receipts for the performance of any duty specified in the Local Authorities (Members' Allowances) (England) Regulations 2003 as set out in schedule 3 of this scheme.

Travel and Subsistence Allowance

*Co-optees/Parent Governors/School Appeal Panelists/IRP
Members/Independent Co-opted Member/Independent Persons*

15. Co-opted members may claim travel and subsistence allowances in accordance with the scheme.
16. Parent Governor co-opted members and School Appeal Panelists may claim reasonable travel expenses in accordance with the scheme for attendance at the Cheshire Association of Governing Bodies meetings and school appeals meetings respectively.
17. School Appeal Panelists may also be reimbursed for any loss of earnings incurred as a direct result of the performance of their duties when attending appeal meetings or associated training up to a maximum of **£50** per four hour session (or part thereof) on receipt of proof of the loss from their employer.
18. Members of the Independent Remuneration Panel (IRP) are entitled to claim travel and subsistence allowances in accordance with the scheme and a meeting allowance of **£30** for each meeting attended.
19. The Independent Co-opted Member appointed to the Audit and Governance Committee and the Independent Persons, appointed to the same committee to discharge its standards function, are entitled to claim travel allowances in accordance with the scheme and a meeting allowance of **£30** for each meeting attended.

Dependants' Carers' Allowance

20. A Dependents' carers' allowance will be paid to elected Members for the cost of providing care for a dependant (i.e. a child, spouse/partner or parent) incurred whilst undertaking the duties specified in the Local Authorities (Members' Allowances) (England) Regulations 2003 as set out in schedule 3 of this scheme.
21. The allowance (together with reasonable expenses) can be claimed only if the elected Member is the carer and has to pay for the care of their dependant. Claims will not be considered when the care is provided by an immediate family member.
22. The maximum total amount which may be claimed is **£6,161** per calendar year on the production of receipts and satisfactory evidence of the care provided, where required.

Associated allowances/other elements of the scheme

Civic Allowances

23. An allowance of **£14,000** per annum is paid to the Worshipful the Mayor of the Borough of Cheshire East with the Deputy Mayor of the Borough of Cheshire East receiving an allowance of **£5,600** per annum for the purpose of meeting the expenses of each officer holder.
24. Although included in the scheme for completeness, civic allowances are not considered to be special responsibility allowances in accordance with Section 3(5) and 5(4) of the Local Government Act 1972.

Elected Members' Surgeries

25. Elected Members may claim up to **£32** per month for room hire when conducting regular surgeries/ward meetings, subject to the submission of receipts and a maximum of twelve claims per annum.
26. Where occasional surgeries/ward meetings are held, the actual cost of the room hire may be claimed on the submission of a receipt, provided that the accrued claims per annum do not exceed **£384** (equal to 12 payments of £32).

Variation of Allowances

27. Elected Members may request in writing to the Chief Executive (or an officer appointed by them in writing) that payment of their basic allowance and/or special responsibility allowance be paid at such intervals, in arrears, as they may specify but in any event within one month of the end of the financial year.
28. A Member may, by notice in writing to the Chief Executive (or an officer appointed by them in writing), elect to forgo all or any part of the entitlement to an allowance under this scheme.

Local Government Pension Scheme

29. On 1 April 2014, the Local Government Pension Scheme (LGPS) was closed to elected Members. Councillors who were members of the scheme on 11 May 2015, retain any accrued pension rights up to this date.

Revocation of Previous Scheme

30. The previous Scheme of Members' allowances for 2016/2017 is revoked with effect from 31 March 2017.

SCHEDULE OF ALLOWANCES 2017/2018

	No	£
The Worshipful the Mayor	1	14000
Deputy Mayor	1	5600
Basic Allowance (per elected Member)	82	11872

<u>Special Responsibility Allowances (as at 1 April 2017)</u>	No	£
Council Leader	1	27270
Deputy Council Leader	1	16463
Cabinet Member/Portfolio Holder	8	13635
Deputy Portfolio Holder	5	4525
Audit and Governance Committee Chairman	1	7353
Constitution Committee Chairman	1	7353
Licensing Committee Chairman	1	7353
Overview and Scrutiny Chairman	4	7353
Public Rights of Way Committee Chairman	1	5656
Northern Planning Committee Chairman	1	7353
Southern Planning Committee Chairman	1	7353
Staffing Committee Chairman	1	7353
Strategic Planning Board Chairman	1	7353

Provided group membership is 4 or more:

Main Opposition Group Leader	1	7353
Main Opposition Group Deputy Leader	1	3676
Minor Group Leader	1	5656
Administration Whip	1	3676
Main Opposition Group/Minor Group Whip	2	1697
 Dependants' Carers' Allowance (maximum per annum)		£
		6161

Schedule 2

TRAVEL AND SUBSISTENCE ALLOWANCES

Travel Reimbursement

Mileage rates (cars)

Miles per Annum/Engine Size ⁴⁶	451 – 999cc	1000cc +
Per mile first 8,500	46.9p	52.2p
Per mile after 8,500	13.7p	14.4p

Additional rate for each passenger (not exceeding four) to whom a travel allowance would otherwise be payable: 1 pence per mile

Note: Elected Members are recommended to claim the HM Revenue & Customs approved tax free mileage rate of 45p per mile.

Rail Travel

The cost of train travel is reimbursed up to the open standard rail fare for the journey undertaken. Any expenses incurred must be at the minimum cost to achieve the purpose of the journey. Any case for first class rail travel greater than the full open standard rail fare will require the submission of a business case to Democratic Services supported by the Member's Group Leader.

Bicycles

Elected Members who travel by bicycle when attending approved duties may claim a mileage rate of 20 pence per mile, equivalent to that payable to Cheshire East employees.

Councillors may also join the Cycle to Work Scheme which allows Members to lease bicycles and associated safety equipment by way of a reduction in allowances.

<u>Other Travel Expenses</u>	<u>Rate payable</u>
Motorcycles	24 pence per mile
Car parking, tolls, ferry, overnight garaging	Actual amount
Air travel	Actual amount ⁴⁷
Taxi fares	Actual amount ⁴⁸

⁴² In line with the National Joint Council (NJC) for Local Government Services Casual User Officer rates

⁴³ Provided this is lower than the equivalent rail fair for the journey

Subsistence Reimbursements

The cost limitations on reimbursement are:

- (i) Absence of more than 4 but less than 8 hours 1 main meal
- (ii) Absence of 8 hours or more but less than 12 hours 2 main meals
- (iii) Absence of 12 hours or more 3 main meals

Claim Rates

Breakfast allowance for a duty of more than 4 hours concluding before 12 noon	£8
Lunch allowance for a duty of more than 4 hours concluding after 12 noon	£11
Dinner allowance for a duty of more than 4 hours concluding after 6 p.m.	£17
Dinner allowance (London and abroad) for a duty of more than 4 hours concluding after 6 p.m.	£35
Overnight accommodation outside London (to include breakfast)	£120
Overnight accommodation in London (to include breakfast)	£143

[Note: The rate applicable to subsistence claims for dinner made in respect of attendance at the Local Government Association (LGA) Annual Conference will be the dinner allowance (London and abroad) irrespective of where in the United Kingdom the event is held.]

⁴⁴ Permissible regular use: to address disability and/or health and safety issues. Occasional use is also allowed.

Schedule 3

CHESHIRE EAST COUNCIL: LIST OF APPROVED DUTIES

Attendance at meetings of Council, Committees, Sub-Committees, Overview and Scrutiny Committees, Cabinet meetings (including by invitation), Special Committees, Panels, Boards, Forums and Working/Task Groups.

Attendance at site visits/building inspections arranged by any of the bodies listed above
Attendance at meetings of bodies on which the Borough Council is invited to be represented and outside organisation meetings to which the Cabinet and Constitution Committee make appointments (excluding School Governing Bodies).

The duties associated with the Chairman or Vice-Chairman of an Outside Organisation on which the Member is representing the Borough Council Conferences/Seminars.

Visits to Tatton Park in the capacity of a Councillor, excluding attendance at functions, council meetings and seminars.

Authorised briefings for Committees/Sub-Committees/Cabinet meetings including all meetings which are called by officers of the Council e.g. pre- agenda meetings.

Duties undertaken by a Chairman/Cabinet Member Courtesy Visits e.g. civic duties of the Mayor and Deputy Mayor of the Council.

Service duties and visits undertaken by the Chairman/Vice Chairman of Committees and Sub-Committees and by Cabinet Members.

For individual Members, attendance at official openings, open days, presentations, meetings with VIPs, receptions (in line with the adopted guidance document), all of which take place outside the Electoral Ward.

Governors of Further Education/Higher Education Colleges, Residential Special Schools and Independent Schools.

'Nominated Member' Duties – Members covered by this element of the scheme are Leaders, Deputy Leaders, Group Whips, Mayor and Deputy Mayor and includes travel to the authority's administrative buildings for essential business arising from the office which they hold.

Attendance at Parish Council Meetings within the Electoral Ward.

Member Development Events.