

Constitution Sub-Committee

Agenda

Date:	Friday, 3rd November, 2017
Time:	2.30 pm
Venue:	Committee Suite 1,2 & 3, Westfields, Middlewich Road, Sandbach CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and in the report.

It should be noted that Part 1 items of Cheshire East Council decision-making meetings are audio recorded and the recordings are uploaded to the Council's website.

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

1. **Apologies for Absence**
2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the body in question. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

4. **Members Speaking**

To provide an opportunity for visiting members to speak in relation to the review of the constitution.

5. **Minutes of Previous meeting** (Pages 3 - 6)

To approve the minutes of the meeting held on 29th September 2017.

6. **Review of the Constitution - Principles** (Pages 7 - 18)

To consider a report on mechanisms to ensure that the revised constitution is concise and future-proof, and an approach to highlighting substantive changes to the constitution for consideration.

7. **Review of the Constitution - Work Package 2: Decision-making: Terms of Reference of Member Bodies** (Pages 19 - 106)

To consider the draft revised Constitution for Work Package 2 and Explanatory Note (Schedule of Substantive Issues).

8. **Review of the Constitution - Work Package 3: Decision-making: Officer Scheme of Delegation** (Pages 107 - 130)

To consider the draft revised Constitution for Work Package 3 and Explanatory Note (Schedule of Substantive Issues).

9. **Review of the Constitution - Work Package 4: Procedure Rules** (Pages 131 - 212)

To consider the draft revised Constitution for Work Package 4 and Explanatory Note (Schedule of Substantive Issues).

10. **Next Meeting**

The next meeting of the Sub-Committee will be held on Friday, 17th November 2017 at 10.00 am in Committee Suite 1, 2 & 3, Westfields.

THERE ARE NO PART 2 ITEMS

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Sub-Committee**
held on Friday, 29th September, 2017 at West Committee Room - Municipal
Buildings, Earle Street, Crewe, CW1 2BJ

PRESENT

Councillor A Martin (Chairman)

Councillors G Baxendale, C Browne (for Cllr Burkhill), S Edgar, S Hogben and
N Mannion

Officers

Brian Reed, Head of Governance and Democratic Services
Paul Mountford, Executive Democratic Services Officer

Bevan Brittan (external advisers)

Judith Barnes
Richard Armstrong

Other Members present

Councillors L Jeuda and A Stott

Apologies

Councillors B Burkhill and H Gaddum

14 DECLARATIONS OF INTEREST

There were no declarations of interest.

15 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

16 MINUTES OF PREVIOUS MEETING**RESOLVED**

That the minutes of the meeting held on 15th September 2017 be
confirmed as a correct record.

17 PROGRESS ON CONSTITUTION REVIEW

The Sub-Committee received a progress report on the review of the
constitution.

Work package 1, focussing on the overall style and presentation of the
constitution and the content of Part 1, was complete. The outcome of the
joint workshop on 31st August had been fed into work packages 2 and 3,

which were now nearing completion. Substantial progress had been made on work packages 4 and 5. The comments received from members and officers during the consultation period had been fed into the work on all packages. Bevan Brittan were now drafting new sections of the constitution which would be brought forward for members' consideration.

RESOLVED

That the progress with the review of the constitution be noted.

18 WORK PACKAGES AND PROPOSED AMENDMENTS TO CONSTITUTION

The Sub-Committee considered first drafts of the following documents:

Part 2 (a) to (d): Responsibility for Functions

This was a fundamental rewriting of Parts 2 and 3 of the original constitution: Introductory Chapters and Responsibility for Functions. Of particular note was the proposal, widely supported at the joint workshop, that in future decisions by individual Portfolio Holders, other than key decisions, would not require a formal decision-making meeting.

Part 2 (e): Officer Scheme of Delegation

This was a fundamental rewriting of rewriting of the Scheme of Delegation to Senior Officers. Much of what was in the original constitution would now appear in local schemes of delegation which would be accessed through a hyperlink in the main Scheme. The local schemes would be drafted by Bevan Brittan and brought to members for consideration. There would also be a Specific Delegation Register which would capture and record one-off delegations, eg by Cabinet.

Proper Officer Register (as referred to in Part 2 (e))

This was referred to in the Officer Scheme of Delegation. It would be a separate document accessible through a hyperlink in the Scheme.

With regard to the proposal for individual Portfolio Holder decisions to be taken in private, members sought assurances that advance notice of such decisions would still be given, with access to the report to be considered by the Portfolio Holder, that such decisions would be published on the website and notified to all councillors, and that such decisions, key or non-key, would be subject to call-in. It was also acknowledged that a mechanism would be needed which would prevent spurious use of call-in for Portfolio Holder decisions. Officers undertook to report back with details of how the new arrangements would work.

Members also asked about how they would be able to track the changes to the constitution to ensure that everything was accounted for and that nothing had been changed or added. Bevan Brittan advised that it would be difficult to make direct comparisons with the existing constitution as the new document adopted a very different approach. The officers reiterated

the undertaking given at the previous meeting, and in line with the Constitution Committee, that they would exercise caution in bringing changes of substance to the Sub-Committee's and the Committee's attention.

It was proposed, as part of a wider member engagement process, that drop-in sessions for all members would be held on 12th and 13th October at Westfields in order to provide an informal briefing on how the review of the Constitution had been conducted and to explain the key changes that had been approved by the Constitution Committee. Presentations had also been offered to the political groups, and a briefing for Group Leaders was in the process of being arranged.

RESOLVED

That

1. the initial drafts of the new Part 2 of the constitution and Proper Officer Register be noted;
2. the officers report back with detailed arrangements for the proposed Portfolio Holder decision-making process; and
3. consideration be given to including in the constitution clearer reference to the Council's processes in relation to 'WARNS' (Waivers and Record of Non-Adherence Notifications).

19 TIMETABLE FOR THE REVIEW

Earlier in the meeting, the officers reported that substantial progress had been made with the review of the constitution. Nevertheless, a considerable amount of work still needed to be done on drafting the new sections and supporting documents, and taking on board the outcome of the two drop-in sessions planned for mid-October. It was proposed therefore that an interim progress report would be made to Council on 19th October with a view to taking a final report to Council on 14th December. This would provide an opportunity to convene additional meetings of the Constitution Sub-Committee and to feed into a rescheduled Constitution Committee in late November. The proposed revised timetable was as follows:

Constitution Committee – 5th September

Council – 19th October (to receive an interim progress report)

Constitution Sub-Committee – mid to late October (to review and approve Work Packages 2, 3 and elements of 4)

Constitution Sub-Committee – w/c 13th November 2017 (to review and approve the remaining elements of Work Package 4 (including Finance Procedure Rules) and all of Work Package 5)

Constitution Committee – 30th November 2017 (rescheduled from 23rd November) (to receive the recommendations of the Sub-Committee and make final recommendations to Council)

Council – 14th December 2017 (to receive the recommendations of the Constitution Committee and approve and adopt the new constitution)

RESOLVED

That

1. the revised timetable be agreed;
2. a meeting of the Sub-Committee be held after the member drop-in sessions; and
3. members of the Sub-Committee be canvassed on the dates for the Sub-Committee's meetings.

The meeting commenced at 10.00 am and concluded at 11.10 am

Councillor A Martin (Chairman)

Constitution Sub-Committee

Date of Meeting:	3 rd November 2017
Report of:	Acting Director of Legal Services & Monitoring Officer
Subject/Title:	Review of the Constitution – Principles

1.0 Report Summary

- 1.1 This report presents to the Sub-Committee mechanisms to ensure the revised Constitution is concise and future-proof.
- 1.2 It also sets out an approach to highlighting substantive changes to the Constitution for consideration.

2.0 Recommendations

- 2.1 That the Constitution Sub-Committee recommends that the Constitution Committee on 30th November 2017 approves:
 - 2.1.1 The overall proposed approach to hyperlinking as set out in the Bevan Brittan Advice Note (attached at Appendix A)
 - 2.1.2 A specific approach in response to each question identified in the Bevan Brittan Summary Table of Sections/Documents to come out of the Constitution (attached at Appendix B), those being:
 - Q1. Terms of Reference of Committee Chairmen
 - Q2. Whistleblowing Policy
 - Q3. Planning Protocol of Conduct in relation to the determination of planning matters
 - Q4. Protocol on Public Speaking Rights at Strategic Planning Board and Planning Committee
 - Q5. Local Ward member Protocol
 - 2.1.3 Subject to 2.1.2 above, the proposals set out in Appendix B
 - 2.1.4 The approach to highlighting substantive changes to the Constitution to Members, as set out in the Detailed Proposals below.

3.0 Reasons for Recommendations

- 3.1 To implement the decision of the Constitution Committee on 4th August 2017.

4.0 Detailed Proposals

- 4.1 Work Package 1 of the Review covered the structure and format of the new Constitution. This Work Package was approved by the Constitution Sub-Committee on 15th September 2017
- 4.2 One key principle of the review, as recommended by Bevan Brittan and approved by Constitution Committee, has been to “be concise, covering only those essential issues which need to be in the formal Constitution and sign-posting to other documents and sources.”
- 4.3 Bevan Brittan has further explained in more detail how this will work in practice – including the use of ‘hyperlinking’ and the status and ownership of each hyperlinked document in the proposed revised Constitution – and this is set out in detail in a separate Advice Note (see Appendix A).
- 4.4 This includes a schedule that sets out those sections/documents that are being proposed to come out of the Constitution, and suggestions for the appropriate ownership and review processes for each one (see Appendix B). Where a choice is identified, this is highlighted as an individual question, for which the Sub-Committee’s response is sought.
- 4.5 In addition, much feedback has been received on the most appropriate mechanism for highlighting changes from the existing Constitution to the new revised document, including a request for ‘tracked changes’ In this regard, we have also taken the advice of Bevan Brittan and this is set out below:

“The redrafted Constitution, whilst taking much of the content from the current one, is a significantly changed document, especially in terms of its layout. This is intentional, and in keeping with the agreed principles of the review approved by Constitution Committee on 4th August 2017, in particular that it:

- *support, not hinder, the efficient exercise of democratic decision-making, good governance and the delivery of services*
- *be concise, covering only those essential issues which need to be in the formal Constitution and sign-posting to other documents and sources*
- *be modern in its language, format and presentation*

To achieve this has required a significant restructuring and editing of repetitious, superfluous or outdated content.

As such, a large part of the New Constitution is essentially a new document, not an amended one, and the facility to ‘track all changes’ does not lend itself to this kind of rewrite; it is difficult, if not impossible, to use the ‘tracked changes’ functionality within Microsoft Word and attempts to highlight these changes manually – through notation, highlighting, colour-coding or other methods – often obscure rather than enlighten, when trying to review the new material.

With these sections we would not recommend such an approach, but propose that we will bring to the attention of Members the substantive areas of change within an Explanatory Note.

Where there are parts of the New Constitution where the substance of the document remains similar to the original, in those cases, we agree it would be helpful to produce a delta view version for Members – this produces a document which compares the original document with the new one and highlights changes in colour. As the review progresses and changes are agreed (subject to final sign off by Council), we can identify which parts of the new document lend themselves to this approach and can produce the comparisons to assist Members.”

Bethan Evans, Partner, Bevan Brittan LLP

4.6 The Sub-Committee endorsed this approach at its meeting on 15th September 2017, where it resolved that:

- Officers be permitted to use their discretion (this to be exercised with caution) in bringing to the attention of the Sub Committee only matters of substance when constitutional changes are proposed.

4.7 As such, we propose to:

- Draw attention to all substantive changes (exercising caution) in the Explanatory Note (List of Substantive Changes) that accompanies each Work Package, in three categories:
 - Section I – Substantive changes required by law for approval (although these will be minimal as the original Bevan Brittan review confirmed that the Constitution was compliant)
 - Section II – Substantive changes based on best practice recommended for approval
 - Section III – Substantive changes for consideration by the Sub-Committee
- Provide printed copies of both the existing Constitution and the revised Constitution to any Member that requests them
- Highlight any specific changes (with page number references for both documents) as requested by Members on a case-by-case basis, if these are not immediately apparent and/or incorporated within the Explanatory Note (List of Substantive Changes).

5.0 Wards Affected and Local Ward Members

5.1 All wards are affected.

6.0 Policy Implications

6.1 Policy Implications are unchanged from the position set out in the report to Constitution Committee on 4th August 2017.

7.0 Access to Information

7.1 The Constitution Committee papers of 4th August 2017 and 5th October 2017 relate.

8.0 Contact:

Name: Daniel Dickinson

Designation: Acting Director of Legal Services & Monitoring Officer

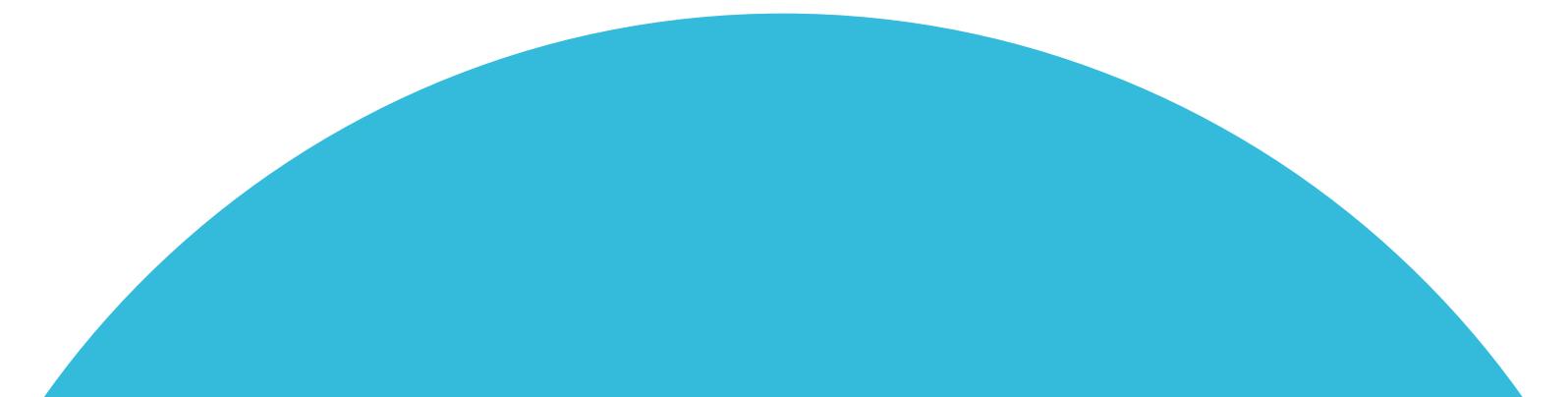
Tel No: 01270 685814

Email: daniel.dickinson@cheshireeast.gov.uk

Cheshire East Council Constitution

Note on proposed use of hyperlinks within the Constitution

24 October 2017



1 USE OF HYPERLINKS

- 1.1 The Constitution Committee at its meeting on 4 August 2017 agreed the principles which are underpinning the current review of the Constitution. These include that the new Constitution should:-
- be modern in its language, format and presentation; and
 - be concise, covering only those essential issues which need to be in the formal Constitution and sign-posting to other documents and sources.
- 1.2 The Committee discussed and agreed that the use of hyperlinks would be very helpful to achieve these aims. Hyperlinks allow readers to click on certain words or phrases which are highlighted in the document and be taken to other places in the Constitution or to other documents which sit outside the Constitution itself. There are a number of advantages to this including that the core Constitution can be shorter/easier to read/understand and the links allow easy navigation around the document.
- 1.3 It is recognised that members want to be confident that key issues are not relegated to documents outside the Constitution which are then not visible or are then open to amendment without the necessary scrutiny. This is not the intention of the use of hyperlinks (although it is the case that a number of parts of the current Constitution are not statutorily required to be in the core document and can therefore be safely moved outside it).
- 1.4 Even where it is proposed that a current section of the Constitution is moved outside the core document, it is essential that, depending on the nature of the document, it has a clear process for review/amendment etc. It is suggested that any examples of this are clearly flagged as the new Constitution emerges and members agree any new proposals for keeping such "ancillary" documents under review.
- 1.5 It is important to clarify that there are different types of hyperlinks which will be used in the new document. These are set out in paragraphs 2 – 5 below.

2 TIER ONE LINKS

- 2.1 **Tier One 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. For example, the Constitution will direct readers to:-
- The list of elected members;
 - The register of members' interests; and
 - The management team structure.
- 2.2 These documents are strictly part of the Constitution but if they are embedded completely in the text of the main document as now (particularly in hard copy) the whole core document has to be changed whenever an update is needed and it goes out of date very quickly. Going forward, it is proposed that the changes to these type of documents which are factual and therefore non contentious, will be made simply through the Monitoring Officer using his/her delegated powers which are proposed to include the following delegation:-
- "In consultation with the Chairman and Vice-Chairman of the Constitution Committee, to make such changes to the Council's Constitution as he/she deems to be necessary and which are in the Council's interests and not major in nature, including, but not limited to, changes:-
- amounting to routine revisions;
 - to provide appropriate clarity;
 - to correct typographical and other drafting errors;
 - to reflect new legislation;
 - to correct inconsistencies in drafting; and

- to reflect new officer structures and job titles, properly approved through Council processes".

2.3 So the Monitoring Officer will be able to make changes following, for example a by-election which changes the details of the elected members on the Council.

2.4 If these documents are accessed through hyperlinks they can simply be factually updated without disturbing any other part of the Constitution and the hyperlink will ensure that the reader always accesses an accurate version of the information.

2.5 This approach lends itself well to Constitutions held on Council's IT systems i.e. not held in hard copy. Unfortunately the rules on whether a Council now needs to have a hard copy of its Constitution are not clear and have not necessarily kept up with new technology. The requirements are set out in s.9P of the Local Government Act 200 and are as follows:-

- "A local authority must prepare and keep up to date a "document...". The Act does not specify whether hard copy or not, and it is not defined elsewhere in the Act;
- The local authority must ensure that "copies of its constitution are available at its principle office for inspection"; and
- The local authority must "supply a copy of its constitution to any person who requests a copy...".

2.6 To be prudent given the need to provide a copy of the Constitution to people who ask for one and also recognising that the Council will probably want all members to have a hard copy of the new Constitution as it is debated through meetings over the next few months, it is suggested that these Tier Two type documents are added in hard copy at the end of the new Constitution.

3 TIER TWO LINKS

3.1 **Tier Two links** are links which take readers to documents which support the Constitution but are not required legally to be part of it – we will call these "ancillary documents". These can be different types of documents and could include:-

- Codes;
- Guidance;
- Parts of the current financial regulations; and
- Proper Officer Register.

3.2 These type of documents have probably been added to the Constitution because this seemed a sensible location for the document to be stored. However, it has been recognised by the Constitution Committee that this has meant the Constitution becoming a depository of useful and often important information which has to be kept somewhere and easily accessed, but it does not strictly have to be part of the Constitution.

3.3 It is this tier of links/documents which, it is anticipated, members will want to track to ensure their removal from the core Constitution does not mean their disappearance from visibility or scrutiny.

3.4 It is therefore proposed that any such sections/documents will be identified in the reports to the Constitution Committee and Council recommending the new Constitution and will clearly set out:-

- whose responsibility the document will be going forward (which could be the Constitution Committee, could be another relevant member body or could be officers depending on the nature of the particular document); and
- what the process is for updating/reviewing.

4 TIER THREE LINKS

- 4.1 **Tier Three 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 e.g. an external complaints route/Ombudsman contact details/outside bodies.

5 TIER FOUR LINKS

- 5.1 **Tier Four links** are links which take readers quickly from one part of the Constitution to another e.g. a link from an introductory list of contents to the substantive section or a link from the terms of reference of a meeting to the procedural rules which cover that meeting.
- 5.2 These are not links to other documents but simply help navigation around the Constitution and ensure a reader can see clearly what other parts of the document might be relevant to them.

Bevan Brittan LLP
24 October 2017

Cheshire East Council Constitution

Summary table of sections/documents to come out of Constitution

APPENDIX B

Work Package	Element	Where it has moved to
2	Introductory Chapters	All necessary content from this section will be covered elsewhere in the revised Constitution.
2	Cheshire Police and Crime Panel Terms of Reference	This will be hyperlinked from 'Joint Arrangements' section to relevant external website.
2	Shared Services Joint Committee	Following consideration, we advise that this needs to remain in the Constitution as it is a (joint) body of the Council.
2	Job Description of Committee Chairmen	Hyperlink from 'Committees' section to Member area of CEntranet Responsibility for reviewing this and updating as required could still rest with the Constitution Committee or with the Audit and Governance Committee? [Q.1]
3	Officer Delegations and Proper Officer Register	Although there will still be an important section of the new Constitution (Part 2 (e) Responsibility for Functions – Officer Delegations) this will be much shorter than it is now. It will deal with delegations to the most senior officers and the statutory officers of the Council and then allows that officer to decide on the delegations which he/she wishes to cascade to officers in their own team/departments. The Register of Proper Officer functions will be maintained by the relevant officer and accessed through a hyperlink as will the Local Schemes of Delegation.
4	Contract Procedure Rules	Following consideration, we advise that this needs to remain in the Constitution.

OFFICIAL

Work Package	Element	Where it has moved to
4	Finance Procedure Rules	Following consideration, we advise that this needs to remain in the Constitution. The issue is that they contain a lot of information which is not necessary in a set of Finance Procedure Rules and could be in ancillary documents – this will have to be assessed when the rules are reviewed. BB's note [BB272] to the FPRs in the original review is set out below for reference ¹ .
5	Whistleblowing Policy	This does not have to be in the Constitution. It could be referenced somewhere in the document and hyperlinked with ownership and responsibility for reviewing/updating passing to the Staffing Committee? [Q.2]
5	Planning Protocol of Conduct in relation to the determination of planning matters	This does not have to be in the Constitution. It could be referenced in the main Member Code of Conduct and also in the terms of reference of the Strategic Planning Board and could be accessed by hyperlink. Ownership could pass to the Strategic Planning Board? [Q.3]
5	Protocol on Public Speaking Rights at Strategic Planning Board and Planning Committee	This does not have to be in the Constitution. It is mentioned in the Committee and Sub-Committee Procedure Rules and could simply be accessed by this hyperlink with ownership for it passing to the Strategic Planning Board? If it stays in the Constitution it would be better placed with the Appendix 7 to the Rules of Procedure in Part 3 [Q.4]
5	Local Ward Member Protocol	This does not have to be in the Constitution. Responsibility for reviewing this and updating as required could still rest with the Constitution Committee or with the Audit and Governance Committee? [Q.5]
5	Councillor Call for Action Protocol	This detailed protocol is not required. The process will be included in the Council Procedure Rules.
5	Mayoralty Code of Practice	This will be taken out of the Constitution altogether. We understand that this is an important document for the Council, but strictly speaking it is an internal document for the Council, and it does not need to appear in the Constitution.

Work Package	Element	Where it has moved to
5	Petitions Scheme	This detailed protocol is not required. Petitions will be referred to within the Council Procedure Rules.

ⁱ Note on Finance Procedure Rules in initial review of Constitution

Before looking at the sets of rules on financial related issues, it is worth revisiting the statutory requirements setting out what has to be included in a local authority constitution

a description of the rules and procedures for the management of its financial, contractual and legal affairs including:

- i. procedures for auditing of the local authority;*
- ii. the local authority's financial rules or regulations or such equivalent provisions as the local authority may have in place whether specified in the authority's standing orders or otherwise;*
- iii. rules, regulations and procedures in respect of contracts and procurement including authentication of documents whether specified in the authority's standing orders or otherwise; and*
- iv. rules and procedures in respect of legal proceedings brought by and against the local authority*

Although it is usual for councils to include far more than this statutory minimum, it is not essential to have lengthy financial processes and procedures in the constitution itself. To make the document more manageable, we suggest that a rigorous review is carried out of what the Council considers is essential to have in the core document and what could better be dealt with by links through to other documents/web pages.

At the moment this section stands at over 66 pages and there is much of it (whilst essential to the effective running of a council) which does not need to be in the formal Constitution

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Constitution Sub-Committee

Date of Meeting: 3rd November 2017

Report of: Acting Director of Legal Services & Monitoring Officer

Subject/Title: Review of the Constitution – Work Package 2:

Decision-making: Terms of Reference of Member Bodies

1.0 Report Summary

- 1.1 To consider the draft revised Constitution for Work Package 2 and Explanatory Note (Schedule of Substantive Issues).
- 1.2 The Explanatory Note (Schedule of Substantive Issues) is attached at Appendix A. The redrafted element of the Constitution: Work Package 2 – Decision-making: Terms of Reference of Member Bodies (New Constitution Section 2 (a) to (d)) is attached as Appendix B. Members are asked to consider both documents and make appropriate recommendations to the Constitution Committee.
- 1.3 The completed section presented in this report is a ‘final draft’ and ready for approval for submission to Constitution Committee on 30th November 2017.
- 1.4 All remaining sections will be brought to the next Constitution Sub-Committee on 17th November 2017 for consideration.

2.0 Recommendations

- 2.1 That the Constitution Sub-Committee:
 - 2.1.1 Notes the content of this report and the significant progress made
 - 2.1.2 Recommends that the Constitution Committee approves the proposed Substantive Issues as set out in Appendix A: Explanatory Note (Schedule of Substantive Issues) Sections I & II
 - 2.1.3 Makes a recommendation to Constitution Committee in respect of each individual issue as set out in Appendix A: Explanatory Note (Schedule of Substantive Issues) Section III
 - 2.1.4 Recommends that the Constitution Committee approves the revised draft of Section 2 (a) to (d) of the Constitution (Work Package 2) as set out in Appendix B and the accompanying Explanatory Note (Schedule of Substantive Issues), subject to the specific responses to 2.1.2 and 2.1.3 above.

3.0 Reasons for Recommendations

- 3.1 To implement the decision of the Constitution Committee on 4th August 2017.

4.0 Detailed Proposals

- 4.1 It was agreed at Constitution Sub-Committee on 23rd August 2017 to break the review of the Constitution into five 'Work Packages', with a Lead Member and Lead Officer to lead each relevant working groups, as set out below:

- 4.1.1 Work Package 1 – The overall style and presentation of the Constitution

This Work Package was approved by the Constitution Sub-Committee on 15th September 2017 without the need for a separate Working Group.

- 4.1.2 **Work Package 2 – Decision-making: Terms of Reference of Member Bodies**

Lead Member: Cllr. Gordon Baxendale

Lead Officer: Daniel Dickinson

- 4.1.3 Work Package 3 – Decision-making: Officer Scheme of Delegation

Lead Member: Cllr. Nick Mannion

Lead Officer: Daniel Dickinson

- 4.1.4 Work Package 4 – Procedure Rules

Lead Member: Cllr. Andrew Martin

Lead Officer: Brian Reed

- 4.1.5 Work Package 5 – Codes & Protocols

Lead Member: Cllr. Barry Burkhill

Lead Officer: Brian Reed

- 4.2 As agreed at Constitution Committee on 5th October 2017, this report makes recommendations in respect of the proposed redrafted Constitution with regard to Work Package 2. The redrafting has been conducted by the Council's independent legal advisor, Bevan Brittan, based upon its own expertise and experience as well as detailed feedback obtained through a wide-ranging Member and officer engagement process.

- 4.3 A comprehensive Explanatory Note (List of Substantive Issues) to the redrafted section has also been prepared, attached at Appendix A. This summarises the Substantive Issues being recommended in that section as part of the redrafting process, and the reasons for them.

4.4 Bevan Brittan, in consultation with officers on the project team, has used its discretion, exercised with caution, in listing those matters considered substantive and worthy of inclusion in the Explanatory Note (List of Substantive Issues). In doing so, it has been mindful of comprehensive feedback from Members received through the consultation process (including the joint Member/officer workshop on 31st August 2017, participation in the Working Groups and several informal 'drop-in' sessions), all of which has been logged and considered.

4.5 Changes have been classified as follows:

- Section I – Substantive Issues required by law for approval
- Section II – Substantive Issues based on best practice recommended for approval
- Section III – Substantive Issues for consideration by the Sub-Committee

4.6 The redrafted element of the Constitution is presented as follows:

- Work Package 2 – Decision-making: Terms of Reference of Member Bodies (New Constitution Section 2 (a) to (d))

4.7 This is attached at Appendix B.

5.0 Wards Affected and Local Ward Members

5.1 All wards are affected.

6.0 Policy Implications

6.1 Policy Implications are unchanged from the position set out in the report to Constitution Committee on 4th August 2017.

7.0 Access to Information

7.1 The Constitution Committee papers of 4th August 2017 and 5th October 2017 relate.

8.0 Contact:

Name: Daniel Dickinson

Designation: Acting Director of Legal Services & Monitoring Officer

Tel No: 01270 685814

Email: daniel.dickinson@cheshireeast.gov.uk

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Cheshire East Council – New Constitution

Explanatory note – List of Substantive Issues
Part 2 (A) to (D) Responsibility for Functions

Structure of Part 2 (A) to (D)

Section	Title	Contents
A	Diagram of decision making structure and introduction to decision making	The Introduction sets out principles of good decision making previously in Part 2 but with hyperlinks to aid navigation of the document
B	Full Council	This section sets out the arrangements for Full Council, pulling all previous references which were spread over the Constitution into one place. The mayoral code of practice is accessed through a link from here as is the guidance on the role of a Chair.
C	Cabinet	This section sets out the roles and functions of the cabinet collectively and individual portfolio holders. The role of the cabinet and the portfolio holders has been redrafted to make their democratic leadership role clearer – this has drawn on comments made as part of this project. The individual portfolio areas have not been changed. There are hyperlinks to aid navigation around the document and the layout should be clearer to follow with consistent drafting
D	Committees	There has been extensive redrafting/tidying/standardising of this section, whilst not changing the fundamental allocation of responsibilities. Hyperlinks have been used and the layout made easier to follow.

Substantive Changes

This Part is a fundamental rewriting of what was previously in (part of) Part 2 and 3 of the old constitution – Introductory Chapters and Responsibilities for Functions. We describe the changes that we have made in three categories:

- I. Substantive changes required by law for approval
- II. Substantive changes based on best practice recommended for approval
- III. Substantive changes for consideration by the Sub-Committee

Please Note: the numbering and formatting has not been finalised. This will be addressed as part of the final draft of the whole revised document.

There is also no specific section relating to Alternative Service Delivery Vehicles (ASDVs). A separate governance review is underway, and on conclusion of that review additional information regarding ASDVs will be inserted into the appropriate sections.

I. Substantive changes required by law for approval

Page	Section	Comment and/or area for consideration
72	Audit and Governance Committee	This section has been amended to make it clear that the independent member of the committee (who is not a councillor) is not entitled to vote. This is a legal requirement.

II. Substantive changes based on best practice recommended for approval

Page	Section	Comment and/or area for consideration
22	Policy Framework	The following have been removed from the Policy Framework as they are no longer required by law to be included: <ul style="list-style-type: none"> • Sustainable Community Strategy; • Business Plan; and • Adult Learning Plan.
23	Local Choice Functions	A comment has been received that these need to be explained more clearly – the wording has been amended to try to do this but this is a specific statutory requirement for the Council to set out in its Constitution.
25	Appointment to Outside Organisations	It has been suggested that the list of organisations could be taken out of the Constitution and linked to elsewhere. We have inserted a link which will navigate to a page on the Council's website.
25	Role of the Mayor	Following feedback from Members we have re-inserted (as the first responsibility) the phrase "the Mayor is the conscience of the Council" which was missing from earlier drafts. A query was raised as to whether this should be included in the job description of all councillors. Although the sentiment of every Councillor needing to be the conscience of the Chair

Page	Section	Comment and/or area for consideration
		is understood, this does not seem to reflect what members collectively felt at the last working groups/sub-committee which was that it is a prime responsibility of the Chair.
32	Responsibilities of all Cabinet Members	We have updated and strengthened this list following very helpful wording suggest by respondents.
33	Portfolio Holder responsibilities for Leader	We note that the term "devolution" can have different meanings in different contexts. Following officer feedback we have made it clear that devolution in this context means the devolution of powers from Central Government to combined authorities and the Council, and from the Council to Town and Parish Councils.
48	Strategic Planning Board	Members have commented that the Strategic Planning Board no longer nominates Councillors to sit on the Northern and Southern Planning Committee. Reference to this has been removed from the draft Constitution.
55	Staffing Committee - Recruitment and Selection	Purpose and functions have been merged to avoid repetition.
65	Constitution Committee	Following officer comments we have removed the requirement for the Constitution Committee to approve appointments to the Independent Persons Panel as this is not a requirement.
78	Health and Wellbeing Board	We suggest changing the terminology from core/non-core members to voting/non-voting members to better reflect their respective roles. We have also added a link to the Code of Conduct for the HWB.

III. Substantive changes for consideration by the Sub-Committee

Page	Section	Comment and/or area for consideration
18	Introduction Key Decision	It has been proposed that operational treasury management decisions (for example investment decisions relating to the Council's reserves) should be excluded from the definition of a Key Decision (which otherwise remains the same as now) whatever the financial implications.
25	Chairman or Chair?	This page refers to the allocation of "chairmen" and "vice chairmen" to committees and sub-committees. These are the current terms used in the new document and the Sub-Committee is asked to consider if they support the continuation of these terms or would prefer to move to the use of the gender neutral terms "Chair" and Vice Chair" throughout the new Constitution?
27	The Cabinet	A query has been raised on whether in practice the Leader does present a written record of delegations and information about executive functions as currently required (7.2). This is not a statutory requirement.
34	Responsibilities of Portfolio Holders	Responsibilities for the overall interface with ASDVs needs to be identified and allocated appropriately to Cabinet/Portfolio Holders
39	Procedure for Taking Portfolio Holder Decisions	<p>The requirement for an individual Portfolio Holder to hold a meeting to make a decision has been removed. This approach was supported at the Sub-Committee meeting of 29 September.</p> <p>It should be noted of course that, as a matter of law, Key Decisions need to be publicised in advance of being taken (under Regulation 9 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012). We understand that Key Decisions will continue to be made with 28 clear days' notice and be identified in the Forward Plan.</p> <p>So if an individual Portfolio Holder is to make a decision which is a Key Decision they will have to publish the time of when they are to make it etc. (although this does not then need to be made at a "meeting").</p> <p>Members have raised concerns that removing the requirement for Portfolio Holder meetings for decisions could make it more difficult for Members to scrutinise in advance the decisions that are being made. It was suggested that an internal procedure be agreed to determine how information is circulated in advance of Portfolio Holders' decisions being taken.</p> <p>Members have suggested that they would like to have</p>

Page	Section	Comment and/or area for consideration
		advance notice of all decisions, whether Key Decisions or not. This is an administrative procedure for the Council to determine and does not necessarily need to be recorded in the Constitution (but it may be helpful to include it). There is no legal requirement to circulate details in advance of non-key decisions being made, but the Council should decide whether it wishes to adopt such a procedure, which could include publishing details of non-key decisions in the Forward Plan.
40	Role of Deputy Cabinet Members	We have amended this to reflect concerns at the previous drafting which went beyond what is a legitimate role.
42	Functions of Committees	The Council may wish to consider including the Public Rights of Way Committee functions elsewhere e.g. a sub-committee of the Planning Board or the Planning Committees.
43	Overview and Scrutiny Committees	<p>A query has been raised on whether it is best practice for Scrutiny Committees to be chaired by opposition members.</p> <p>There is no legal requirement that a Chair is from an opposition party. Practice varies on this. It is correct that a number of academic studies have advocated that scrutiny chairs should be drawn from elsewhere than the majority party but practice varies across councils.</p> <p>DCLG Guidance on scrutiny says</p> <p>"Where there is a majority group, local authorities might consider it appropriate to have all or some of these committees chaired by members outside the majority group or by church or parent governor representatives. Overview and scrutiny should be constructive and not merely be there either always to oppose the executive or to rubberstamp the executive's decisions."</p> <p>But LGA guidance makes clear that the chair of the scrutiny committee can represent any political party.</p> <p>It is a matter for the Council – in our experience the effectiveness of scrutiny can be less about the party the Chair represents and more about the overall approach and culture of a council and the skills of the members on the committee (including the Chair).</p>
45	Specific Responsibilities of Overview and Scrutiny Committees	New wording has been include to recognise that the Scrutiny remits mirror the remits of the Portfolio Holder so if the Leader changes the portfolios of the Cabinet, the Monitoring Officer will automatically be able to change the Scrutiny remits to mirror this.
48	Strategic Planning Board	Following feedback from the Director of Planning and Sustainable Development we have made a number of

Page	Section	Comment and/or area for consideration
		<p>changes:</p> <p>Membership of SPB reduced from 12 to 10 Membership of North and South planning committees has been reduced from 12 to 7.</p> <p>Reference to cross party pool of Planning Substitutes has been removed, and no substitutes will be allowed. This approach was supported by the Chairs and Vice Chairs of the Planning Committees.</p> <p>Although this position has Council support, the risk of removing the ability to use substitutes needs to be recognised in relation to situations where it is not possible to find a quorum and/or where members might wish to recuse themselves from a meeting in order to represent a constituent etc.</p>
48	Strategic Planning Board	<p>Officers have suggested that SPB will determine applications involving a significant departure from council policy only where the matter has been referred to SPB by the Planning Committees.</p> <p>The prohibition on applications to vary or remove conditions which were imposed by committee being delegated has been removed.</p>
48	Strategic Planning Board	<p>Suggestions have been made to the definition of Large Scale Major Development. These are noted. We propose that to ensure flexibility the definition of Large Scale Major Development be moved to a hyper linked document. The proposed substantive changes are:</p> <p>Threshold for developments being retained by the SPB to be increased from 200 dwellings to 250 dwellings and from 4 ha and above to 5ha and above.</p>
50	Northern and Southern Planning Committees	<p>Following Officer Feedback the threshold for developments being retained by the Planning Committees to be increased: From 20-199 dwellings to 100-249 Dwellings. From 1-4ha to 3-5ha.</p> <p>The prohibition on applications to vary or remove conditions which were imposed by committee being delegated has been removed.</p>
50	Planning Committees Terms of Reference	<p>It has been noted that the use of the term "call-in" to refer to the challenge of a delegated officer planning decision is confusing. The term call-in is a specific term relating to the functions of the Overview and Scrutiny Committee.</p> <p>It was suggested that an alternative phrase be adopted.</p>

Page	Section	Comment and/or area for consideration
		"Member Challenge", or "Referral" were proposed by members, and Bevan Brittan could suggest further alternatives. The Council should confirm the term it wishes to adopt.
53	Licensing	<p>We have re-written this section significantly taking into account officer comments and what we understand to be the aim. For discussion is whether the political proportionality waiver at paragraph (4) that applies to the sub-committees at paragraph (3) should also apply to the sub-committees at paragraph (2).</p> <p>All references to officer delegations have been taken out as these will be picked up in the local schemes of delegation.</p>
55	Staffing Committee – HR Policies	We have added to paragraph 5.3, which concerns new posts where the pay exceeds £100,000, the proviso that the Staffing Committee is not required to make recommendations to Council affecting the remuneration of a new post where remuneration for that post is already included within the Council's annually approved Pay Policy Statement.
56	Staffing Committee – appeals	Officers are considering whether there an appropriate level below which appeals will be dealt with by officers e.g. Principal Officer grades?
59	Investigatory and Disciplinary Committee – Receiving Investigating Officer's Report para 3.9	<p>A Councillor has raised a concern that in a previous version (April 2017) of the Constitution that a sentence had been added to the Terms of Reference to the Investigatory and Disciplinary Committee which gives the MO and the Chair of the staffing Committee the ability to "filter out and deal with allegations which are clearly unfounded, trivial or can be dealt with under some other procedure".</p> <p>Bevan Brittan notes that similar wording appears in the Chief Executives' National Salary Framework and Conditions of Service, dated 13 October 2016.</p> <p>Bevan Brittan recommends that the decision is delegated to the MO, unless the complaint is against the MO, in which case the delegation should be to the chief executive. In both cases we advise that the delegation should be "in consultation with the Chair of the IDC".</p>
64	Lay Members Appointment Committee	This function could be added to the Terms of Reference of the Constitution Committee.
71	Polling Districts and Polling Places Review Sub-Committee	The functions of the sub-committee could be delegated to officers.
72	Audit and Governance	We have taken out much of the previous detail for this

Page	Section	Comment and/or area for consideration
	Committee – Functions	<p>committee as the detailed list of activities of the Committee is not necessary – the headline areas are sufficient for this section. We have suggested the details are hyperlinked.</p> <p>We have extracted what look to be the most important formal/statutory and listed them. Officers/member comments on this are welcome.</p> <p>If the Initial Assessment Panel and Local Resolution Panel are standing bodies, their membership and terms of reference need to be included here.</p>
78	Health and Wellbeing Board – Agenda and notice of Meetings	Should this be amended so that exempt and confidential information be circulated to all members of the Board?
83	Shared Services Joint Committee	Are there any other joint arrangements with other Councils? – if so they need to be included here.

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NON-SUBSTANTIVE ISSUE:

Is a diagrammatic representation of the Member decision-making bodies desirable in Section A? Does it aid understanding? It is not required by law but one was included in the previous Constitution, although it was not wholly comprehensive or up-to-date.

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Cheshire East Council

New Constitution

Part 2 – Responsibilities for Functions

Part	Title	Contents
A	Diagrammatic Explanation of Decision Making and Introduction to Decision Making	This section shows a diagram of the Council decision making arrangements and also sets out an introduction to decision making including the Principles of good decision making, who makes decisions in the Council and what are Key Decisions .
B	The Full Council	This section sets out <ul style="list-style-type: none"> • Functions of the Full Council • Council Meetings, • Policy Framework, • The Budget, • Local Choice Functions, • Appointment to Outside Organisations, • Role of the Mayor and Charing the Council.
C	The Cabinet	This section sets out <ul style="list-style-type: none"> • Role of the Cabinet • The Leader and Cabinet Members • General Responsibilities of the Cabinet, Committee and Sub Committees • Responsibilities of all Cabinet Members • Specific Responsibilities of Cabinet Members • Role of Deputy Cabinet Members
D	Functions of Committees	This section sets out the Functions, Roles and responsibilities of the Committees of the Council which are <ul style="list-style-type: none"> • Overview and Scrutiny Committees <ul style="list-style-type: none"> ○ Corporate ○ Environment and Regeneration

Part	Title	Contents
		<ul style="list-style-type: none"> ○ Children and Families ○ Health and Adult Social Care and Communities ● Planning <ul style="list-style-type: none"> ○ Strategic Planning Board ○ Northern and Southern Planning Committees ● Public Rights of Way Committee ● Licensing Committee ● Staffing Committee ● Investigation and Disciplinary Committee ● Disciplinary Appeals Committee ● Independent Persons Panel ● Lay Members Appointment Committee ● Constitution Committee ● Audit and Governance Committee ● Independent Remuneration Panel ● Corporate Parenting Panel ● Health and Wellbeing Board ● Joint Arrangements <ul style="list-style-type: none"> ○ Shared Services Joint Committee ○ Cheshire Police and Crime Panel
E	Officer Delegations	<p>This section sets out the Scheme of Officer Delegation and contains a diagram of the officer structure at the Council. It sets out the areas of responsibility of the Senior Officers and Statutory Officers and the arrangements for the discharge of the Proper Officer functions.</p>

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

(to be inserted if required)

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1. Introduction to decision making

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

2. Principles of decision-making

- 2.1 The following principles will apply to all decision makers. Decision makers will
 - Take into account all relevant considerations and ignore those which are irrelevant;
 - Undertake a realistic evaluation of alternatives and options;
 - Carry out appropriate consultation;
 - Take decisions which are proportionate to the desired outcome;
 - Consider relevant professional advice;
 - Respect human rights and
 - Approach decision making on a transparent and open basis wherever possible will be open.

3. Types of decision and the decision-takers

- 3.1 When the Full Council makes decisions, it will comply with the [Council Procedure Rules](#)
- 3.2 When the Cabinet makes decisions, it will comply with the [Cabinet Procedure Rules](#)
- 3.3 When the Overview and Scrutiny Committees make decisions, they will comply with the [Overview and Scrutiny Procedure Rules](#).
- 3.4 When Committees and Sub- Committees make decisions, they will comply with the [Council Procedure Rules](#).
- 3.5 On occasions, the Council, a Councillor or an officer will act as a tribunal or in a quasi-judicial manner when they determine the civil rights, obligations or criminal responsibility of an individual. When this

happens, they will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

4. Key decisions

4.1 Certain types of decisions made by the Cabinet, individual Cabinet Members, Committees and Sub-Committees of the Cabinet are “[Key Decisions](#)”. Except in cases of urgency, these types of decision receive special advance publicity so that members of the public and Councillors are able to consider the implications of the decision and so that members of the public have an opportunity to make representation to the decision maker before the decision is made. Key Decisions appear on the [Council’s Forward Plan](#).

4.2 A Key Decision is defined as:-

“an executive decision which –

- (a) is likely to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; and/or
- (b) is likely to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the local authority.”

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

For clarification, no treasury management decision of the Council shall constitute a Key Decision.

(B) The Full Council

Functions of the Full Council

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

- 1.10.2 The political balance of such bodies as required from time to time, and
- 1.10.3 the allocation of chairmen and vice-chairmen to those bodies (see para below).
- 1.11 will agree and amend the terms of reference of its Committees and Sub-Committees and the job description for committee chairs;
- 1.12 will consider any matter which has been referred or submitted to it by the Cabinet for information, views or debate (but recognising that an Executive matter remains the sole responsibility of the Cabinet and the Council cannot make a decision in relation to it);
- 1.13 will determine any matter which is referred to it for determination by a Committee or Sub-Committee other than a Cabinet body;
- 1.14 will adopt (or otherwise) Motions submitted in accordance with the Council Procedure Rules except those that relate solely to a Cabinet function;
- 1.15 will approve the [Members Allowance Scheme](#) for elected Members following advice from the [Independent Remuneration Panel](#);
- 1.16 will appoint/dismiss the Head of Paid Service, dismiss the Monitoring Officer and Section 151 Officer, designate an officer to act as Monitoring Officer and an officer to act as Section 151 Officer.
- 1.17 will appoint the Returning Officer and Electoral Registration Officer;
- 1.18 will approve the Council's response to any issues or proposals in relation to local government boundaries including Electoral Wards, the conduct of elections and the discharge of local authority functions;
- 1.19 may take decisions relating to the name of the area and may confer the title of Honorary Alderman or Freedom of the District;
- 1.20 may make decisions relating to the making, amending, revoking, re-enacting, adopting or enforcing byelaws and promoting or opposing the making of local legislation or personal bills;
- 1.21 will take decisions in respect of functions which are not the responsibility of the Executive, and which have not been delegated by the Council to Committees, officers or elsewhere.
- 1.22 Nominations to the Council's non-executive committees, sub-committees and decision-making bodies, and changes to such nominations, including nominations to chairmanships and vice-chairmanships, shall be notified by the Council's Group Leaders or Group Whips in writing or by email to the Head of Governance and Democratic Services and shall thereafter be published on the Council's website. Such

nominations shall be in accordance with the relevant numerical allocations made by Council in relation to the body in question.

Council Meetings

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

All Council meetings will be conducted in accordance with the [Council Procedure Rules](#).

Policy Framework

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

Budget

- 5 The Full Council sets the Council's budget each year. The budget has a number of elements as follows:-
 - the allocation of financial resources to different services and projects,
 - proposed contingency funds,
 - the council tax base,
 - setting the council tax

- the council’s borrowing requirement,
- its capital expenditure and
- the setting of virement limits.

Local Choice Functions

6. Certain functions of local authorities are classified as “Local Choice” functions under the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) Regulations 2000, Schedule 2. This means that the Council can decide which of these decisions should be taken by the Full Council and which should be taken by the Cabinet.
7. The following table sets out who makes decisions on Local Choice Functions:-

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

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

To make arrangements for appeals regarding school admissions ²	Full Council	Appeals Panel
To make arrangements for appeals by governing bodies ³	Full Council	Appeals Panel
Any function relating to contaminated land ⁴	Cabinet	
The control of pollution or the management of air quality ⁵	Cabinet	
To serve an abatement notice in respect of a statutory nuisance ⁶	Cabinet	
To pass a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area ⁷	Full Council	
To inspect the authority's area to detect any statutory nuisance ⁸	Full Council	
To investigate any complaint about the existence of a statutory nuisance ⁹	Full Council	
To obtain information about interests in land ¹⁰	Full Council	Chief Officers
To obtain particulars of persons interested in land ¹¹	Full Council	Chief Officers
To make arrangements for the execution of highways works ¹²	Cabinet	
To appoint any individual (a) to any office other than an office in which s/he is employed by the authority (b) to any body other than the authority (c) to any committee or sub-committee of such a body	Cabinet or individual Portfolio Holders in respect of organisations listed below and the Full Council in respect of other organisations. <small> ² s94(1) Education, School Standards and Framework Act 1998 ³ s95(2) School Standards and Framework Act 1998 ⁴ Part IIIA Environmental Protection Act 1990 and subordinate legislation ⁵ Pollution Prevention and Control Act 1999; Part IV Environment Act 1995; Part I Environmental Protection Act 1990; Clean Air Act 1993 ⁶ s80(l) Environmental Protection Act 1990 ⁷ s8 Noise and Statutory Nuisance Act 1993 ⁸ s16 Environmental Protection Act 1990 ⁹ s19 Environmental Protection Act 1990 ¹⁰ s330 Town and Country Planning Act 1990 ¹¹ s16 Local Government (Miscellaneous Provisions) Act 1976 ¹² s278 Highways Act 1980 </small>	In respect of appointments by Full Council delegated to the Constitution Committee.

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

8. Local Choice Functions can be delegated further to other member bodies and/or officers.

Appointment to Outside Organisations

9. The Cabinet, or Individual Portfolio Holders (if delegated to them by Cabinet) make appointments to a number of [local and regional organisations](#) which can be found by clicking on the link.

Role of the Mayor and Chairing of the Council

10. Civic Role

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

11. Council Role

- 11.1 The Mayor is elected at the Annual Council meeting in May. The Deputy Mayor is appointed at the same meeting.
- 11.2 The Mayor is the conscience of the Council.
- 11.3 The Mayor is responsible for:
- 11.3.1 upholding and promoting the purposes of this Constitution and interpreting it, where necessary, with advice;

- 11.3.2 presiding over meetings of the Full Council to ensure that business is carried out efficiently and effectively
- 11.3.3 ensuring the rights of Councillors and the interests of the Council's citizens are protected in the running of the Full Council meeting (Guidance on the [Role of a Chair](#) can be found here which is relevant for all chairs of Council meetings);
- 11.3.4 ensuring that, at Full Council meetings, matters of concern to local people can be debated through the appropriate Councillors;
- 11.3.5 ensuring that Councillors not on the Cabinet, or who do not hold the Chair of a main committee, are able to hold those office holders to account;
- 11.3.6 promoting public involvement in the Council's activities and acting as a contact between members of the public and organisations and the Council;
- 11.3.7 carrying out other roles on behalf of the Council.

11.4 The Deputy Mayor will:

- 11.4.1 support the Mayor in his/her civic role and will also carry out civic duties on behalf of the civic office;
- 11.4.2 deputise for the Mayor in his/her absence.

12. The Mayoralty Code of Practice

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

13. Who may become Mayor or Deputy Mayor

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

(C) The Cabinet

1. Role

- 1.1 The Cabinet carries out those duties and responsibilities which are not the responsibility of any other part of the Council.
- 1.2 Some of the Cabinet's responsibilities are "[Local Choice](#)" functions, which Council has chosen to delegate to the Cabinet.

2. Composition

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

3. The Leader

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

4. Other Cabinet Members

- 4.1 Other Members of the Cabinet will hold office until any of the events listed in 3.1.1-3.1.3 above apply to them or to the Leader or until the Leader brings their term of office to an end.

5. Proceedings of the Cabinet

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

6. Responsibility for Functions

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

7. Cabinet Members

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

8.0 Deputy Cabinet Members

- 8.1 The Cabinet can appoint Members as Deputy Cabinet Members to support Cabinet Members in the performance of their functions. Deputy

Cabinet Members may not take decisions on behalf of Cabinet Members.

- 8.2 Deputy Cabinet Members may not be members of Overview and Scrutiny committees.

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General Responsibilities of the Cabinet, Committees and Sub-Committees

These bodies are responsible for:

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

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

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

1. the development of policy/strategy for the Council, the monitoring of the effectiveness of policy/strategy and the review of policy/strategy (leading to revision and further development);
2. subject to consultation with the appropriate Scrutiny body or bodies, advising on Budget setting, including all other relevant financial matters, plans and proposals;
3. ensuring that proper arrangements exist for the effective and efficient management of the Council's executive affairs and the delivery of policy/strategy;

4. monitoring and auditing the lawful, proper and efficient conduct of the Council's financial affairs, including the extent to which budgets and financial policies are being and will be met, and requiring or approving any remedial action to be taken where it considers it necessary and appropriate;
5. developing, monitoring and reviewing any Council Corporate personnel and human resources policies;
6. approving, monitoring and reviewing the provision of services to the Council which are delivered by internal and/or external suppliers;
7. overseeing, approving and co-ordinating policies on national and external communications, public and media relations and public affairs generally;
8. overseeing relationships with, participation in and contribution to external organisations and partnerships, Local Government Association, or their successors or like bodies;
9. ensuring officers exercising delegated powers on behalf of the Cabinet discharge their responsibilities efficiently and effectively;
10. monitoring and reviewing issues relating to relating to the implementation of strategy and policy;
11. preparing and approving any Regional and Sub-Regional Plans and Strategies;
12. supporting any relevant regional arrangements relating to regional policy, transportation, planning and environmental issues;
13. promoting employment and investment in the Council's area, including the preparation and approval of any Economic Development and Tourism Strategies;
14. dealing with any executive Local Development Framework functions which are delegated to the Council by the Secretary of State;

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

Responsibilities of all Cabinet Members

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

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

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

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

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

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

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

- [Leader](#)
- [Housing, Planning and Regeneration Portfolio Holder](#)
- [Children and Families Portfolio Holder](#)
- [Adult Care and Integration Portfolio Holder](#)
- [Health Portfolio Holder](#)
- [Corporate Policy and Legal Services Portfolio Holder](#)
- [Finance and Communications Portfolio Holder](#)
- [Environment Portfolio Holder](#)

Responsibilities of the Leader

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

Portfolio Holder responsibilities of the Leader

- HS2 and Rail Strategy
- Constellation partnership
- CCN/LGA
- Internal Audit
- Strategic Partnerships
- Sub-regional activity
- Devolution/Growth Deal
- Government liaison
- Oversight of Communications

Responsibilities of Environment Portfolio Holder

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

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

- Waste and Environmental Services
- Highways
- Transport strategy
- Local Transport Plan
- Car Parking
- Cultural services, including: Tourism and Visitor Economy, Tatton Park, Parks and Park Rangers and Arts and Culture.
- Green Infrastructure
- Public Rights of Way
- Shared Service/Archives

Responsibilities of Housing, Planning and Regeneration Portfolio Holder

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

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

- Planning Policy
- S106 & Community Infrastructure Levy
- Street naming & numbering
- Land charges
- Housing, Housing Associations, and Homelessness
- Development Management and Building Control
- Neighbourhood Planning
- Heritage
- Planning Support Company (Civicanace)
- Masterplanning Crewe

- Regulatory Services: Trading Standards, Licensing, Environment Health including Air Quality matters, contaminated land and pest and vermin control
- Economic Development
- Regeneration
- Land and Assets

Responsibilities of Children and Families Portfolio Holder

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

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

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

Responsibilities of Adult Social Care and Integration Portfolio Holder

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

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

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

Responsibilities of Health Portfolio Holder

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

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

- Deputy Leader
- Health and Wellbeing Strategy
- Lead for Health (i) Health and Wellbeing Board (ii) Health & Social Care Integration (Better Care Fund/Sustainability & Transformation, Caring together/Connecting Care)

- Joint Strategic Needs Assessment.
- NHS England/Acute Trusts
- Leisure Strategies
- Leisure Services
- Engagement with Everybody Sports and Recreation (ESAR)
- Public Health
- Voluntary, Community and Faith sectors, including Citizens' Advice Bureaux
- Equality and Diversity issues
- Libraries
- Customer operations, public engagement, complaints and resources
- Asylum Seekers
- Community Strategy

Responsibilities of Corporate Policy and Legal Services Portfolio Holder

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

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

- Human Resources, Workforce and Organisational Development
- Corporate Health and Safety and Occupational Health
- Business Improvement Programme
- Legal Services
- Monitoring compliance with the Council's decision-making processes
- Information governance (eg Senior Information Risk Owner and Caldicott Guardian)
- Democratic Services, including:
 - Electoral Functions
 - Civic Functions
 - Member Training and Development
- Registration Service (Births, Marriages and Deaths)
- Corporate Risk Management /Performance
- Civil Protection and Emergency Planning

Responsibilities of Finance and Communication Portfolio Holder

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

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

- The Financing of the Council and its Budget, and Corporate Business Planning
- Capital Programme and Strategy; including capital receipts
- Reserves, Income and Funding Strategy
- Investment Strategy
- Treasury and Business Management
- Procurement, Corporate Contracts and Contract Monitoring
- Insurance
- External Audit
- Pensions
- Revenues and Exchequer Functions, Including Benefits
- Crewe Market Scheme
- Governance and Performance of ASDVs
- Communications and Media Relations
- ICT and Digital matters
- Bus Service Review
- Car Parking (interim role)

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

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

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

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

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

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

Procedure for Taking Portfolio Holder Decisions

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

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

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

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

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

Decisions by individual Portfolio Holders must be recorded on a Decision Notice in an agreed format. The signed copy of the Decision Notice will be held by the Democratic Services team. The decision will be published electronically.

Any decisions by individual Portfolio Holders which constitute Key Decisions must follow the statutory requirements in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Role of Deputy Cabinet Members

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

- To ensure that the Cabinet Member is kept aware of issues which are of concern to Members, liaising with non-executive Members in order to do so.
- To provide advice and support to, and work closely alongside, the relevant Cabinet Member, liaising regularly with them upon key issues.
- To take the lead at meetings with the relevant Corporate Leadership Team officer, and other senior officers, in order to develop policies, at the direction of the Cabinet Member.
- To meet regularly with senior officers, in order to keep fully apprised of relevant service issues, including budget meetings, and to advise the Cabinet accordingly.
- To advise the Cabinet Member of relevant service issues, undertaking independent research, meeting regularly with senior officers, and keeping apprised of relevant service issues in order to do so.
- To accompany the Cabinet Member when attending overview and scrutiny committee meetings, where required, and to do so on their behalf.
- To take the lead executive role at conferences, seminars and meetings, including those of outside bodies at the request of the Cabinet Member, thereafter providing prompt feedback to the Cabinet Member and relevant officers.
- To advise the Cabinet Member upon which diary appointments would benefit from the attendance of the Deputy Cabinet Member, on those occasions when the Cabinet Member is unable to do so, ensuring that the Cabinet Member's diary is monitored for this purpose.
- To assist the Cabinet Member in establishing and maintaining professional, effective and efficient working relationships with opposition groups, Chairs of Committees, other Members, and Alternative Service Delivery Vehicles (ASDVs).
- To attend Portfolio Holder decision-making meetings and to communicate with officers, Members, and staff, as appropriate, the decisions made.
- To communicate to staff, Members, partner agencies and service users, the policies of the Council and information about excellent Council activities.

- To undertake such other roles and responsibilities as may arise, or as are allocated by the Cabinet Member, except for formal decision-making.

A Deputy Cabinet Member cannot:

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

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(D) Functions of Committees

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

- Overview and Scrutiny Committees
 - Corporate
 - Environment and Regeneration
 - Childrens and Families
 - Health and Adult Social Care and Communities
- Planning
 - Strategic Planning Board
 - Northern and Southern Planning Committees
- Public Rights of Way Committee
- Licensing Committee
- Staffing Committee
- Investigation and Disciplinary Committee
- Disciplinary Appeals Committee
- Independent Persons Panel
- Lay Members Appointment Committee
- Constitution Committee
 - Civic Sub-Committee
 - Outside Organisations Sub-Committee
 - Appeals Sub-Committee
 - Community Governance Review Sub-Committee
 - Polling Districts and Polling Places Review Sub-Committee
- Audit and Governance Committee
 - Hearings Sub Committee
- Independent Remuneration Panel
- Corporate Parenting Panel
- Health and Wellbeing Board
- Shared Services Joint Committee

OVERVIEW AND SCRUTINY COMMITTEES

1. The Council has established four overview and scrutiny committees.
 - Corporate
 - Environment and Regeneration
 - Childrens and Families
 - Health and Adult Social Care and Communities

2. The Council fully supports the role of its overview and scrutiny committees in holding the Cabinet and others to account in discharging their functions and in policy formulation. The Council believes that the important parts of the role are:
 - To assist the Council and Cabinet in reviewing its major plans, policies and strategies, which will set the climate in which the Cabinet and other decision-making bodies are required to operate;
 - To assist with policy formulation and
 - To undertake specific reviews of the Council's organisation and service provision so that improvements can be made to service delivery.

3. The Council's overview and scrutiny functions include responsibility for reviewing the health service provision within its area, health promotion and the health and well-being of local communities. The Health, Adult Social Care and Communities Overview and Scrutiny Committee will undertake the scrutiny role in relation to health service provision in the Council's area. The Committee discharges the duties imposed on the Council under the relevant Health legislation.

4. [The Overview and Scrutiny Procedure Rules](#) set out arrangements for the operation of the Overview and Scrutiny Committees.

Role of the Overview and Scrutiny Committees

5. The Overview and Scrutiny Committees:
 - will discharge the Council's functions under Section 9F of the Local Government Act 2000 (Overview and Scrutiny Committees);
 - will be responsible for the Council's scrutiny function including the preparation, implementation, monitoring and review of an annual work programme for overview and scrutiny in accordance with the objectives of the Corporate Plan and arrangements for the scrutiny of other public bodies particularly where required to do so by law;
 - may establish such task and finish groups, appointing the Chairman in accordance with the Council's criteria and with such membership as it sees fit, to undertake scrutiny on a task and finish basis;

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

- may make reports or recommendations to the appropriate body of the Council in respect of any matters which affect the Council's area or its inhabitants;
- may review and make recommendations in relation to matters which are not the direct responsibility of the Council but which affect the social, economic or environmental well-being of an area or the Council's area as a whole or under any statutory requirement or Council contract, procedure or practice;
- may give partner authority notice in writing requiring them to have regard to the report or recommendations of the Committee in exercising their functions;
- may invite expert witnesses, members, officers and partners to answer questions;
- will ensure, in conjunction with the Constitution Committee, that the Council has in place appropriate mechanisms to protect organisational integrity, including the development of appropriate policies and guidance;
- will consider and advise the Cabinet in respect of "call-in" notices under the Council's relevant procedures.

Chairs and Vice-Chairs of Overview and Scrutiny Committees

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

Membership of Overview and Scrutiny Committees

7. Overview and Scrutiny Committees will comprise 12 Members (15 for Health and Adult Social Care and Communities)

General Responsibilities of all Overview and Scrutiny Committees

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

Specific Responsibilities of Overview and Scrutiny Committees

10. The following sections set out the specific responsibilities of each Overview and Scrutiny Committee. These mirror the [portfolio responsibilities of the Cabinet Members](#). Where the Leader changes the responsibilities of the Cabinet Members, the following section of the Constitution shall be changed by the Monitoring Officer

using his/her delegated powers to ensure the specific responsibilities of each Overview and Scrutiny Committee continue to mirror the allocation of portfolios to the Cabinet Members.

Corporate Overview and Scrutiny Committee (12 members)

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

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

The Committee is also responsible for scrutinising the Council's corporate core. It is responsible for the monitoring and review of the following Cabinet portfolios: (1) Leader, (2) Finance and Communities, (3) Democratic & Public Engagement, Assurance and ICT and (4) Corporate Policy and Legal Services, and will liaise with those portfolio holders and the lead officers assigned to them.

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

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

The Committee is responsible for the monitoring and review of the following Cabinet portfolios: (1) Health and (2) Adult Care and Integration, and will liaise with those portfolio

holders and the lead officers assigned to them. The Committee will fulfil the Council's statutory responsibility to scrutinise community safety.

Environment and Regeneration Overview and Scrutiny Committee (12 Members)

The Environment and Regeneration Overview and Scrutiny Committee will fulfil the functions of an Overview and Scrutiny Committee as they relate to performance management, policy development and review. The Committee is responsible for the monitoring and review of the following Cabinet portfolios: (1) Housing and Planning, (2) Regeneration and (3) Highways and Infrastructure, and will liaise with those portfolio holders and the lead officers assigned to them.

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

Children and Families Overview and Scrutiny Committee (12 members)

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

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

PLANNING AND DEVELOPMENT CONTROL COMMITTEE STRUCTURE AND DELEGATIONS

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

Strategic Planning Board (10)

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

Northern Planning Committee (7) Southern Planning Committee (7)

with a quorum of 3.

Substitutes and Pool of Planning Substitutes

No substitutes will be allowed for committee members on the Strategic Planning Board or on the Northern or Southern Planning Committee.

STRATEGIC PLANNING BOARD

Terms of Reference

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

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

2. To exercise the Council's functions relating to town and country planning and development control, the protection of important hedgerows, the preservation of trees and the regulation of high hedges. Most of these functions are delegated to the Planning Committees and then onwards to the Director of Planning and Sustainable Development, but the following are reserved to the Board:

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

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

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

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

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

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

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

NORTHERN AND SOUTHERN PLANNING COMMITTEES

Terms of Reference

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

applications for Small Scale Major Development for

- residential developments of 100 to 249 dwellings or between 1 and 4ha
- retail or commercial/industrial or other floor space of between 5,000 and 9,999 square metres or 2-4ha.

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

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

2. To determine any other planning & development control matters

- (a) advertised as a departure from policy, which the Director of Planning and Sustainable Development is minded to approve.
- (b) submitted by a councillor, senior Council officer (Grade 12 or above) or a member of staff employed within the Development Management and Policy service area; or by an immediate family member or partner of these where representations objecting to the application have been received. Where objections have been received, applications recommended for refusal can be dealt with by officers under delegated powers.
- (c) significant applications by the Council either as applicant or land owner. This category will not normally include minor developments which accord with planning policy and to which no objection has been made.
- (d) referred up to them by a councillor in accordance with the Committees' call-in procedure. However:
 - i. Any request must be received within 15 working days of the issue of the electronic notification of the application, and set out the material planning consideration(s) which warrant the application going before committee.

- ii. Applications for householder development, listed building consents to alter/extend and conservation area consents will normally be dealt with under delegated powers.
- iii. Applications for advertisements, tree work, prior approvals, Certificates of Lawfulness and notifications will not be eligible for call in and will be dealt with under delegated powers.
- iv. There will be a presumption that a call in request by a local ward member will be agreed where applications are for the renewal (or extension of time) of extant, unimplemented permissions.

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

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

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PUBLIC RIGHTS OF WAY COMMITTEE

Membership: 7 Councillors.

Functions:

The Public Rights of Way Committee shall

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

LICENSING

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

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

SCHEDULE OF FUNCTIONS

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

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

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

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

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

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

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

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

GENERAL LICENSING SUB-COMMITTEE

All functions relating to:-

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

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

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

STAFFING COMMITTEE

Membership: 8 Members

1. Statement of Purpose and Functions

1.1 The Staffing Committee is a key component of the Council's corporate governance. It provides an independent and high level focus on Human Resources, Organisational Development and Health & Safety matters affecting the Council.

1.2 The purpose of the Staffing Committee is:-

(a) to provide independent assurance to the members of the adequacy of the HR service and staffing related matters,

(b) with regard to the designated Head of Paid Service, Monitoring Officer and Section 151 Officer (Statutory Officers):

- To undertake the recruitment and selection process in accordance with the Staff Employment Procedure Rules; and
- Make a recommendation to the Council to approve the proposed appointment before an offer of appointment is made to that person.

(c) appoint/dismiss the Statutory Chief Officers, namely:

- The Executive Director of People and Deputy Chief Executive (Director of Children's Services);
- Strategic Director of Adult Social Care and Health (Director of Adult Social Services); and
- Director of Public Health.

including undertaking the recruitment and selection process.

(d) to appoint/dismiss the Executive Director of Place including undertaking the recruitment and selection process.

(e) to approve "in year" salary or other benefit increases to the Head of Paid Service provided that this is within the agreed annual pay policy.

HR Policies

3 To have the opportunity to review the Council's HR Policies and Procedures as required and to make recommendations to the Portfolio Holder. It is noted that the authority to approve HR Policies and Procedures remains with the Executive

4 To make recommendations to Council in relation to the annual Pay Policy

Statement and any amendments to such statement.

- 5.3 To make recommendations to Council in relation to decisions affecting the remuneration of any new post whose remuneration is or is proposed to be or would become **£100,000 p.a. or more**, unless the remuneration for the post is already included within the Council's annually approved Pay Policy Statement,
- 5.4 To make decisions in relation to proposed severance packages with a value of £100,000 or more as appropriate (including any pension strain).
- 5.5 To exercise the functions relating to local government pensions, so far as they relate to Regulations made under sections 7, 12, or 24 of the Superannuation Act 1972 or subsequent equivalent legal provisions.

Appeals

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

Organisational Performance

- 7 To receive regular updates on performance information in order to assess the effectiveness of current Human Resources Organisational Development and Health & Safety policies and practices .These will include as a minimum:
- Appeals against dismissal
 - Headcount Data
 - Sickness Absence
 - Turnover
 - HR Casework (including disciplinary, grievance and capability)
 - Health and Safety Accidents Records
 - Health and Safety Training

INVESTIGATION AND DISCIPLINARY COMMITTEE

Membership: 7 Members

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

1.0 Statement of Purpose and Functions

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

3.0 Procedure for Investigation and Disciplinary Committee

Investigation

- 3.1 It is in the interests of all parties that the proceedings be conducted expeditiously and fairly.
- 3.2 In the exercise of its function, the Committee is to receive and consider any complaint/allegations made. It may:
- make such enquiries of the relevant officer or any other person as it considers appropriate
 - request additional information, explanations or documents from any person
 - Invite or receive representations from any person.
- 3.3 The Committee having carried out such steps as it considers appropriate and having heard representations from the DSO or his or her adviser shall decide whether the issues;
- a) require no further formal action, or
 - b) should be referred to an II
- 3.4 In considering whether the threshold in deciding to appoint an II has been met the Committee will assess whether:
- if the allegations are proved it would be such as to lead to the dismissal or other action which would be recorded on the DSO's personal file; and
 - there is evidence in support of the allegation/issue sufficient to require further investigation.
- 3.5 In deciding whether the threshold for the appointment of an II has been reached the Committee may carry out such preliminary investigations as it considers appropriate or necessary or authorise officers to do so. This shall be solely for the purpose of establishing whether or not the threshold for appointing an II to carry out an investigation has been met.
- 3.6 Before deciding to appoint an II or suspend a DSO the Committee shall invite the representations of the DSO unless it is impracticable to do so. The DSO shall have the right to be accompanied at the Committee Meeting.

Receiving the II's Report/ Hearing

- 3.7 The Committee should receive any report produced by an II in relation to a DSO within one month of the receipt of the report by the Council.
- 3.8 The DSO shall have the right to attend and be accompanied at the Committee Meeting which considers the II's report.

- 3.9 The Committee shall consider the II's report and shall invite representations from the DSO and/or his/her representative. The Committee may impose disciplinary sanctions as set out in the Council's disciplinary procedures, the JNC Terms and Conditions Handbook for Chief Officers and the JNC Terms and Conditions Handbook for Chief Executives. In conducting any hearing the Committee shall have regard to the model disciplinary procedure in the JNC handbook for Chief Executives.

Decision

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

Suspension

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

Access to Information

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

Access to Advice and Representation

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

DISCIPLINARY APPEALS COMMITTEE

Membership: 7 Members

The Committee shall be politically balanced, shall consist of 7 Members of the Council at least 1 member of the committee shall be a member of the Cabinet. No member who was a member of the Investigation and Disciplinary Committee making the decision which is the subject of the appeal may be a member of the Disciplinary Appeals Committee. Members of the committee must have completed mandatory training.

1.0 Statement of Purpose

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

2.0 Procedure for the Disciplinary Appeals Committee

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

3.0 Access to Information

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

4.0 Access to Advice and Representation

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

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

DRAFT

INDEPENDENT PERSONS PANEL

1.0 Statement of Purpose and Functions

- 1.1 The Independent Persons Panel is an advisory committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of the officers designated as the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer (together the “Designated Statutory Officers” or “DSOs”) in accordance with Schedule 3 to The Local Authorities (Standing Orders) (England) Regulations 2001.
- 1.2 The Panel must be convened having invited at least two of the Independent Persons appointed under section 28(7) of the Localism Act 2011 (to advise on member conduct allegations) by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.
- 1.3 It shall be for the Monitoring Officer to invite the Council’s current Independent Persons (being those persons appointed to advise on member conduct complaints under the Localism Act 2011) and if necessary one or more of the Independent Persons of neighbouring authorities (following consultation with the Monitoring Officers of those authorities), to be considered for appointment to the Independent Persons Panel. [It shall be for the Constitution Committee to confirm appointments to the Independent Persons Panel.]
- 1.3 The Panel will be appointed from those Independent Persons who have accepted an invitation to be considered for appointment, in accordance with the following priority order—
 - (a) an Independent Person who has been appointed by the authority and who is a local government elector in the Council’s area;
 - (b) any other Independent Person who has been appointed by the authority;
 - (b) an Independent Person who has been appointed by another authority or authorities.
- 1.4 One or more reserve members will be appointed to the Panel from Independent Persons who have been appointed under section 28(7) of the Localism Act 2011 by the authority or by another authority or authorities. A reserve member will take the place of any member of the Panel who is unable to act for the duration of the Panel meeting in question, or any adjournment of it. If more than one reserve member is available for the meeting then selection will be by the alphabetical order of their surnames so long as it does not conflict with the priority order set out in 1.3 above.
- 1.5 The appointment of a Panel Member to preside at the meeting will be the first item of business at each Independent Persons Panel meeting. Where there are equal votes cast at a meeting on any matter the Chairman may exercise a second or

casting vote.

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

2.0 Terms of reference

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

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

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

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

DRAFT

LAY MEMBERS APPOINTMENTS COMMITTEE

Membership: 5 Members

Terms of Reference of the Committee

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

DRAFT

CONSTITUTION COMMITTEE

Membership: 14 Members

Terms of Reference

The Constitution Committee is responsible for:

1. overseeing, monitoring, co-ordinating and implementing the Council's administrative and political business, including electoral matters; administrative boundaries and parishing; support for and facilities for Members, including Members' learning and development and party groups for the purpose of their duties as councillors; and administrative arrangements for and the conduct of the Council and other meetings;
2. determining policies and conventions in relation to the political management of the Council, including statutory requirements concerning political balance and rights to information;
3. reviewing the Council's Constitution and recommending any changes to the Council, except that:

the Committee may make any changes which are not major, subject to the Monitoring Officer and the s.151 Officer agreeing that the proposed changes are not major and to Council subsequently being informed of such changes. Changes that are considered by the Committee and agreed by the Monitoring Officer and the s.151 Officer to be major shall be referred to Council for approval.

4. advising the Council on, and overseeing the promotion of private legislation on behalf of the Council;
5. recommending to the Council, as appropriate, the appointment of Members to Committees and Sub-Committees (including any co-opted members other than in respect of overview and scrutiny committees);
6. appointing representatives to serve on outside bodies and organisations (including education bodies and establishments) not falling to the Cabinet to appoint;
7. overseeing and monitoring the Members' Allowance budget and keeping under review the scheme for the payment of allowances to Members through the appointment of an Independent Remuneration Panel to advise the Council on the adoption of the scheme and on any proposed amendments;
8. approving annual conference and seminar attendance;
9. making recommendations to the Council on civic issues, including those affecting the Mayor, Freeman and Aldermen;
10. approving reasons for absence for Members;

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

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

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

DRAFT

Civic Sub-Committee

Membership: 8 Members

Functions:

The Sub-Committee is responsible for:

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

Outside Organisations Sub-Committee

Membership: 6 Members

Functions:

The Sub-Committee is responsible for

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

DRAFT

Appeals Sub-Committee

Membership: 5 Members drawn from a pool of 10

Functions:

The Sub-Committee is responsible for:

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

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Community Governance Review Sub-Committee

Membership: 6 Members

Functions:

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

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Polling Districts and Polling Places Review Sub-Committee

Membership: 6 Members

Functions:

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

DRAFT

AUDIT AND GOVERNANCE COMMITTEE

Membership: 11 Members

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

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

Statement of Purpose

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

Functions

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

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

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

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

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

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

HEARINGS SUB-COMMITTEE

Membership:

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

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

Functions:

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

Query if the Initial Assessment Panel and Local Resolution Panel are standing bodies or convened as and when needed. If the former, their membership and terms of reference need to be included here.

INDEPENDENT REMUNERATION PANEL

Membership: 4 members (the minimum is 3 members)

Functions:

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

To make recommendations to the Council:

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

CORPORATE PARENTING COMMITTEE

Membership: 12 Members

Functions:

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

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

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

Purpose

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

Terms of Reference

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

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

Governance

The Committee will:

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

Administration

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

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

CHESHIRE EAST STATUTORY HEALTH AND WELLBEING BOARD

Membership:

The Core membership of the CEHWB will comprise the following:

Voting members:

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

Non-voting members

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

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

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

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

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

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

Functions:

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

Roles and Responsibilities of CEHWB members:

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

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

4. Accountability

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

5. Frequency of Meetings

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

6. Agenda and Notice of Meetings

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

7. Annual General Meeting

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

8. Quorum

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

9. Procedure at Meetings

- 9.1 General meetings of the CEHWB are open to the public and in accordance with the Council's Committee Procedure Rules will include a Public Question Time Session. Papers, agendas and minutes will be published on the Cheshire East Health and Wellbeing website.
- 9.2 The Council's Committee Procedure Rules will apply in respect of formal meetings subject to the following:-
- 9.3 The CEHWB will also hold development/informal sessions throughout the year where all members are expected to attend and partake as the agenda suggests.

9.4 Core Members are entitled to speak through the Chairman. Associate Members are entitled to speak at the invitation of the Chairman.

9.5 With the agreement of the CEHWB, subgroups can be set up to consider distinct areas of work. The subgroup will be responsible for arranging the frequency and venue of their meetings. The CEHWB will approve the membership of the subgroups.

9.6 Any subgroup recommendations will be made to the CEHWB who will consider them in accordance with these terms of reference and their relevance to the priorities within the Joint Health and Wellbeing Strategy and its delivery plan.

9.7 Whenever possible decisions will be reached by consensus or failing that a simple majority vote by those members entitled to vote.

10. Expenses

10.1 The partnership organisations are responsible for meeting the expenses of their own representatives.

10.2 A modest CEHWB budget will be agreed annually to support engagement and communication and the business of the CEHWB.

11. Conflicts of Interest

11.1 In accordance with the Council's Committee Procedure Rules, at the commencement of all meetings all CEHWB Members shall declare disclosable pecuniary or non-pecuniary interests and any conflicts of interest.

11.2 In the case of non pecuniary matters Members may remain for all or part of the meeting, participate and vote at the meeting on the item in question.

11.3 In the case of pecuniary matters Members must leave the meeting during consideration of that item.

12. Conduct of Members at Meetings

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

13. Review

13.1 The above terms of reference will be reviewed every two years at the CEHWB AGM.

13.2 Any proposed amendments shall be referred to the Constitution Committee and Council.

JOINT ARRANGEMENTS

SHARED SERVICES JOINT COMMITTEE

TERMS OF REFERENCE OF THE JOINT COMMITTEE

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

- 2.13 Ensuring that effective risk management arrangements are in place, that the services are subject to adequate and independent audit and that any audit recommendations are acted upon
- 2.14 Maintaining an up to date list of the respective Chief Officers and supporting them in the performance of their duties
- 2.15 Resolving issues that have been referred to the Joint Committee by Chief Officers
- 2.16 Providing an Annual Report to each of the two Councils.

CONSTITUTION OF THE JOINT COMMITTEE

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

- 9 The Council hosting the first Meeting shall appoint one of its nominated members as Chair and that member shall remain Chair until the first meeting taking place after the elapse of one year from the time of his or her appointment unless he or she ceases to be a Member of the Joint Committee. On the expiry of the first Chair's term of office, the Council which did not appoint the first Chair shall appoint one of its nominated members as Chair for a period of one year from the date of his or her appointment. The same procedure shall be followed for the appointment of Chair in subsequent years.
- 10 The Council which has not appointed the Chair of the Joint Committee In any year shall appoint one of its nominated Members as Vice Chair.

CHESHIRE POLICE AND CRIME PANEL

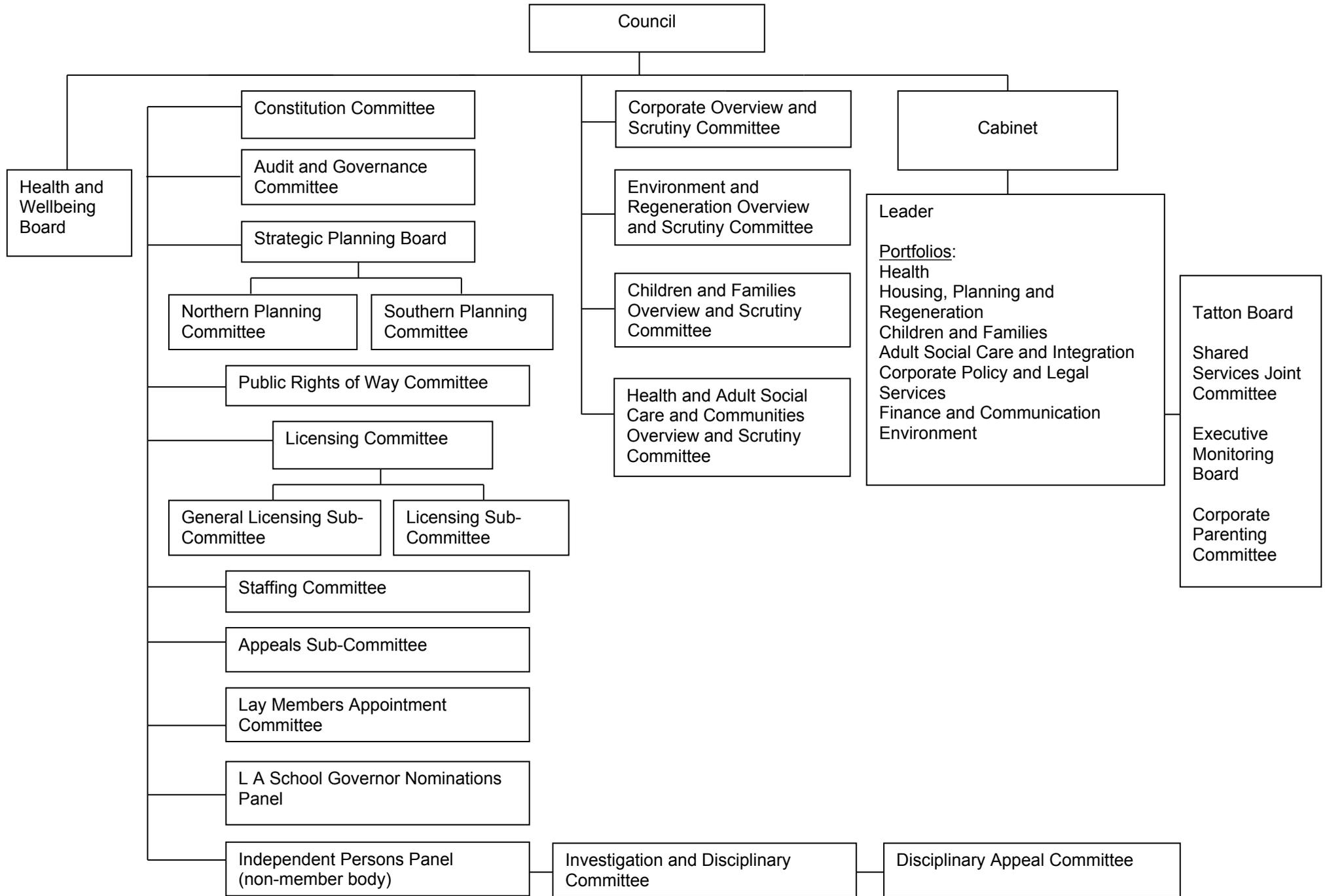
TERMS OF REFERENCE

The Terms of Reference for the [Cheshire Police and Crime Panel](#) can be accessed on its own website.

Any further Joint Arrangements to be included here

Part E to be added here – Scheme of Officer Delegation (work package 3)

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Constitution Sub-Committee

Date of Meeting:	3 rd November 2017
Report of:	Acting Director of Legal Services & Monitoring Officer
Subject/Title:	Review of the Constitution – Work Package 3:
	Decision-making: Officer Scheme of Delegation

1.0 Report Summary

- 1.1 To consider the draft revised Constitution for Work Package 3 and Explanatory Note (Schedule of Substantive Issues).
- 1.2 The Explanatory Note (Schedule of Substantive Issues) is attached at Appendix A. The redrafted element of the Constitution: Work Package 3 – Decision-making: Officer Scheme of Delegation (New Constitution Section 2 (e)) is attached as Appendix B. Members are asked to consider both documents and make appropriate recommendations to the Constitution Committee.
- 1.3 The completed section presented in this report is a ‘final draft’ and ready for approval for submission to Constitution Committee on 30th November 2017.
- 1.4 All remaining sections will be brought to the next Constitution Sub-Committee on 17th November 2017 for consideration.

2.0 Recommendations

- 2.1 That the Constitution Sub-Committee:
 - 2.1.1 Notes the content of this report and the significant progress made
 - 2.1.2 Recommends that the Constitution Committee approves the proposed Substantive Issues as set out in Appendix A: Explanatory Note (Schedule of Substantive Issues) Sections I & II
 - 2.1.3 Makes a recommendation to Constitution Committee in respect of each individual issue as set out in Appendix A: Explanatory Note (Schedule of Substantive Issues) Section III
 - 2.1.4 Recommends that the Constitution Committee approves the revised draft of Section 2 (e) of the Constitution (Work Package 3) as set out in Appendix B and the accompanying Explanatory Note (Schedule of Substantive Issues), subject to the specific responses to 2.1.2 and 2.1.3 above.

3.0 Reasons for Recommendations

- 3.1 To implement the decision of the Constitution Committee on 4th August 2017.

4.0 Detailed Proposals

- 4.1 It was agreed at Constitution Sub-Committee on 23rd August 2017 to break the review of the Constitution into five 'Work Packages', with a Lead Member and Lead Officer to lead each relevant working groups, as set out below:

- 4.1.1 Work Package 1 – The overall style and presentation of the Constitution

This Work Package was approved by the Constitution Sub-Committee on 15th September 2017 without the need for a separate Working Group.

- 4.1.2 Work Package 2 – Decision-making: Terms of Reference of Member Bodies

Lead Member: Cllr. Gordon Baxendale

Lead Officer: Daniel Dickinson

- 4.1.3 Work Package 3 – Decision-making: Officer Scheme of Delegation**

Lead Member: Cllr. Nick Mannion

Lead Officer: Daniel Dickinson

- 4.1.4 Work Package 4 – Procedure Rules

Lead Member: Cllr. Andrew Martin

Lead Officer: Brian Reed

- 4.1.5 Work Package 5 – Codes & Protocols

Lead Member: Cllr. Barry Burkhill

Lead Officer: Brian Reed

- 4.2 As agreed at Constitution Committee on 5th October 2017, this report makes recommendations in respect of the proposed redrafted Constitution with regard to Work Package 2. The redrafting has been conducted by the Council's independent legal advisor, Bevan Brittan, based upon its own expertise and experience as well as detailed feedback obtained through a wide-ranging Member and officer engagement process.

- 4.3 A comprehensive Explanatory Note (List of Substantive Issues) to the redrafted section has also been prepared, attached at Appendix A. This summarises the Substantive Issues being recommended in that section as part of the redrafting process, and the reasons for them.

4.4 Bevan Brittan, in consultation with officers on the project team, has used its discretion, exercised with caution, in listing those matters considered substantive and worthy of inclusion in the Explanatory Note (List of Substantive Issues). In doing so, it has been mindful of comprehensive feedback from Members received through the consultation process (including the joint Member/officer workshop on 31st August 2017, participation in the Working Groups and several informal 'drop-in' sessions), all of which has been logged and considered.

4.5 Changes have been classified as follows:

- Section I – Substantive Issues required by law for approval
- Section II – Substantive Issues based on best practice recommended for approval
- Section III – Substantive Issues for consideration by the Sub-Committee

4.6 The redrafted element of the Constitution is presented as follows:

- Work Package 3 – Decision-making: Officer Scheme of delegation Bodies (New Constitution Section 2 (e))

4.7 This is attached at Appendix B.

5.0 Wards Affected and Local Ward Members

5.1 All wards are affected.

6.0 Policy Implications

6.1 Policy Implications are unchanged from the position set out in the report to Constitution Committee on 4th August 2017.

7.0 Access to Information

7.1 The Constitution Committee papers of 4th August 2017 and 5th October 2017 relate.

8.0 Contact:

Name: Daniel Dickinson

Designation: Acting Director of Legal Services & Monitoring Officer

Tel No: 01270 685814

Email: daniel.dickinson@cheshireeast.gov.uk

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Cheshire East Council – New Constitution

Explanatory note – List of Substantive Issues

Part 2 (E) Responsibility for Functions – Officer Delegations/Scheme of Delegation

Structure of Part 2 (E)

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

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

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

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

Substantive Changes

This Part is a fundamental rewriting of what was previously in Part 3 of the old constitution – Scheme of Delegation to Statutory Officers and Statutory and Proper Officer Procedure Rules

We describe the changes that we have made in three categories:

- I. Substantive changes required by law for approval
- II. Substantive changes based on best practice recommended for approval
- III. Substantive changes for consideration by the Sub-Committee

I. Substantive changes required by law for approval – None for this Part.

II. Substantive changes based on best practice recommended for approval

Page	Section	Comment and/or area for consideration
2	Introduction	<p>The current constitution defines the Chief Officers as being:</p> <ul style="list-style-type: none"> • Chief Executive • Executive Director People and Deputy Chief Executive • Chief Operating Officer (Section 151 Officer) • Executive Director Place • Strategic Director of Adult Social Care and Health • Director of Legal Services (Monitoring Officer) <p>We have redefined the Chief Officers as:</p> <ul style="list-style-type: none"> • Executive Director (People) • Executive Director (Place) • Chief Operating Officer • Section 151 Officer • Monitoring Officer <p>Note that we have listed the COO and the Section 151 Officer separately to accommodate the reality that although they may be performed by the same person, this is not always the case.</p>
4	General Principles relating to Officer Delegation	<p>This section has been completely re drafted, taking best practice from the previous Constitution and making the remit of officers exercising delegated powers much clearer to ensure transparency and accountability.</p> <p>A number of provisions make it more future proof –</p>

Page	Section	Comment and/or area for consideration
		<ul style="list-style-type: none"> • the delegation will apply to the post-holder with the relevant functions so the Constitution will not need updating if changes are made to job titles/roles • the delegation is not linked to named statutes/legal provisions but to areas of service responsibility. <p>There are changes to the obligations for consultation by officers exercising their delegated powers. In the new Office Scheme of Delegation the relevant wording now states as follows:-</p> <p>"An officer in exercising delegated powers may consult the relevant portfolio holder or chair of committee if he/she considers it appropriate to do so and shall consult other officers for professional advice including legal, financial and technical officers and shall have regard to any views and advice received".</p> <p>This approach is in accordance with the principle agreed by the Constitution Committee i.e. to</p> <ul style="list-style-type: none"> • delegate decision-making to the most appropriate level with the right checks, balances and scrutiny
8, 16	Proper Officer functions	<p>In the current Constitution this is somewhat dispersed.</p> <p>The revised Constitution consolidates this at the highest level within the organisation i.e. Chief Executive/Head of Paid Service, with the facility for explicit delegation down the organisation as required.</p>

III. Substantive changes for consideration by the Sub-Committee – none for this Part

Cheshire East Council

New Constitution

Part 2 (e)

Responsibility for Functions – Officer Delegations Scheme of Delegation

1 INTRODUCTION

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

Section	Title	Contents
1	Introduction	Sets out what this Part of the Constitution (the "Scheme of Delegation") covers and relevant definitions
2	General Principles	Sets out the general principles which apply to all decision making by officers
3	General Delegations to all Chief Officers	Sets out the delegations which apply to all officers called "Chief Officers"
4	Delegations to the Chief Executive/Head of Paid Service	Sets out the delegations which apply to this officer
5	Delegations to the Executive Director (People)	Sets out the delegations which apply to this officer
6	Delegations to the Executive Director (Place)	Sets out the delegations which apply to this officer
7	Delegations to the Chief Operating Officer	Sets out the delegations which apply to this officer
8	Delegations to the s.151 Officer	Sets out the delegations which apply to this officer

Section	Title	Contents
9	Monitoring Officer	Sets out the delegations which apply to this officer
10	Proper Officer arrangements	Sets out the legal requirements for "proper officers", what this means and a link to the Proper Officer Register

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

by fewer than five officers, depending on the officer arrangements in place at any time.

- 1.11 There are also a number of formal functions which the Council has to allocate to named officers called "Proper Officers". There is a [Proper Officer Register](#) which sets out these details.
- 1.12 Click to see the [current organisational structure](#) of the Council, showing more detail about the roles and responsibilities of the Chief Officers and the officers supporting them to deliver all the Council's services.

2 GENERAL PRINCIPLES RELATING TO OFFICER DELEGATION

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

- 2.6 Any power delegated or cascaded under this Scheme can be exercised by the relevant Chief Officer or Statutory Officer and in all cases by the Chief Executive personally.
- 2.7 The powers of this Scheme are delegated to the officers referred to by title within this Scheme of Delegation. So the delegations apply to whoever holds that post title at any time – not to the individual person. The powers are automatically transferred to any successor officer, to whom the functions are allocated following any reorganisation of the Council's management arrangements, irrespective of a change in the title/name of the officer post.
- 2.8 Delegations relate to all provisions for the time being in force under any applicable legislation and cover executive, non-executive and local choice functions of the Council and all powers and duties incidental to that legislation.
- 2.9 Any delegation must be exercised:-
- 2.9.1 In compliance with all the Council's Procedure Rules, the Pay Policy Statement approved annually and the Officer Code of Conduct;
 - 2.9.2 In accordance with the decision-making requirements set out in the Constitution including requirements for decision-records and access to information;
 - 2.9.3 Having identified and managed appropriate strategic and operational risks within the officer's area of responsibility;
 - 2.9.4 Within the approved budget and policy framework approved by the Council (or separate approval must be sought) and
 - 2.9.5 Following any appropriate legislative, regulatory, consultation, equalities or procedural requirements that may be required.
- 2.10 An officer, in exercising delegated powers may consult the relevant portfolio holder or chair of committee if he/she considers it appropriate to do so and shall consult other appropriate officers for professional advice including legal, financial and technical officers and shall have regard to any views and advice received.
- 2.11 Whenever legislation is amended or replaced by new provisions, then the relevant delegated authority in this scheme applies to those new provisions. Whenever new legislation relevant or related to the functions exercised by the Chief Officer is introduced, that Officer will have the delegated authority to exercise powers or otherwise take action under that legislation until such time as the Council, Cabinet, a committee or the Chief Executive decides to whom to allocate responsibility for the new legislation.
- 2.12 Chief Officers may appoint another officer as their deputy and such deputy shall have all the powers of a Chief Officer as set out in this Constitution. A deputy may be appointed in relation to all the areas of service delegated to the Chief Officer under this Constitution or in relation to a particular area of service only. A deputy may be appointed for a specific period of time (for example to cover the absence of a Chief Officer) or without time limitation. The appointment of a deputy shall not

prevent the exercise by the Chief Officer of any delegation set out in this Constitution.

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

3 GENERAL DELEGATIONS TO ALL CHIEF OFFICERS

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

Urgent action

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

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

Implementation of decisions

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

General Operational

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

Consultation

- 3.5 To undertake and consider the outcome of statutory and non-statutory consultations on service provision.
- 3.6 To respond to Government Consultations and consultations from other bodies, in consultation with the relevant Portfolio Holder(s) or committee chairman.
- 3.7 To undertake all steps required to complete Government Statistical Returns.

Finance

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

Staffing

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

Land and assets

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

Legal authorisation and enforcement

- 3.17 To authorise officers possessing such qualifications as may be required by law and where Chief Officers are satisfied that appropriate training has been undertaken, to:-
- 3.17.1 take samples, carry out inspections or surveys, enter land and premises and generally perform the functions of and/or act as a duly authorised, officer of the Council (howsoever described);
 - 3.17.2 issue certificates of authority or certify copies of documents;
 - 3.17.3 enforce the requirements of legislation and
 - 3.17.4 instruct the Monitoring Officer to consider whether or not legal proceedings to enforce the requirements of legislation are appropriate.
- 3.18 With the approval of the Monitoring Officer, to:-
- 3.18.1 authorise the issue and service of requisitions for information, any notice, order or direction;
 - 3.18.2 approve or issue any licence which may be required or authorised by or under any legislation or byelaws (not otherwise mentioned in this scheme of delegation);
 - 3.18.3 authorise the institution of legal and quasi-legal proceedings and/or other action (including debt recovery) as is considered necessary to protect the interests of the Council and
 - 3.18.4 sign certificates for contracts
- 3.19 To exercise the role of authorising officer and designated person under the Regulation of Investigatory Powers Act 2000.

Safeguarding children and vulnerable adults

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

4 DELEGATIONS TO THE CHIEF EXECUTIVE/HEAD OF PAID SERVICE

- 4.1 The Chief Executive is the most senior officer in the Council. It is his/her role to support the Councillors and to provide leadership for the Council.
- 4.2 The Chief Executive is empowered to operate all the services of the Council and except where powers, duties and functions are delegated to a councillor decision-making body or Cabinet member, to exercise all powers, duties and functions of the Council, including those delegated to other officers.
- 4.3 Every Council has to, by law, appoint one of its officers as the Head of Paid Service. The Chief Executive is also the Council's Head of Paid Service. His/her responsibility in this role is to make proposals to the Council about the manner in which the discharge of the Council's functions is co-ordinated and the numbers, grades and organisation of staff required and the proper management of those staff.
- 4.4 The Chief Executive is given delegated power to undertake the following roles and responsibilities and to take the following decisions subject to the terms of this Constitution:-
- 4.4.1 To be the Council's principal officer representative and to promote its good image and reputation;
 - 4.4.2 To lead and direct the strategic management of the Council;
 - 4.4.3 To appoint other officers as Proper Officers for the purposes of any specific Council service area or function
 - 4.4.4 Unless another officer is appointed as Proper Officer by the Monitoring Officer under 9.4.1. above, or by the Council itself, to act as Proper Officer for the Council for the purposes of all Council service areas and functions
 - 4.4.5 To maintain an up to date Proper Officer Register showing who is appointed to act as the Proper Officer for all Council service areas and functions
 - 4.4.6 To exercise any executive functions where the Council does not have a Leader and Deputy Leader in office;
 - 4.4.7 To discharge emergency planning and civil protection functions;
 - 4.4.8 To take such steps (including the incurring of expenditure where necessary) as may be required in the event of any national or local emergency requiring immediate action by the Council;
 - 4.4.9 To sign settlement agreements for employees/ex-employees, in consultation with the Leader of the Council and Chairman of the Staffing Committee;
 - 4.4.10 Subject to 4.4.6 above, to approve the pay, terms and conditions of service and training of any employee except where an approval would be contrary to the provisions of the annual Senior Officer Pay Policy

Statement which is reserved to full Council or where an approval falls within the responsibilities of the Staffing Committee or would be contrary to the employment policies of the Council;

- 4.4.11 To make decisions affecting the remuneration of any existing post whose remuneration is or is proposed to be or would become [£100,000 p.a.] or more in consultation with the Leader and Chairman of the Staffing Committee;
- 4.4.12 To undertake the communications, marketing and media functions of the Council with regard to policy and strategic direction (operational responsibility rests with the Chief Operating Officer).

5 DELEGATIONS TO THE EXECUTIVE DIRECTOR (PEOPLE)

- 5.1 The Executive Director (People) holds a number of statutory roles for the Council
- 5.1.1 the Director of Children's Services (required by Section 18 of the Children Act 2004)
- 5.1.2 the Chief Education Officer (required by Section 532 of the Education Act 1996) and
- 5.1.3 the Director of Adult Services (required by Section 6 of the Local Authority Social Services Act 1970)
- 5.2 The Executive Director (People) is given delegated power to take any decisions in relation to the following areas of the Council's operations and services, subject to the terms of this Constitution.

• Children and Families

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

• Adult Social Care

- Adult Social Care Services
- Care4CE (internal care provision)
- Mental Health and Learning Disability Services
- Professional Social Work Standards

- Social Work Support
- Deprivation of Liberty Safeguards

- **Public Health**

- Public Health Commissioning
- Health Improvement
- Public Health Protection

- **Adults Commissioning**

- **Community and Partnerships**

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

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6 DELEGATIONS TO THE EXECUTIVE DIRECTOR (PLACE)

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

- **Planning and Sustainable Development**

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

- **Infrastructure and Highways**

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

- **Growth and Regeneration**

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

- **Rural and Green Infrastructure**

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

- **Client Commissioning (Alternative Service Delivery Vehicles)**

- Civicance
- Skills and Growth
- Engine of the North
- Transport Service Solutions
- Tatton Park Enterprises

7 DELEGATIONS TO THE CHIEF OPERATING OFFICER

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

• **Legal and Democratic Services**

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

• **Finance and Performance**

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

• **Professional Services**

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

• **ICT Services**

• **Human Resources**

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

• **Customer Operations**

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

• **Client Commissioning (Alternative Service Delivery Vehicles)**

- Everybody Sport and Recreation
- ANSA
- Orbitas

8 DELEGATIONS TO THE SECTION 151 OFFICER

8.1 The section 151 officer is:

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

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

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

9 DELEGATIONS TO THE MONITORING OFFICER

- 9.1 The Monitoring Officer is appointed in accordance with Section 5 of the Local Government and Housing Act 1989 and is responsible for supporting and advising the Council in relation to
- the lawfulness and fairness of the decision making of the Council
 - the Council's compliance with its legal responsibilities and requirements and
 - matters relating to the conduct of elected Councillors
- 9.2 The Monitoring Officer will provide advice to ensure that decisions are taken on proper authority, by due process, and in accordance with the budget and policy framework.
- 9.3 The Monitoring Officer shall, where necessary, and in consultation with the Head of Paid Service and the section 151 officer, report any proposal, decision or omission considered to be unlawful or to amount to maladministration to the Council or the Executive, as appropriate in accordance with Section 5 of the Local Government and Housing Act 1989.
- 9.4 The Monitoring Officer shall have the following delegated powers and responsibilities:-
- 9.4.1 To authorise the settlement of actual or potential uninsured claims or Local Government Ombudsman cases across all functions of the Council up to **£5000** (claims above this level shall be determined by the relevant Portfolio Holder)
 - 9.4.2 To prosecute, defend, make application, serve any notice or appear on behalf of the Council in any Court, Tribunal or hearing on any criminal, civil or other matter (including appeals).
 - 9.4.3 To institute legal proceedings for any offences under any local Byelaws or Orders in force within the Council's area
 - 9.4.4 To lodge objections to any proposal affecting the Council's interests.
 - 9.4.5 To determine applications for the display of the crest or logo of the Council.
 - 9.4.6 To take all action including the completion of agreements, the service of notices, giving of directions, obtaining or issuing orders, authorising the execution of powers of entry, and the institution and defence of legal proceedings necessary or desirable to protect and advance the interests of or discharge the roles, functions and responsibilities of the Authority.
 - 9.4.7 To make discretionary payments under Land Compensation Act 1973 on the recommendation of the District Valuer

- 9.4.8 In accordance with the Council's approved policy to monitor the integrity of the operation of the Regulation of Investigatory Powers Act 2000 by:
- Ensuring compliance with all relevant legislation and with the Codes of Practice.
 - Engagement with the Inspectors from the Office of the Surveillance Commissioner when they conduct their inspections, and, where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.
 - Monitoring authorisations and conducting a quarterly review of applications, authorisations and refusals, and reviewing renewals and cancellations.
- 9.4.9 To make Orders for the Temporary Closure of Highways and Regulation of Traffic.
- 9.4.10 To attest the affixing of the Council's seal to all documents approved for sealing.
- 9.4.11 To authorise appropriate Officers to administer formal cautions in respect of criminal offences.
- 9.4.12 To determine whether a particular claim for payment under the Members Allowances Scheme is appropriate
- 9.4.13 To authorise appropriately qualified employees or persons acting on behalf of the Council:
- 9.4.14 To appear in, and conduct legal proceedings in, any Court or Tribunal on behalf of the Authority;
- 9.4.15 To prove debts owed to the Authority in bankruptcy and liquidation proceedings.
- 9.4.16 In consultation with the Chairman and Vice-Chairman of the Constitution Committee, to make such changes to the Council's Constitution as he/she deems to be necessary and which are in the Council's interests and not major in nature, including, but not limited to, changes:-
- amounting to routine revisions;
 - to provide appropriate clarity;
 - to correct typographical and other drafting errors;
 - to reflect new legislation;
 - to correct inconsistencies in drafting;
 - to reflect new officer structures and job titles, properly approved through Council processes.

10 ARRANGEMENTS FOR PROPER OFFICER FUNCTIONS

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

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Constitution Sub-Committee

Date of Meeting: 3rd November 2017

Report of: Acting Director of Legal Services & Monitoring Officer

Subject/Title: Review of the Constitution – Work Package 4:
Procedure Rules

1.0 Report Summary

- 1.1 To consider the draft revised Constitution for Work Package 4 and Explanatory Note (Schedule of Substantive Issues).
- 1.2 The Explanatory Note (Schedule of Substantive Issues) is attached at Appendix A. The redrafted element of the Constitution: Work Package 4 – Procedure Rules (New Constitution Section 3) is attached as Appendix B. Members are asked to consider both documents and make appropriate recommendations to the Constitution Committee.
- 1.3 The completed sections presented in this report is a 'draft' and ready for approval for submission to Constitution Committee on 30th November 2017.
- 1.4 All remaining sections will be brought to the next Constitution Sub-Committee on 17th November 2017 for consideration.

2.0 Recommendations

- 2.1 That the Constitution Sub-Committee:
 - 2.1.1 Notes the content of this report and the significant progress made
 - 2.1.2 Recommends that the Constitution Committee approves the proposed Substantive Issues as set out in Appendix A: Explanatory Note (Schedule of Substantive Issues) Sections I & II
 - 2.1.3 Makes a recommendation to Constitution Committee in respect of each individual issue as set out in Appendix A: Explanatory Note (Schedule of Substantive Issues) Section III
 - 2.1.4 Recommends that the Constitution Committee approves the revised draft of Section 3 of the Constitution (Work Package 4) as set out in Appendix B and the accompanying Explanatory Note (Schedule of Substantive Issues), subject to the specific responses to 2.1.2 and 2.1.3 above.

3.0 Reasons for Recommendations

- 3.1 To implement the decision of the Constitution Committee on 4th August 2017.

4.0 Detailed Proposals

- 4.1 It was agreed at Constitution Sub-Committee on 23rd August 2017 to break the review of the Constitution into five 'Work Packages', with a Lead Member and Lead Officer to lead each relevant working groups, as set out below:

4.1.1 **Work Package 1 – The overall style and presentation of the Constitution**

This Work Package was approved by the Constitution Sub-Committee on 15th September 2017 without the need for a separate Working Group.

4.1.2 **Work Package 2 – Decision-making: Terms of Reference of Member Bodies**

Lead Member: Cllr. Gordon Baxendale

Lead Officer: Daniel Dickinson

4.1.3 **Work Package 3 – Decision-making: Officer Scheme of Delegation**

Lead Member: Cllr. Nick Mannion

Lead Officer: Daniel Dickinson

4.1.4 Work Package 4 – Procedure Rules

Lead Member: Cllr. Andrew Martin

Lead Officer: Brian Reed

4.1.5 **Work Package 5 – Codes & Protocols**

Lead Member: Cllr. Barry Burkhill

Lead Officer: Brian Reed

- 4.2 As agreed at Constitution Committee on 5th October 2017, this report makes recommendations in respect of the proposed redrafted Constitution with regard to Work Package 2. The redrafting has been conducted by the Council's independent legal advisor, Bevan Brittan, based upon its own expertise and experience as well as detailed feedback obtained through a wide-ranging Member and officer engagement process.

- 4.3 A comprehensive Explanatory Note (List of Substantive Issues) to the redrafted section has also been prepared, attached at Appendix A. This summarises the Substantive Issues being recommended in that section as part of the redrafting process, and the reasons for them.

4.4 Bevan Brittan, in consultation with officers on the project team, has used its discretion, exercised with caution, in listing those matters considered substantive and worthy of inclusion in the Explanatory Note (List of Substantive Issues). In doing so, it has been mindful of comprehensive feedback from Members received through the consultation process (including the joint Member/officer workshop on 31st August 2017, participation in the Working Groups and several informal 'drop-in' sessions), all of which has been logged and considered.

4.5 Changes have been classified as follows:

- Section I – Substantive Issues required by law for approval
- Section II – Substantive Issues based on best practice recommended for approval
- Section III – Substantive Issues for consideration by the Sub-Committee

4.6 The redrafted element of the Constitution is presented as follows:

- Work Package 4 – Procedure Rules (New Constitution Section 3)

4.7 This is attached at Appendix B.

5.0 Wards Affected and Local Ward Members

5.1 All wards are affected.

6.0 Policy Implications

6.1 Policy Implications are unchanged from the position set out in the report to Constitution Committee on 4th August 2017.

7.0 Access to Information

7.1 The Constitution Committee papers of 4th August 2017 and 5th October 2017 relate.

8.0 Contact:

Name: Daniel Dickinson

Designation: Acting Director of Legal Services & Monitoring Officer

Tel No: 01270 685814

Email: daniel.dickinson@cheshireeast.gov.uk

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Cheshire East Council – New Constitution

Explanatory note to new Part 3 - Procedure Rules

Structure of Part 3

Part	Title	Contents
A	Rules of Procedure	Set out the rules of procedure relating to meetings and decisions of the Council covering <ul style="list-style-type: none"> • Full Council Meetings • Committees and Sub Committee Meetings • Cabinet Meetings • General Provisions relating to Procedure Rules • Overview and Scrutiny Procedure Rules
B	Access to Documents and Information	Sets out the rights to access documents and information of the Council and the obligations to publish and make information available. (These are still subject to review)
C	Budget and Policy Framework Procedure Rules	Set out the Council's budget and policy framework rules. (These are still subject to review)
D	Finance Procedure Rules	Set out the rules relating to the financial operation of the Council. (These are still subject to review)
E	Contract Rules	Set out the rules relating to the way in which the Council contracts with other organisations.
F	Employment Rules	Set out the rules relating to the recruitment, appointment and dismissal of senior staff.

Substantive Changes

This Part largely follows the form of the current constitution and contains sets of various Procedure Rules dealing with the operation of the Council and its decision making.

We describe the changes that we have made in three categories:

- I. Substantive changes required by law for approval
- II. Substantive changes based on best practice recommended for approval
- III. Substantive changes for consideration by the Sub-Committee

Please Note: The table of Financial Limits is currently presented separately and will form part of these Rules once finalised.

I. Substantive changes required by law for approval

Page	Section	Comment and/or area for consideration
Contract Rules		
	Throughout	All references have been updated dates to ensure compliance with the latest Procurement Regulations.

II. Substantive changes based on best practice recommended for approval

Page	Section	Comment and/or area for consideration
Committee and Sub Committee Procedure Rules		
11	Attendance of Members at Committees and Sub-Committees of which they are not Appointed Members	<p>The Current Constitution allows members to attend committees of which they are not members where private and confidential or exempt business is to be conducted.</p> <p>Following feedback from the Working Group, we have suggested introducing a "need to know" basis, whereby the Member's attendance at such a meeting would have to be agreed in advance by the Monitoring Officer and the Chair of the Meeting.</p>
15	Attending and speaking at Cabinet Meetings	<p>The current Constitution states that questions will not be allowed which repeat or are substantially the same as questions asked at a meeting of Council or Cabinet within the preceding 3 months.</p> <p>We have changed this to 6 months (and have standardised this time scale for all other similar references throughout the Constitution).</p>

Page	Section	Comment and/or area for consideration
52	Members Access to exempt or confidential documents	We have added the words "of that body" to the end of paragraph 19.2 for clarity.
Contract Rules		
General	All	Following Officer feedback, references to "the Authority" are now references to "The Council" – this is consistent throughout the document.
Definitions	Definition of Chief Officer	Following Officer feedback references to The Chief Officer are now references to the "Executive Director". This is to ensure consistency with the Finance Procedure Rules and the rest of the constitution.
1.1.1	Introduction	We understand that the Procurement Board has changed to the Commissioning and Procurement Board. We have defined the board and included a hyperlink to the detailed terms of reference.
1.5.1	Contracts Register	Following Officer feedback we have made it clear that all contracts with a value above £5,000 must be recorded in the Contracts Register. This is required by the Government's Transparency Agenda.
2.1.4	Best and Final Offer	Following Officer Feedback we have made it clearer that Legal Services must be involved in the decision to include a Best and Final Offer (BAFO) stage in procurement process.
4.3.1	Method of Opening Bids	Following Officer feedback we have amended this section to include provisions that in addition to the Procurement Manager, a Category Manager can verify bids from the EU threshold up to £1,000,000 provided that they have not been involved in the tender in question.
5.1.8	Monitoring Contracts	We have included a requirement for monitoring of insurance.
6.1	Waiver Process/Breach	We understand that the Procurement Board will be changing to the Commissioning and Procurement Board. We have left in reference to the Procurement Board for now.

Page	Section	Comment and/or area for consideration
Employment Rules		
	Throughout	All unnecessary references which simply repeated the legal and statutory basis for the procedures and the relevant regulations have been stripped out

III. Substantive changes for consideration by the Sub-Committee

Page	Section	Comment and/or area for consideration
Procedure Rules		
2	Council Procedure Rule	<p>Five members can call a Special Council – it has been queried as to whether this number is too low.</p> <p>We have not currently amended the text as this is a standard number in many councils to ensure small groups and minority members can exercise this right.</p>
28	Notices of Motion	<p>An issue has been raised as to whether motions should always be debated or at least should the proposer be able to explain it.</p> <p>At the moment the wording has been left as in the previous Constitution. Practice varies in councils as to how motions are dealt with. The risk of allowing them to be debated in detail is that (1) the Full Council may not be (and often is not) the correct decision making body to deal with the issue so the matter will have to be re-run and (2) the debate will not be informed by a report setting out the issues, implications and options.</p> <p>However, it is not unreasonable for consideration to be given to the proposer of the motion to be able to explain it briefly – for discussion.</p>
29	Rules of Debate	<p>An issue has been raised requesting that members should have the Right to Speak at Council at any point, and not only as determined by the Chair</p> <p>This is not usual practice and would potentially cause an unmanageable meeting. The Constitution has not been changed in this respect.</p>

Cheshire East Council

New Constitution

Part 3

Rules of Procedure

This part of the Constitution covers the following areas:-

Part	Title	Contents
A	Rules of Procedure	Set out the rules of procedure relating to meetings and decisions of the Council covering <ul style="list-style-type: none"> • Full Council Meetings • Committees and Sub Committee Meetings • Cabinet Meetings • General Provisions relating to Procedure Rules • Overview and Scrutiny Procedure Rules
B	Access to documents and information	Sets out the rights to access documents and information of the Council and the obligations to publish and make information available [TO FOLLOW]
C	Budget and Policy Framework Rules	Set out the rules providing the framework for managing the Council's financial affairs. [TO FOLLOW]
D	Finance Procedure Rules	Set out the rules relating to the financial operation of the Council. [TO FOLLOW]
E	Contract Rules	Set out the rules covering the way in which the Council contracts with other organisations.
F	Employment Rules	Set out the rules relating to the recruitment, appointment and dismissal of senior staff

Part A – Procedure Rules

Council Procedure Rules

1 Council meetings

- 1.1 The Council will decide when and where its meetings will take place. Details will be contained in a calendar of meetings which will be approved by the Council.
- 1.2 The Mayor, or the Council, can agree to hold a meeting at a different place or time.
- 1.3 A special meeting can be called by resolution of the Council or by the Mayor, or five members of the Council can ask the Mayor, in writing, to call a special meeting. If the Mayor does not agree, then those Members can call the meeting by giving written notice to the Monitoring Officer.
- 1.4 The Monitoring Officer, in consultation with the Mayor, may also call a special meeting, taking into consideration the subject matter of the request, its urgency and impact on the Council and its citizens.
- 1.5 Before the start and at the end of each meeting, Members and Officers will stand whilst the Mayor and the Deputy Mayor enter and leave the room.

2 Mayor and Deputy Mayor of the Council

- 2.1 At its annual Mayor-making meeting, the Council will elect its Mayor and appoint its Deputy Mayor for the following year.
- 2.2 The Mayor of the Council, or in his/her absence the Deputy Mayor (who will have the same powers and duties as the Mayor), will preside at meetings of the Council.

3 Quorum

- 3.1 No business shall be dealt with at a Council meeting if there are fewer than 21 Councillors present. Where the meeting has started, and the number of Councillors present is fewer than 21, the Mayor will adjourn the meeting. Where the Mayor does not give a date and/or time to reconvene, all business not completed will be considered at the next scheduled meeting.

4 What the Council can decide

- 4.1 The Council will decide such matters as required by the law, and those matters set out in Part 3 of this Constitution.

5 Council Agenda and Order of Business

- 5.1 The Council has adopted [model agendas](#) for Council meetings – these are for guidance only.
- 5.2 Business shall be dealt with in the order in which it is set out in the agenda unless the Council decides otherwise.

6 Urgent Business

- 6.1 Business cannot be dealt with at a Council meeting unless it is included in the Summons or unless the Mayor has agreed that it is urgent and cannot wait until the next meeting. The Mayor must give the reasons for urgency, which must be recorded in the Minutes of the meeting.

7 Confirmation of Minutes

- 7.1 Minutes of the last Council meeting must be confirmed at the next ordinary meeting of the Council where possible.
- 7.2 Only matters relating to the accuracy of the Minutes can be raised, which must be done by way of a motion which is proposed, seconded and voted upon. Where no issues are raised, or after the motion has been dealt with, the Mayor shall sign the Minutes.

8 Matters for Decision by the Council

- 8.1 When the item is reached on the agenda, the appropriate Cabinet Member or the Chairman of the relevant Committee will, where appropriate, move the recommendation or advice of the Cabinet or Committee, or endorsement of a Cabinet or a Committee decision. Another Member may second the motion.
- 8.2 The Chairman cannot ask the Council to agree to withdraw a recommendation of the Cabinet or a Committee under, [Appendix 3, paragraph No.10](#), unless new and relevant information has become available after the decision of the body concerned. The information must be disclosed to the Council.

9 Motions Moved Without Notice

- 9.1 [Appendix 1](#) lists those motions and amendments which can be moved at a Council meeting without notice.

10 Speaking and Questions at Council meetings

- 10.1 A Member of the Council may ask the Mayor, the appropriate Cabinet Member or the Chairman of a Committee any question about a matter which the Council, the Cabinet or the Committee has powers, duties or responsibilities.
- 10.2 A Member may ask the nominated/designated representative of the Cheshire Fire Authority or the Cheshire Police and Crime Panel any question about the responsibilities of his/her respective Authority.
- 10.3 There is no requirement for questions to be submitted in writing which relate to the work of the Cabinet. They can be asked at the meeting without notice.
- 10.4 For the Chairman of a Committee or the nominated/designated representative of the Cheshire Fire Authority or the Cheshire Police and Crime Panel questions must be sent in writing to the Monitoring Officer at least three clear working days before the meeting.
- 10.5 There will be a maximum question time period of 30 minutes.
- 10.6 Questions will be selected by the Mayor taking into account the time available.
- 10.7 Those Members submitting more than one question in writing may indicate the priority of importance of each question.
- 10.8 Questions in writing will not be read out at Council meetings.
- 10.9 All Questions will be brief, clear and focussed.
- 10.10 No questions will be allowed which, in the opinion of the Monitoring Officer are
 - inappropriate, frivolous, derogatory or vexatious;
 - relate to a Council employment or staffing matter or
 - could be defamatory.
- 10.11 No questions will be allowed which repeat, or are substantially the same as, questions submitted to a meeting of Council during the preceding 6 months.
- 10.12 Questions will be asked and answered without discussion. In replying, the Member responding will use their reasonable endeavours to address the matters raised in the question. The Member responding may decline to answer any question or may: reply direct, reply by reference to a publication, or reply by written answer with a copy to such other Members of the Council as the Council agrees, or refer the question to an appropriate committee or to the Cabinet.
- 10.13 Following the answer to each question, the Mayor may permit the questioner to ask a concise and focussed supplementary question which relates to the subject matter of the initial question and answer.

10.14 Where a question submitted under this Procedure Rule relates to a matter that appears on the agenda for that meeting, the question shall be put and answered in accordance with this Procedure Rule, at the start of the consideration of that matter.

10.15 A public speaking time and public question facility will apply to Council meetings, as detailed in [Appendix 7](#).

11 Notices of Motion

11.1 A notice of motion must relate to matters for which the Council has responsibility or which affect its area.

11.2 The arrangements for submitting and dealing with notices of motion are set out in [Appendix 2](#).

12 Rules of Debate

12.1 The rules of debate to be followed at Council meetings are set out in [Appendix 3](#).

13 Rescission of Earlier Resolution

13.1 Subject to Rule 13.2, at a meeting of the Council, no motion or amendment shall be moved to rescind any resolution of the Council which was passed within the preceding 6 months or which is to the same effect as one which has been rejected within that period.

13.2 Such a motion may be moved if:

1. it is recommended by the Cabinet or a Committee; or
2. notice of such motion has been given under Procedure Rule 12 and signed by at least 8 elected Members of the Council.

14 Voting

14.1 Voting will be by a show of hands.

14.2 When a Member asks for a recorded vote to be taken, and 8 other Members support the request, the vote will be recorded to show whether each Member voted for or against the motion or abstained.

14.3 A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.

14.4 Members must be in their designated seats for their vote to be counted. The Mayor may agree to waive this requirement before the vote is taken.

- 14.5 A Member may require, after a vote is completed, that the Minutes of the meeting record how he/she voted or abstained.
- 14.6 A Member may, immediately after the item of business is voted upon, request that a lost motion or amendment be recorded in the minutes.
- 14.7 Where there are equal votes cast for a motion or amendment the Mayor or the person presiding will have a second or casting vote.

15 Offices and Appointments

- 15.1 A vote will be held to elect or appoint the Mayor and Deputy Mayor of the Council, the Leader of the Council and Members to any office or position where more than one person is nominated.
- 15.2 If more than one person is nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

16 Election of Chairmen of Committees and Sub-Committees

- 16.1 The Chairmanships and vice-chairmanships of the Council's committees and sub-committees shall be allocated to the political groups each year at the Annual Meeting of Council. Nominations to chairmanships and vice-chairmanships shall be notified by the Council's Group Leaders or Group Whips in writing or by email to the Head of Governance and Democratic Services and shall thereafter be published on the Council's website. Such nominations shall be in accordance with the relevant numerical allocations made by Council in relation to the body in question.
- 16.2 A Member appointed as Chairman or Vice-Chairman must be a member of the relevant Committee or Sub-Committee.
- 16.3 Where a vacancy occurs in the office of Chairman or Vice-Chairman, the relevant Group Leader or Whip shall nominate a replacement in accordance with the provisions of paragraph 16.1.
- 16.4 Where both the Chairman and Vice-Chairman are absent from a meeting of the relevant body, a Chairman will be appointed from those Members of the body present, provided the meeting is quorate and subject to any restrictions on the eligibility of Cabinet Members for appointment.
- 16.5 A description of the [Role and Responsibilities of a Chairman](#) of a meeting is available.

17 Urgent Decisions – Non-Executive Matters

- 17.1 An item of urgent business which has to be decided before the next meeting of the Council can be determined in accordance with the procedure set out in [Appendix 4](#).

Committee and Sub-Committee Procedure Rules

18 Committees and Sub-Committees

- 18.1 The standing Committees and Sub-Committees of the Council and their membership size are set out in [Part 2 \(D\) of the Constitution](#).

19 Co-option

- 19.1 A committee or sub-committee may co-opt any person as a Member.
- 19.2 An overview and scrutiny committee or sub-committee may co-opt persons to advise and/or assist in the scrutiny of particular areas of the Council's functions.
- 19.3 Co-optees must not be elected Members of the Council. Save as provided in paragraphs 3.1 and 3.2 of the Overview and Scrutiny Procedure Rules, co-optees shall not be entitled to vote at any meeting.

20 Appointment to Committees and Sub-Committees

- 20.1 Where a by-election takes place during the year, the Council will decide upon the composition of Committees and Sub-Committees to reflect any change in political balance.

21 Substitutions

- 21.1 A Political Group may appoint a substitute member to a committee or sub-committee in accordance with the procedure set out in Appendix 5.

22 Urgent Decisions – Non-Executive Matters

- 22.1 An item of urgent business which has to be decided before the next meeting of a Committee or Sub-Committee can be determined in accordance with the procedure set out in [Appendix 4](#).

23 Changes to the Calendar of Meetings

- 23.1 Meetings of Committees and Sub-Committees will be set out in the calendar of meetings approved by the Council. There will be a presumption against alterations to the date, time and venue for meetings.
- 23.2 A meeting of a decision-making body scheduled in the Calendar of Meetings may be cancelled or changed by the Chairman following consultation with the whole membership of the body provided that such

cancellation or change takes place at least five clear working days before the scheduled date of the meeting to enable sufficient public notice to be given.

- 23.3 When it is necessary to arrange a special meeting, the Head of Governance and Democratic Services will consult the Chairman and Spokespersons of the relevant Committee or Sub-Committee before any action is taken. The Chairman of the Committee or Sub-Committee will then determine the matter.

24 Quorum at Committees and Sub-Committees

- 24.1 Business cannot be transacted at meetings of Committees and Sub-Committees unless there are at least one quarter of the Members of the body present. However, where the total membership of any Committee or Sub-Committee comprises eleven or fewer Members, the quorate number shall be 3.
- 24.2 These arrangements may be varied because of a legal requirement or by the Council.

25 Minutes of Committees and Sub-Committees

- 25.1 The Minutes of a Committee or Sub-Committee must be confirmed at its next meeting where possible.
- 25.2 Only matters relating to the accuracy of the Minutes can be raised. Where accuracy is questioned, this must be by a motion which is proposed, seconded and voted upon.
- 25.3 Where no issues of accuracy are raised, or after any motion has been dealt with, the Chairman shall sign the Minutes.
- 25.4 The Minutes of any Sub-Committee must be submitted to the next meeting of the parent Committee by the Sub-Committee Chairman.
- 25.5 Members may ask a question or comment on any Minute. The Chairman of the Sub-Committee will then reply. There will be no debate on any question or comment raised under this procedure and no further motions can be moved.
- 25.6 Where a Member has a question or comment on an exempt, private or confidential Minute, the question or comment must be given in writing to the Monitoring Officer at least 24 hours before the start of the meeting.

26 Motions moved without Notice at Committees and Sub-Committees

26.1 [Appendix 1](#) lists those motions and amendments which can be moved without notice.

27 Rules of Debate at Committees and Sub-Committees

27.1 [Appendix 3](#) sets out the rules of debate.

28 Voting

28.1 Voting at Committee and Sub-Committee meetings will be by a show of hands.

28.2 When a Member asks for a recorded vote to be taken, and one other Member supports the request, the vote will be recorded to show whether each Member present voted for or against the motion or abstained.

28.3 A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.

28.4 A Member may require, after a vote is completed, that the Minutes of the meeting record how he/she voted or that he/she abstained.

28.5 A Member may request that a lost motion or amendment be recorded in the minutes by requesting this immediately after the vote is taken.

28.6 Where there are equal votes cast for a motion or amendment, the person presiding at the meeting will be entitled to, and may exercise, a second or casting vote. However, where there remains an equality of votes in respect of a motion, the motion will be lost.

29 Offices and Appointments

29.1 A vote will be held to elect or appoint Members to any office or position where more than one person is nominated.

29.2 If more than one person is nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

30 Mover of a Motion at Council under Procedure Rule 12: Attendance at Committee and Sub-Committee

30.1 Where a motion has been referred under Procedure Rule 12 from the Council to a Committee or Sub-Committee for consideration and report, the mover of the motion has the right to attend the meeting and to explain the motion.

30.2 The mover of the motion will be advised of the date and time of the meeting at which the matter is to be considered and he/she will be sent a copy of the relevant papers.

31 Requests by Members for items of business to be included on agendas of a Committee or Sub-Committee

[Appendix 6](#) to these Procedure Rules sets out details of the process by which a Member of the Council can ask for an item of business to be included on the agenda of Committee or Sub-Committee meeting.

32 Questions Submitted by Members of the Public

32.1 The Council has a procedure to enable members of the public to submit questions at ordinary meetings of its Committees and Sub-Committees. This is set out in [Appendix 7](#). Separate procedures for public involvement apply to meetings of the Council's Planning, Licensing and Scrutiny committees and sub-committees which can be accessed by clicking this [link – public involvement](#).

33 Committee and Sub-Committee Agenda - Urgent Items of Business

33.1 Generally, business will only be transacted at meetings of Committees and Sub-Committees which appears on the agenda and which has been available for public inspection at least five clear working days before the meeting or, where the meeting is convened at short notice, from the time the meeting is convened.

33.2 The Chairman of the Committee or Sub-Committee may agree to deal with an item of business at the meeting if, in his/her opinion, the matter is urgent given the circumstances requiring a decision. The Chairman's ruling and the reasons for urgency will be recorded in the Minutes of the meeting.

34 Attendance of Members at Committees and Sub-Committees of which they are not Appointed Members

34.1 Notwithstanding their rights as a member of the public, a Member may attend any meeting of a Committee or Sub-Committee to which he/she has not been appointed, for the purposes of performing his/her duties as a Councillor, including when exempt or private and confidential business is transacted, provided that such attendance is agreed in advance by the Monitoring Officer and the Chairman of the meeting on the basis that the Member has a "need to know" about the exempt or private and confidential business to be transacted.

34.2 Where a Member has permission to attend a meeting under Procedure Rule 34.1 above, he/she will be given, when he/she arrives at the meeting, a copy of the agenda and relevant papers.

34.3 The Member has no right to vote, but may speak with the consent of the Chairman of the meeting.

34.4 At meetings of the Strategic Planning Board and Planning Committees, Members' speaking rights are subject to the protocol on public speaking entitled '[Public Speaking Rights at Strategic Planning Board and Planning Committees](#)

35 Overview and Scrutiny Committees/Sub-Committees

35.1 In applying these Procedure Rules to overview and scrutiny committees and sub-committees, regard shall be had to the [Overview and Scrutiny Procedure Rules](#).

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Executive Arrangements and Cabinet Procedure Rules

36 Appointing the Cabinet and Responsibility for Functions

36.1 At the Annual Meeting of Council, the Leader will present to the Council a written report containing the following information about executive functions in relation to the coming year:

36.1.1. the names, addresses and wards of the people appointed to the Cabinet by the Leader;

36.1.2. the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;

36.1.3. the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;

36.1.4 the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements, and the names of those Cabinet Members appointed to any joint committee for the coming year; and

36.1.5 the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made (where this is not already covered in the Council's Constitution).

36.2 Where the Cabinet, a committee of the Cabinet, or an individual Member of the Cabinet is responsible for an executive function, they may delegate further to a committee of the Cabinet, an area committee, joint arrangements, or an officer.

36.3 Even where executive functions have been delegated, that does not prevent the discharge of delegated functions by the person or body who delegated them.

37 The Law and Executive Functions

37.1 Those responsible for discharging executive functions will ensure that they are acting within the law and this Constitution.

37.2 The functions in question are set out in Part 3 of this Constitution. This also sets out the body or individual responsible for taking decisions in respect of executive functions.

37.3 The Cabinet, and any individual member or committee thereof, must ensure, and be satisfied, that they have appropriate and adequate

legal, financial and other relevant professional advice from officers before taking a decision on any matter before them. Advice from the Council's Monitoring Officer and Section 151 Officer should always be obtained where there is doubt about vires, procedure or probity.

38 Conflicts of Interest

- 38.1 Where the Leader or any Cabinet Member has a conflict of interest, s/he will follow the requirements of the Council's Code of Conduct for Members.
- 38.2 If all (or a majority) of the Members of the Cabinet present have a conflict of interest then consideration will be given to applying to the Audit and Governance Committee for a dispensation from the provisions of the Code.
- 38.3 If the discharge of an executive function has been delegated to another body or individual and a conflict of interest arises, then it will fall to the body or individual who delegated the matter to take the decision. Where that body or individual also has a conflict of interest, then the action set out in 38.2 shall be considered.

39 Meetings of the Cabinet

- 39.1 The Cabinet will meet as indicated in the Council's programme of meetings. The Cabinet or the Leader may agree to change the date of any programmed meeting, to cancel a meeting or to arrange additional meetings as it/he/she sees fit.
- 39.2 The Cabinet may meet in public or in private, subject to legal requirements and the Access to Information Procedure Rules contained in the Constitution.
- 39.3 The Leader will preside at meetings of the Cabinet. If the Leader is absent then the Deputy Leader will preside. Where both the Leader and Deputy Leader are absent, the Cabinet Members present shall appoint one of their number to chair that meeting.
- 39.4 All Members of the Cabinet shall be entitled to attend meetings of the Cabinet unless the Cabinet determine otherwise.
- 39.5 Attendance by other Members of the Council or the public shall be in accordance with the Access to Information Procedure Rules, by invitation, or as set out in paragraphs 45.1 to 45.4 below.

40 Quorum at Cabinet Meetings

- 40.1 The quorum at a meeting of the full Cabinet, or a Committee or Sub-Committee established by the Cabinet, shall be 50% of its voting membership.

41 Attending and speaking at Cabinet Meetings

- 41.1 The Chairman and Spokesperson(s) of the Council's overview and scrutiny committees shall be entitled, at any formal public meeting of the Cabinet, to speak to any matter on the agenda for that meeting.
- 41.2 Other Members not previously described above may also speak at such meetings with the permission of the Leader or person presiding in his/her absence.
- 41.3 At every formal public meeting of the Cabinet there shall be a period of 20 minutes for questions to be put to Cabinet members by members of the Council. Notice of these questions is not required in advance of the meeting. The following rules shall apply:
- Questions must relate to the powers, duties or responsibilities of the Cabinet.
 - Questions put to Cabinet members must relate to their portfolio responsibilities.
 - The Leader will determine how Cabinet question time should be allocated where there are a number of members wishing to ask questions.
 - Questions will be brief, clear and focussed.
 - Questions which the Leader deems to be:
 - inappropriate, frivolous, derogatory or vexatious;
 - related to a Council employment or staffing matter or
 - defamatory.will not be allowed.
 - Questions will not be allowed which repeat, or which are substantially the same as questions asked at a meeting of Council or Cabinet within the preceding 6 months.
 - Where any question might be disallowed under the agreed provisions, the Leader, as chairman of Cabinet, will have absolute discretion to determine whether to do so.
 - Questions will be asked and answered without discussion. In replying, the Cabinet member responding will use their reasonable endeavours to address the matters raised in the question. The Cabinet member responding may decline to answer any question or may: reply direct, reply by reference to a publication, or reply by written answer.
 - Following each answer, the Leader may permit the questioner to ask a concise and focussed supplementary question which relates to the subject matter of the initial question and answer.
 - Where a question relates to a matter which appears on the agenda of the Cabinet meeting in question, the Leader may allow the question to be asked at the beginning of consideration of that item.

- 41.4 The Cabinet may invite any person to its meetings to discuss matters of mutual interest or concern or to advise. Such persons may only be given access to confidential and/or exempt information on terms to be decided by the Monitoring Officer so as to ensure that the Council's obligations under the Local Government Acts in respect of Access of Information and Data Protection are observed.

42 Business at Cabinet Meetings

- 42.1 The business to be transacted at a meeting of the Cabinet will be set out in an Agenda for that meeting, subject to any requirements or exemptions under the Access to Information Procedure Rules.
- 42.2 The Agenda may be supported by additional papers prepared by the Officers or by or on behalf of other bodies, subject to requirements about disclosure of confidential or exempt information. Full agendas for meetings of the Cabinet will be made available, electronically, in advance of the respective meeting, to all Members of the Council and in accordance with the Council's current policy.
- 42.3 The Cabinet is obliged to consider matters referred to it by an overview and scrutiny committee, or by the Full Council, for consideration under the Overview and Scrutiny Procedure Rules.
- 42.4 The Cabinet will, at each formal meeting, confirm the record of decisions taken at its previous meeting as a correct record.
- 42.5 The Monitoring Officer, or his/her nominated officer, shall be responsible for preparing and distributing the Agenda for Cabinet meetings, attending meetings for the purpose of advising the Cabinet on matters within his/her area of responsibility and recording decisions as required under this Constitution.
- 42.6 In taking decisions, the Cabinet must satisfy itself that it has before it adequate and appropriate advice from the relevant service, and from legal and financial advisers who shall, where appropriate, be present at any meeting where a decision is being taken and that that advice is taken into consideration in determining the matter. Where there is any doubt about vires, procedure or probity then advice must be obtained from the Monitoring Officer and the Section 151 Officer.
- 42.7 Meetings of the Cabinet will be programmed into the Council diary. The Cabinet can agree to change the date of any programmed meeting, to cancel a meeting or to arrange additional meetings as it sees fit.
- 42.8 The order of business at Cabinet meetings is a matter for the Cabinet to determine.

- 42.9 Any Member of the Cabinet may require the Monitoring Officer to place an item on the Agenda for a stipulated meeting of the Cabinet.
- 42.10 Any Member of the Council may request the Leader to place an item on the Agenda of a meeting of the Cabinet. The Leader shall have sole discretion as to whether or not to accede to such a request and, if such a request is granted, whether the Member in question can speak to the item at the meeting in question.
- 42.11 The Head of the Paid Service, the Monitoring Officer and/or the Section 151 Officer can include an item for consideration on the Agenda of a Cabinet Meeting. In pursuance of their statutory duties they can require that a special meeting of the Cabinet be convened.
- 42.12 Except where it is urgent, business cannot be conducted at formal meetings of the Cabinet unless it is included in the Agenda for the meeting. An item of business which is not included on an agenda for a Cabinet meeting may not be considered unless the Leader or person presiding is of the opinion that the matter is urgent and cannot await another meeting, and unless the requirements of the Access to Information Procedure Rules have been complied with. This shall also apply to any committee of the Cabinet or to an individual Portfolio Holder.
- 42.13 The Cabinet will report to the Council, as required under the Access to Information Procedure Rules, on any matter which is classified as a key decision and which is dealt with under special urgency procedures.
- 42.14 Subject to 3 clear working days' notice being provided to the Head of Governance and Democratic Services, questions can be submitted by members of the public at meetings of the Cabinet, in accordance with Council Procedure Rule No. 41 and [Appendix 7](#) of the Procedure Rules.
- 42.15 Cabinet decisions, including those taken under delegated powers, shall not take effect until they have been recorded in writing, as required under the Council's procedures, and shall not be implemented where the right of call-in applies and has been exercised until the call-in process has been concluded. Where the right of call-in applies but is not exercised, a Cabinet decision may be implemented immediately after the expiry of the call-in period.
- 42.16 A written record of all Cabinet decisions will be kept by the Head of Governance and Democratic Services and these will be made available publicly as soon as practicable after the decision has been taken (excluding the disclosure of confidential and exempt information and in accordance with the Overview and Scrutiny Procedure Rules). In recording decisions of the Cabinet, the Head of Governance and Democratic Services will set out the decision, the reasons for the

decision and alternative options considered as required under the Access to Information Procedure Rules in the Constitution.

43 Voting at Cabinet Meetings

43.1 Voting at Cabinet meetings will be by a show of hands and any Cabinet Member may require, immediately after the vote is taken, that the Minutes of the meeting record how he/she voted or that he/she abstained. Where there are equal votes cast and the Leader or person presiding has voted, the Leader or person presiding will have a second or casting vote. Voting for any office or appointment, including any paid appointment, where more than one person is nominated shall be by a vote conducted in accordance with Council Procedure Rules.

44 Cabinet Committees/Sub-Committees and Task Groups

44.1 The Leader or the Cabinet may appoint such Committees or Sub-Committees as are considered necessary and appropriate to assist in the discharge of executive functions. In making such appointments, the name of the Committee/Sub-Committee must be specified, along with its membership (including its Chairman and, if appropriate, Vice-Chairman) and its powers.

44.2 The Cabinet may also appoint whatever task or advisory groups it deems necessary, comprising some or all of its own membership, any other member or non-member of the Council.

45 Decision Making By Individual Portfolio Holders

45.1 Where the Leader has delegated decision making powers to individual Portfolio Holder they will exercise their powers and duties in accordance with these rules and Part 3 of this Constitution.

46 Motion Under Procedure Rule 11

46.1 A mover of a motion under Procedure Rule 11 which has been referred to the Cabinet for consideration may attend the meeting of the Cabinet when his/her motion is under consideration and explain the motion. The mover of the motion will be advised of the date and time of the meeting when the matter is to be considered and he/she will be sent a copy of the relevant papers. This does not affect the right of the mover or seconder of the motion to attend a Scrutiny body when his/her motion is being considered.

47 Resolving Disputes

47.1 In the case of any dispute during the proceedings of the Cabinet the relevant parts of this Constitution will apply and, after considering the application of the relevant provisions, the person presiding at the meeting will rule on the issue in question and his/her ruling will be final.

48 Reserves/substitute members

48.1 There shall be no reserve or substitute members of the Cabinet.

49 Urgent Decisions – Executive Matters

49.1 Where any matter is urgent and cannot await the next meeting of the relevant executive body or Portfolio Holder, the matter may be determined in accordance with [Appendix 4](#) of the Council Procedure Rules.

50 The Forward Plan and Key Decisions

50.1 The Leader will ensure that the requirements of the Access to Information Procedure Rules are met in relation to the publication of Key Decisions.

50.2 Those decisions which are Key Decisions are defined in Part 2 (A), paragraph 4 of this Constitution.

50.3 Where the Cabinet as a body is making Key Decisions, that meeting shall be held in public in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. The requirements of these Regulations also apply to any body, Portfolio Holder or Officer to whom the relevant executive powers have been delegated.

50.4 When the Cabinet or a Portfolio holder exercising an executive function under delegated powers receives a report or background information which he/she intends to take into consideration when making a Key Decision (and the report or papers are not exempt or confidential) that decision shall not be taken until the report has been made available for inspection by the public for five clear working days following receipt of the report by the decision taker. A copy of such report must be supplied as soon as reasonably practicable to the Chairman of the relevant overview and scrutiny committee or, in his/her absence, the Vice-Chairman of the Committee. The report must also list any background papers.

50.5 Where the inclusion of a matter in the Forward Plan is impracticable (28 clear days' notice being required for private decisions) and the matter would be a Key Decision, that decision shall only be made:

- (a) where the Monitoring Officer has notified the Chairman of the relevant overview and scrutiny committee, or in his/her absence the Vice-Chairman of the committee, of the matter about which the decision is to be made;

- (b) where the Monitoring Officer has made available for public inspection a copy of the notice given under (a) above; and
- (c) where a period of five clear working days has elapsed since the Monitoring Officer made available the notice referred to in (b) above.

50.6 Where the date by which a Key Decision must be made makes compliance with the requirements under 54.5 above impracticable, the decision shall only be made where the decision maker has obtained agreement from:

- (a) the Chairman or, in his/her absence, the Vice-Chairman of the relevant overview and scrutiny committee; or
- (b) if there is no Chairman or Vice-Chairman of the relevant overview and scrutiny committee, or if neither is able to act, the Mayor or, in his/her absence, the Deputy Mayor

that the making of the decision is urgent and cannot reasonably be deferred. Such decisions when made are not subject to the provisions relating to call-in. All Members will be sent electronic notification of the agreement reached that compliance with the requirements of Rule 54.5 above was impractical.

50.7 The Leader shall submit a report to the Full Council containing details of each Key Decision taken during the preceding three months under 54.6 above and agreed as urgent. The report will include particulars of each such Key Decision and a summary of the matters in respect of which each decision was made.

50.8 Where an executive decision which was not classified as being a Key Decision has been made and the relevant overview and scrutiny committee is of the opinion that the decision should have been so classified, that Committee may require the Cabinet to submit a report to the Full Council within such reasonable period as the Committee may specify, containing the following details:-

- (i) the decision and the reasons for it;
- (ii) the decision maker; and
- (iii) if the Cabinet is of the opinion that the decision is not a Key Decision, the reasons for this view.

PROCEDURE RULES: GENERAL PROVISIONS

51 Records of Attendance

51.1 Members of the Council attending a meeting of which they are a Member must sign their name on the attendance sheet provided.

52 Disclosure of Confidential/Exempt Matters

52.1 Matters not open to the Public or Press

No Member shall disclose to any person the whole or any part of the contents of any agenda, report or other document which is marked "confidential" or "not for publication" unless and until the document has been authorised to be made available to the public or the press by or on behalf of the Council, the Cabinet, a Committee or Sub-Committee.

52.2 Matters which may prejudice the interest of the Council

No Member shall disclose to any person other than a Member of the Council any matter arising during the proceedings of the Council, the Cabinet, any Committee, Sub-Committee, Panel or Board and which comes to his/her knowledge by virtue of his/her office as a Member where such disclosure would prejudice the interest of the Council or would be contrary to law.

52.3 Decisions or Proceedings of the Council, the Cabinet, Committees, Sub-Committees, Panels and Boards

No Member shall, without the consent of the Chairman of the appropriate body, disclose to any person any decision or proceedings of that body except:

- (a) when a report on the matter has been circulated to the Council by that body; or
- (b) when the decision has become public knowledge; or
- (c) when the matter comes within the powers of that body and a final decision has been made upon it;

provided that this paragraph shall not authorise any disclosure which would contravene paragraphs 52.1 or 52.2.

52.4 Prohibited Disclosure

The press and public shall be excluded during the consideration of any item of business which would be likely to disclose information which:-

- (a) has been furnished to the Council by a Government Department on terms which forbid disclosure; or

- (b) would be prohibited by law or by an order of the Court.

53 Disorderly Conduct

53.1 Motion to end Disorderly Conduct

If at a meeting any Member of the Council, in the opinion of the person presiding, misconducts themselves in any way, the person presiding or any other Member may move "That the Member be not further heard". The motion, if seconded, shall be put and determined without discussion.

53.2 Persistent Misconduct

If the Member continues the misconduct after a motion under the foregoing paragraph has been carried, the person presiding may: either move "That the Member do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or adjourn the meeting.

53.3 General Disturbance

In the event of general disturbance at any meeting which, in the opinion of the person presiding, renders the due and orderly dispatch of business impossible, the person presiding, will have the power to adjourn the meeting.

54 Disturbance by Members of the Public

- 54.1 If a member of the public interrupts the proceedings at any meeting, the person presiding shall warn him/her. If he/she continues, the person presiding shall order his/her removal from the meeting. In cases of general disturbance in any part of the meeting room open to the public, the person presiding shall order that part to be cleared.

55 Inspection of Documents

55.1 Supply of Agenda papers to Members of the body in question

Members of Council decision-making and other bodies will be provided with hard copies of agenda papers.

55.2 Supply of Agenda and Minutes to those Members who are not Members of that particular body

To help a member perform his/her duties as a member, agenda papers and records of decisions, or minutes of decision-making bodies will be made available to them electronically. Private, confidential and exempt reports will not be made available but may be requested from the Monitoring Officer who will have discretion to provide or withhold such reports.

55.3 Minutes of the decision making bodies - Open for Inspection

Subject to Procedure Rules 56 and 49.1 the Minutes of the Council, Committees or Sub-Committees, and Cabinet Decision Records shall be open for inspection by any Member of the Council.

56 Provisions relating to Personnel Matters

56.1 The recruitment and appointment of staff and the responsibilities for Personnel matters will be governed by the Staff Employment Procedure Rules.

57 Sealing of Documents

57.1 Authority

The Common Seal of the Council shall not be affixed to any document unless the sealing has been properly and lawfully authorised. A resolution of the Council (or of a Committee or Sub-Committee where such body has the power) or a decision of the Cabinet authorising the acceptance of any tender, the purchase, sale, letting, or taking of any property, the issue of any stock, the presentation of any petition, memorial or address, the making of any rate of contract, or any other matter or thing, shall be a sufficient authority for sealing any document necessary to give effect to the resolution.

57.2 Attestation

The seal shall be attested by the Monitoring Officer or his/her authorised deputy, designated for this purpose, as required by this Constitution and a record of the sealing of every document shall be kept.

58 Signature of Documents

58.1 Subject to special requirements relating to Contracts, where any document will be a necessary step in any legal process or proceedings on behalf of the Council it shall, unless any enactment otherwise requires or authorises, or the Council shall have given the necessary authority to some other person for the purpose of such process or proceedings, be signed by the Monitoring Officer or his/her authorised deputy (designated for this purpose).

59 Variation and Revocation of Procedure Rules

59.1 Any motion to vary or revoke these Rules shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

60 Suspension of Procedure Rules

60.1 Motion Required

Subject to Rule 64.2, any of the preceding Procedure Rules may be suspended in respect of any business at a meeting of the Council, a Committee or Sub-Committee where its suspension is moved and carried.

60.2 Notice of Motion

A motion to suspend Procedure Rules shall not be moved without notice (that is under Procedure Rule 10) unless there shall be present at least one-third of the Members of the Council or that Committee or Sub-Committee respectively.

61 Interpretation of Procedure Rules

61.1 The ruling of the person presiding as to the construction or application of any of these Procedure Rules, or as to any proceedings of the Council, shall not be challenged at any meeting.

62 Submission of Notices by Members – Electronic Means

62.1 A Member of the Council may communicate, by electronic means, any notice under any of the Constitution's Procedural Rules to initiate any process or procedure provided it is clear that the notice has been originated by that Member.

63 Definition of 'Clear Working Days'

63.1 Throughout these Procedure Rules, and the Constitution generally, there are references to 'clear working days'. A period of one or more working days means a period comprising one or several consecutive periods of 24 hours (excluding weekends and bank holidays) beginning and ending at midnight. A clear day excludes the date of dispatch and date of the meeting.

64 Disclosable Pecuniary Interests – Requirement to Withdraw from Meeting

64.1 A Member who declares a disclosable pecuniary interest in an item of business is required to withdraw from the meeting at the appropriate juncture.

APPENDIX 1

MOTIONS WHICH MAY BE MOVED WITHOUT NOTICE

1. Appointment of a Chairman of the meeting at which the motion is made.
2. Motions relating to the accuracy of the minutes of the Council, a Committee or Sub-Committee.
3. That an item of business specified in the summons should have precedence.
4. Reference to the Council, a Committee, Sub-Committee, or the Cabinet.
5. Appointment of or appointment to Committees, Sub-Committees, or the Cabinet occasioned by an item mentioned in the summons to the meeting.
6. Receipt of Records of Decisions and Minutes of Committees and Sub-Committees
7. Adoption of recommendations of the Cabinet, Committees and Sub-Committees and any consequent resolutions.
8. That leave is given to withdraw a motion.
9. Receipt of reports of officers and any consequent resolutions.
10. Extending the time limit for speeches.
11. Amendment to motions.
12. That the Council proceed to the next business.
13. That the question be now put.
14. That the debate be now adjourned.
15. That the Council do now adjourn.
16. Authorising the sealing of documents.
17. Suspending Procedure Rules, in accordance with Procedure Rule 64.
18. Motion under Section 100A(4) of the Local Government Act 1972 to exclude the press and public.

19. That a Member named under Procedure Rule 57 should not be heard further or should leave the meeting.
20. Giving consent of the Council where consent of the Council is required by these Procedure Rules.

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APPENDIX 2

NOTICES OF MOTION

1 Procedure before the Meeting

Notice of every motion (other than a motion which under Procedure Rule 10 may be moved without notice) shall be given in writing, signed by the Member(s) of the Council giving the notice, and delivered, at least seven clear working days before the next meeting of the Council, to the Director of Legal Services or the Head of Governance and Democratic Services by whom it shall be dated, in the order in which it is received.

Members are permitted to submit Notices of Motion in email and electronic form.

The Monitoring Officer shall, if need be, give a ruling as to whether the Motion is relevant.

If the Monitoring Officer considers the motion, amendment or question to be vexatious, irrelevant, defamatory, frivolous, offensive, defamatory, relates to employees or is otherwise improper the Director of Legal Services will return it to the Member who submitted it along with an explanation in writing to the Member about why it will not be included on the agenda circulated for the meeting.

2 Motions to be set out in Summons

The agenda papers for every ordinary meeting of the Council will set out the full text of all motions of which notice has been duly given, unless the Member giving the notice has intimated in writing, when giving it, that he/she proposed to move it at some later meeting, or has since withdrawn it. The motions will be listed in the papers according to the order in which they have been received.

No notice of motion which, in the opinion of the Mayor, deals with the same or a similar matter to one which had come before Council during the previous 6 months, shall be included on the Council agenda.

3 Withdrawal of Motion which is before the Council

A Notice of Motion will be regarded as withdrawn if :

prior to the Council meeting, an indication to this effect is given in writing to at least one of the above-named officers by the Member who submitted the Notice; or

at the Council meeting, oral notice to this effect is given by the Member who submitted the Notice; or

the Notice of Motion is not moved and seconded at the meeting of Council.

4 Procedure at the Meeting

When a Motion has been moved and seconded the mover and seconder shall not be entitled to make a speech if the Mayor decides that it shall stand referred without discussion to such of those bodies as the Mayor may determine, for determination. However, if the Mayor considers it conducive to the despatch of business, the motion may be dealt with at the meeting at which it is initially considered.

5 Procedure after the Meeting

Each motion will then be referred to the relevant decision-making body for determination, without the need for any reference back to Council except where:

- arising from consideration of the motion, the Constitution Committee recommends to the Council a change to the Constitution; or
- there is some other legal or Constitutional requirement for the matter to be referred back to Council.

Unless the chairman of the appropriate decision-making body agreed there were good reasons not to do so, notices of motion must be referred to that body within two meeting cycles, and that the proposer of the motion would be consulted before the Chairman decided the matter.

At the meeting of the body to which the motion has been referred for consideration, the proposer of the motion if present shall be invited to speak first, followed by the seconder. The matter will then be opened up to wider discussion. In the case of a Cabinet meeting, the relevant Portfolio Holder (or in his/her absence the Leader or Deputy Leader) will respond to the motion after the proposer and seconder have spoken.

APPENDIX 3

RULES OF DEBATE

1 Motions and Amendments

No motion or amendment shall be discussed unless it has been proposed and seconded. Where required by the Chairman, motions or amendments shall be put in writing and handed to the Chairman before they are further discussed or put to the meeting. The Chairman may, at his/her discretion, allow a motion or amendment to be put which is not in writing, provided that the Chairman has concluded that the wording of the motion or amendment is understood by all members of the body concerned. This requirement does not apply to motions submitted under Procedure Rule 12.

2 Seconder's Speech

When seconding a motion or amendment a Member may advise the Chairman that he/she will reserve his/her right to speak until a later period in the debate.

3 Only One Member to Stand at a Time

When speaking at a Council meeting a Member would usually be required to stand and address the Mayor. However the Mayor may choose to relax this convention. While a Member is speaking the other Members will remain seated, unless rising on a point of order or in personal explanation.

4 Content and Length of Speeches

A Member will confine his/her speech to the question under discussion, a personal explanation or a point of order. Except as indicated below, in the case of speeches made by Members when the Council is agreeing a budget, or where the Council, Committee or Sub-Committee otherwise agrees, no speech will exceed five minutes.

In advance of the meeting at which the Council is due to agree a budget, the Council's Political Groups may agree that a limited number of speeches will be made on behalf of each Political Group, which exceed the five minute limitation contained in these Rules. The Mayor will have discretion as to how this will be implemented at the meeting and, where no agreement can be reached between the Political Groups, whether and (if so) how any extension of the five minute limitation might be permitted to operate.

5 When a Member may speak again

At a Council meeting a Member who has spoken on any motion shall not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member;

- (b) if the motion has been amended since he/she last spoke, to move a further amendment;
- (c) if his/her first speech was on an amendment moved by another Member, to speak on the main issue, whether or not the amendment on which he/she spoke was carried;
- (d) in exercise of a right of reply given by paragraph 11 or 13 of this Appendix;
- (e) on a point of order referring to the specific Procedure Rule;
- (f) by way of personal explanation;
- (g) to move one of the motions specified in 12(b) to (j), below when the procedure in those paragraphs shall be followed.

At Committees or Sub-Committees Members may, at the discretion of the Chairman, speak more than once.

6 Amendments to Motions

An amendment must be relevant to the motion and shall be either:

- (a) to leave out words;
- (b) to leave out words and add others;
- (c) to insert or add words;

but such amendment shall not have the effect of negating the motion before the Council.

7 Number of Amendments

Only one amendment may be moved and discussed at a time. No further amendment shall be moved until the amendment under discussion has been disposed of, although the Chairman may allow two or more amendments to be discussed (but not voted on) together if this would facilitate the proper conduct of the business before the meeting.

8 Status of Amendments

If an amendment is lost, another amendment may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.

9 Alterations to Motions or Amendments

A Member may alter a motion or amendment of which he/she has given notice and may also, with the consent of the seconder, alter a motion or amendment which he/she has moved. In both cases, the consent of the Council (the Committee or Sub-Committee) is required. There should be no discussion on whether consent should or should not be given.

10 Withdrawal of Motion

A motion or amendment may be withdrawn by the mover provided the seconder and the meeting, without discussion, agree. Once the mover has asked for permission to withdraw, there should be no further discussion, unless the meeting refuses to agree to the request.

11 Right of Reply

The mover of the motion shall have a right to reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion shall have a right of reply at the close of the debate on the amendment but shall not otherwise speak on it. The mover of the amendment shall have a right of reply to the debate on his/her amendment immediately before the mover of the original motion exercises his/her right of reply at the close of the debate.

12 Motions which may be moved during debate

When a motion is under debate no other motion shall be moved except the following:

- (a) to amend the motion;
- (b) to adjourn the meeting;
- (c) to adjourn the debate;
- (d) to proceed to the next business;
- (e) to suspend Procedure Rules;
- (f) to refer a matter to the Council, Cabinet, a Committee or Sub-Committee for consideration or reconsideration;
- (g) that the question be now put;
- (h) that a Member be not further heard;
- (i) by the Chairman under Procedure Rule 57, that a Member do leave the meeting;
- (j) a motion under Section 100A(4) of the Local Government Act 1972 to exclude the public.

13 Closure Motions

A Member may move, without comment, at the conclusion of a speech of another Member, "That the Council proceed to the next business", "That the question be now put", "That the debate be now adjourned", or "That the Council do now adjourn". When one of these Motions has been seconded the Mayor shall proceed as follows:

- (a) on a motion to proceed to next business - unless in his/her opinion the matter before the meeting has been insufficiently discussed, he/she shall first give the mover of the original motion the right of reply, and then put to the vote the motion to proceed to next business;
- (b) on a motion that the question be now put - unless in his/her opinion the matter before the meeting has been insufficiently discussed, he/she shall put to the vote the motion that the question be now put and, if it is passed, give the mover of the original motion the right of reply before putting the motion to the vote;
- (c) on a motion to adjourn the debate or the meeting - if in his/her opinion the matter before the meeting has been insufficiently discussed on that occasion he/she shall put the adjournment motion to the vote without giving the mover of the original motion the right of reply on that occasion.

14 Points of Order

A Member may rise on a point of order or in personal explanation and shall be entitled to be heard immediately. A point of order shall relate only to an alleged breach of a Procedure Rule or statutory provision, and the Member shall specify the Procedure Rule or statutory provision and the way in which he/she considers it has been breached. A personal explanation shall be confined to some material part of a former speech by him/her which may appear to have been misunderstood in the current debate.

15 Ruling of Chairman on a Point of Order/Personal Explanation

The ruling of the Chairman of the meeting on a point of order or on the admissibility of a personal explanation shall not be open to discussion and shall be final.

16 Respect for the Chairman

At the Council meeting whenever the Mayor rises during a debate a Member then standing shall sit down and the Council shall be silent. In Committee or Sub-Committee meetings, whenever the Chairman rises from his/her seat, the Members should remain in their seats and the Committee or Sub-Committee shall be silent.

APPENDIX 4

URGENT DECISIONS TAKEN OUTSIDE OF MEETINGS

Definition of an urgent decision

A decision will be urgent if any delay likely to be caused by following the usual procedures would seriously prejudice the Council's or the Public interests. If a decision is deemed an urgent decision caused by a failure to plan appropriately or work without due regard to timeliness, the circumstances giving rise to the need for the decision should be reported to the Audit and Governance Committee.

Urgent Decisions: Council (Procedure Rule 18)

If a decision would normally be required to be made by full Council the decision may be made by the Chief Executive or in his/her absence the Deputy Chief Executive (or in their absence their nominee) in consultation with Group Leaders and the Mayor (or in his/her absence the Deputy Mayor) subject to the following requirements being met:

- The decision-maker is satisfied that the matter is urgent and cannot await the next meeting of the Council, or an urgently convened Council meeting;
- The decision is reported for information to the next available meeting of the Council;
- The provisions of legislation are complied with;
- Advice has been taken from the Chief Executive, Council's Director of Legal Services and Section 151 Officer;
- All Members of the Council are notified of the decision taken by electronic means.

Urgent Decisions: Regulatory / Non-Executive matters (Procedure Rule 25)

The Chief Executive or in his/her absence the Deputy Chief Executive (or in their absence their nominee) in consultation with the Chairman and/or Vice-Chairman of the relevant committee or sub-committee has delegated authority to take any non-executive decision subject to the following requirements being met:

- The decision-maker is satisfied that the matter is urgent and cannot await the next meeting of the decision-making body, or an urgently convened meeting;
- The decision is reported for information to the next available meeting of the decision-making body;
- The provisions of legislation are complied with;
- Advice has been taken from the Council's Director of Legal Services and Section 151 Officer;

- All Members of the Council are notified of the decision taken by electronic means.

Urgent Decisions: Cabinet / Executive Matters (Procedure Rule 53)

The Leader of the Council, or in his/her absence the Deputy Leader of the Council, or in his/her absence the relevant portfolio holder has delegated authority to take an urgent executive decision in consultation with the Chief Executive subject to the following requirements being met:

- The decision-maker is satisfied that the matter is urgent and cannot await the next meeting of the Cabinet, or an urgently convened Cabinet meeting;
- The decision is reported for information to the next available meeting of the Cabinet;
- The provisions of legislation are complied with;
- The relevant overview and scrutiny committee Chairman has been notified of the matter and has been invited to make representations;
- The Leaders of all Opposition Groups have been notified of the matter and have been invited to make representations;
- Advice has been taken from the Council's Director of Legal Services and Section 151 Officer;
- All Members of the Council are notified of the decision taken by electronic means.

In addition the following provisions shall apply:-

- Rules 13, 14 and 15 of Access to Information Procedure Rules shall be adhered to, relating to the content of the Forward Plan, general exceptions to the requirement to list decisions on the Forward Plan, and circumstances of special urgency
- Rule 54 of the Executive Procedure Rules shall be adhered to, relating to the Forward Plan and Key Decisions
- Overview and Scrutiny Procedure Rules in relation to Call-in (Rule12) shall not apply to urgent executive decisions taken under this procedure (see Rule 13).
- Rule 4 of the Budget and Policy Framework Procedure Rules shall be adhered to in relation to urgent executive decisions taken under this procedure.
- Overview and scrutiny committees can review the reasons for the urgency of a decision and the process adopted.

For the purposes of this urgency provision, the limit placed on the decision-making powers of individual Portfolio Holders in relation to decisions involving expenditure or savings of £1M or more would not apply.

APPENDIX 5

SUBSTITUTION ARRANGEMENTS

- 1 All Members of a Political Group will be regarded as being reserve Members, who may take the place of an appointed Member at a particular meeting of a committee or sub-committee, except in respect of the Planning and Licensing Committees.
- 2 In respect of the Planning and Licensing Committees, each Political Group will, by notice to the Monitoring Officer, nominate appropriately trained Members to be reserve Members for those Committees. Such reserve Members may take the place of an appointed Member at a particular meeting of the Planning or Licensing Committee in question. In addition to being appropriately trained, a substitute member for a planning committee meeting must be a member of another planning committee.
- 3 Members of the Cabinet shall not sit on or be nominated substitutes/reserve members for any Scrutiny bodies. This shall also apply to a Deputy Cabinet Member as referred to in Part 2, Chapter 7 of the Constitution.
- 4 Any reserve member acting as substitute shall inform the Chairman at the beginning of the meeting. The outgoing member shall cease to be the Political Group's representative on that Committee or Sub-Committee for the duration of that meeting or any adjournment of it, and that reserve Member shall become the representative on the Committee or Sub-Committee for the same period. At the end of the meeting, the outgoing Member shall resume his/her place on the Committee or Sub-Committee in question and the Member who had been appointed as substitute in his/her place shall revert to being a reserve Member.
- 5 The Monitoring Officer shall give notice and distribute agendas to all members of the Committee or Sub-Committee. Agendas will be made available to all other members by electronic means. Agendas will also be made available at the meetings in question.
- 6 For the avoidance of doubt, there are no substitution arrangements in respect of the Cabinet.

APPENDIX 6

AGENDA ITEMS SUBMITTED BY MEMBERS

- 1 This facility does not apply to special meetings of Committees and Sub-Committees or to the Cabinet.
- 2 A Member of the Council may, by notice given to the Monitoring Officer no later than ten clear working days before the appropriate meeting, request that an item of business be included on the agenda of a Committee or Sub-Committee.
- 3 A Member may not give notice of more than one item of business for any one meeting. The notice shall state the nature of the business and shall include the signature of that Member.
- 4 This procedure shall not apply where the item of business, if agreed, would have the effect of rescinding or amending any resolution passed by a Committee or Sub-Committee of the Council within the preceding 6 months.
- 5 Items arising from such notices shall appear on the agenda at the end of the Part 1 or 2 business.
- 6 This procedure will apply to Members of overview and scrutiny committee or sub-committees exercising their rights under Section 9FC(1)(a) and (b) of the Local Government Act 2000 to have an item, within the remit of that particular body, included on the Agenda and discussed at the next meeting of that body. Where a Member is exercising their rights under Section 9FC, the restrictions in paragraph 3 on the number of items shall not apply.
7. Section 9FC also permits any member to request that an item of business is added to an agenda of a relevant overview and scrutiny committee provided it is not an excluded matter and is relevant to the functions of the overview and scrutiny committee.

APPENDIX 7

PUBLIC SPEAKING AND QUESTIONS

1. A total period of 15 minutes will be allocated for members of the public to speak at Council meetings.
2. A total period of 10 minutes will be allocated for members of the public to speak at meetings of the Cabinet, committees and sub-committees. This does not apply to meetings of the Council's Planning, Licensing and overview and scrutiny committees and sub-committees, which have separate arrangements in place for public involvement. The arrangements for planning meetings are set out in the [Protocol on Public Speaking Rights at Strategic Planning Board and Planning Committees](#)
3. Subject to paragraph 7 below, members of the public are not required to give notice of their intention to make use of the public speaking facility (although as a matter of courtesy, a period of 24 hours' notice is encouraged).
4. Members of the public may speak on any matter relating to the work of the body in question, provided that the Chairman retains the discretion to rule a speech out of order and require the member of the public to cease speaking if the speech covers confidential issues or is derogatory or defamatory or inappropriate for any other reason.
5. Members of the public will normally be allowed up to 5 minutes each to speak, but the
6. The Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.
7. During public speaking time, members of the public may ask questions of the appropriate Cabinet Member or Chairman of the committee or sub-committee which has responsibility for the matter in question.
8. Where a member of the public wishes to ask a question of a Cabinet member, or of the Chairman of a committee or sub-committee, at least 3 clear working days' notice must be given in writing to the Head of Governance and Democratic Services, in order that an informed answer may be given.
9. The Member responding to the question may answer the question, may decline to do so, may agree to reply at a later date or may refer the question to an appropriate committee, or to the Cabinet. Questions will be asked and answered without discussion.
10. In addition to the general provisions for public speaking set out in Committee Procedure Rule 35 and this Appendix, the following specific

provisions apply to meetings of the [Public Rights of Way Committee](#) in relation to individual applications on the agenda:

- 1 For each application on the agenda, a total of 6 minutes is allocated for public speaking, with 3 minutes being allocated for objectors and 3 minutes being allocated for supporters. If there is more than one person wishing to speak as an objector or supporter, the 3 minutes shall be divided equally among them or they may appoint one of their number to speak for all.
- 2 No member of the public shall speak on a matter before the Chairman has introduced the report. Members of the public may not participate in the debate or ask questions of Officers or Members.
- 3 At the Chairman's discretion, Members of the Committee may, through the Chairman, ask questions of a speaker for clarification but should not enter into a discussion with them.
- 4 Any member of the public wishing to address the Committee must give notice of their intention, in writing, to the Head of Governance and Democratic Services by 12 noon one clear working day before the meeting.
- 5 These provisions may be varied at the discretion of the Chairman.

MODEL AGENDAS FOR COUNCIL MEETINGS

AGENDA FOR ANNUAL COUNCIL MEETING

Standard Item

- Prayers
- Apologies for Absence
- Declarations of Interest
- Election of Mayor and Appointment of Deputy Mayor
- Mayor's Announcements
- Approval of Minutes of previous meeting
- Receive notification of Leader's Appointments to the Cabinet
- Leader's Announcements
- Political Representation on the Council's Committees
- Allocation of Chairmanships and Vice-chairmanships of the Committees of the Council
- Appointments to non-executive Organisations and Panels

AGENDA FOR ORDINARY COUNCIL MEETINGS

Standard Item

- Prayers
- Apologies for Absence
- Declarations of Interest
- Approval of Minutes of previous meeting
- Mayor's Announcements
- Public Speaking Time/Open Session

- Recommendations from Cabinet
- Leader's Announcements
- Recommendation from Committees
- Notices of Motion
- Questions from Members

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Part B – Access to Documents and Information

Access to Information Procedure Rules

[TO FOLLOW]

**Part C – Budget and Policy Framework
Procedure Rules**

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

[TO FOLLOW]

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Part D – Finance Procedure Rules

[TO FOLLOW]

Part E – Contract Rules

	Contract Procedure Rules
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Why is this important?

These Contract Procedure Rules are intended to set out clear rules and processes for the purchase of works, goods and services. Following these Contract Procedure Rules will promote good procurement practice, help ensure the Council obtains value for money and ensure the Council complies with Public Procurement Legislation. Compliance with the Contract Procedure Rules will also help to protect the Council's staff and Members from undue criticism or allegations of wrongdoing.

What's covered in this Section?

The roles and responsibilities of:

- The Cabinet
- All Officers procuring goods, services and works on behalf of the Council

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Award Criteria – the criteria set in order to examine the merits of each Bid received. Refer to Evaluation Matrix also.

BAFO – Best and Final Offer. This is a procedure to facilitate a final opportunity for Bidders to improve their Bids, which can include price, improvement in quality and/or a value added element.

Bid – a quotation or tender submitted in response to a Request for Quotation or Invitation to Tender issued by the Council.

Bidder – a contractor, supplier, provider or similar who submits a Bid.

Central Purchasing Body - A contracting authority (as defined in the Public Procurement Legislation) that provides centralised purchasing activities such as awarding contracts for works intended for other contracting authorities or the acquisition of supplies and/or services intended for use by other contracting authorities.

Commissioning Officer - an Officer who is requesting and / or is in need of the works, goods or services.

Commissioning and Procurement Board – a board of members and officers established to ensure a strategic commissioning approach in the Council and that procurement of goods, land and property achieves value for money in delivering the Council's corporate strategy and strategic priorities. The Board has detailed [Terms of Reference](#)

Concession - any agreement between the Council and one or more parties in respect of:

- The carrying out of works for the Council, in return for the right to exploit the works that are the subject of the contract with or without payment;
- The delivery of services to the Council, in return for the right to exploit the services that are the subject of the contract with or without payment.

Contract - any agreement between the Council and one or more parties in respect of:

- The carrying out of works for the Council;
- The purchase, leasing or hiring of goods or materials by the Council; or
- The delivery of services to the Council.

Contract Manager - an Officer of the Council (or in the case of a Contract where the service/goods/works are procured on behalf of another organisation an officer of that organisation) who has day to day responsibility for

overseeing the delivery of the Contract requirements by the provider and recording the performance of the provider against their performance criteria set out in the Contract.

CPU – Corporate Procurement Unit is the unit responsible for procurement activity within the Council.

Dynamic Purchasing System is similar to a Framework Agreement; however, the ability for providers to become party to the system and to be eligible to bid for Contracts awarded under it, remains open throughout its life.

Electronic Tendering Portal (E-tendering Portal) – a system for the issue and receipt of electronic tenders and quotations as designated by the Chief Operating Officer.

EU Threshold - the financial thresholds above which the Public Procurement Legislation applies to a proposed Contract.

Evaluation Matrix – A document setting out the Award Criteria and weightings for a procurement process which reflect what is material to the award of a particular Contract and its importance. This document will be updated to capture scores during the evaluation of Bids.

Evaluation Panel – a group of Officers set up to undertake the evaluation of Bids. The number of Officers and relevant disciplines required will vary for each procurement.

Executive Director (or delegated representative) – the Chief Executive or any Director of the Council to whom there has been specific delegation by the Council or Cabinet or in writing by the Chief Executive.

Framework Agreement - any agreement between one or more contracting authorities and one or more providers, that establishes defined terms governing contracts to be awarded during a given period for:

- The carrying out of works;
- The purchase, leasing or hiring of goods or materials;
- The delivery of services;

Invitation to Tender (ITT) – refers to an invitation to providers to submit tenders for Contracts to provide goods, services or works valued at or above the EU Threshold.

Key Decision – As defined in the Glossary to the Constitution.

OJEU - Official Journal of the European Union.

Procurement Manager - the manager of the CPU. All references to Procurement Manager in the below text shall include their delegated representatives unless otherwise instructed.

Procurement Officer or Procuring Officer - an Officer of the CPU who shall undertake the appropriate procurement activities to provide the Commissioning Officer with their requirements.

Public Procurement Legislation – Legislation which regulates the purchasing by public sector bodies and certain utility sector bodies of contracts for goods, works or services. The law is designed to open up the EU's public procurement market to competition, to prevent "buy national" policies and to promote the free movement of goods and services.

Request for Quotation – an invitation to providers to submit quotations for Contracts to provide goods, services or works valued between £25,000 and the relevant EU Threshold

Social Value – the duty under the Public Services (Social Value) Act to have regard to how what may be commissioned or procured will improve the economic, social and environmental wellbeing of the area.

Verifying Officer is an Officer who will confirm that the Form of Tender is signed and that terms and conditions are agreed by all providers. They may be an Officer of the CPU or an Officer of Legal Service.

Waiver – a process whereby approval may be granted to waive the requirements of competition (see Part 6).

Part 1: Contract Procedure Rules which apply to ALL Contracts

1.1 Basic Principles

1.1.1	<p>Introduction</p> <p>These Contract Procedure Rules (hereafter referred to as “these / the Rules”) are intended to promote good procurement and commissioning practice, transparency, public accountability and deter corruption in relation to the awarding of Contracts and Concessions and the conclusion of Framework Agreements and Dynamic Purchasing Systems. Following these Rules will result in open and transparent procurement processes and ensure compliance with Public Procurement Legislation.</p> <p>Officers responsible for the procurement or commissioning of any goods, services, works or Concessions must comply with these Rules.</p> <p>These Rules should be read in conjunction with the relevant parts of the Council’s Constitution and guidance issued by the Procurement Manager (and published on Centranet) following consultation and endorsement from the Commissioning and Procurement Board</p> <p>All references to Contract(s) in the Rules below also include, Framework Agreements, Dynamic Purchasing Systems and Concessions unless otherwise instructed.</p> <p>All Contracts, procurement documentation, and procurement processes shall be consistent with the Council’s Procurement Guides (available on Centranet), Procurement Strategy, and these Rules.</p>
1.1.2	<p>Scope</p> <p>The Rules apply to all Contracts procured on the Council's behalf.</p> <p>For the avoidance of doubt, these Rules shall NOT apply to any of the following:</p> <ul style="list-style-type: none"> • The sale, leasing or purchase of land or immovable property, or any interest in land; • Any contract of employment; • Loans; • The issue, purchase or sale of securities or other financial instruments; (refer to the Section 151 Officer) <p>The competition and procedure elements of these Rules in Parts 2, 3 and 4 need not apply to any of the following situations, however, advice must be sought from Legal Services as to whether the arrangement meets the criteria set out below and to the most appropriate form of agreement to put in place:</p> <ul style="list-style-type: none"> • Contracts awarded to a contracting authority (as defined in relevant legislation) on the basis of an exclusive right which they enjoy pursuant to a law, regulation or published administrative provision compatible with the Treaty on the Functioning of the European Union (TFEU); • Public-public co-operation, where the arrangement establishes or implements a co-operation between the Council and one or more contracting authorities with

	<p>the aim of ensuring that the public services they have to perform are provided with a view to achieving objectives they have in common, and implementation of the co-operation is governed solely by considerations relating to the public interest, and the parties concerned do not perform 20% or more of the activities concerned by the cooperation on the open market;</p> <ul style="list-style-type: none"> • Any contracts between the Council and any company that is controlled by the Council in a similar way to which it controls its own departments / services. Such companies must perform more than 80% of their activities for, or on behalf of, the Council (or other legal persons controlled by the Council or other contracting authorities e.g. for jointly owned companies). Such companies should also have no private capital participation in them other than where required by legislation (in which case the control must be non-controlling and non-blocking). <p>Commissioning additional supplies, services or works outside of the scope of any existing contractual arrangements from a company controlled by the Council should be subject to a business case and demonstrate value for money and steps must be taken to ensure the arrangement fits within the criteria detailed above. In the interest of best practice and demonstrating value for money, the Commissioning and / or Procuring Officer may wish to subject such contracts to competition.</p>
1.1.3	<p>Legal Compliance</p> <p>All procurement procedures and Contracts shall comply with these Rules and all legal requirements and no Officer, or Member shall seek to avoid them. The only exception is where a valid waiver is granted under Part 6 of these Rules. If there is any dispute regarding these Rules, it should be taken up with the Procurement Manager who will seek appropriate advice to resolve the matter with Legal Services.</p>
1.1.4	<p>Public Procurement Legislation</p> <p>All contracts must comply fully with the requirements of relevant Public Procurement Legislation.</p>
1.1.5	<p>National and European Union Legislation (other than Public Procurement Legislation)</p> <p>Generally, National and European Union legislation must be adhered to and will override the application of these Rules. Where legislation contradicts these Rules (such as the de minimis provision within regulations issued under the Transport Act 1985 (as amended)), agreement should be reached between the Executive Director and Procurement Manager as to whether to apply the provision of that legislation ensuring that value for money is achieved.</p>

1.1.6	<p>Applicable Principles</p> <p>In order to prevent the distortion of competition, the procurement and award of Contracts shall comply with the principles of transparency, equal treatment, non-discrimination and proportionality.</p>
1.1.7	<p>Contracts where the Council acts as agent</p> <p>Where the Council acts as the agent for any of its wholly or partly owned companies or other local authority or public body or other company or organisation (Principal), these Rules shall apply unless the Principal in question instructs otherwise.</p>
1.1.8	<p>Calculating the financial value of a procurement</p> <p>In determining the estimated value of the procurement, for the purpose of applying the relevant provisions within these Rules, the following should be taken into account:</p> <ul style="list-style-type: none"> • The total amount payable (net of VAT) for the lifetime of the Contract being procured including any proposed options or renewal periods; • The aggregation of requirements with similar characteristics, or for the same type of goods, services or works, regardless of the number of Contracts that may be entered into or number of lots that the procurement may be split between for the duration of the Contract(s), especially where such aggregation means the value exceeds the relevant EU Threshold for goods, services or works; • In the case of joint purchasing arrangements, the value shall be the aggregate of both parties' requirements that are the subject of the procurement. <p>No Officer or Member of the Council may seek to subdivide procurements, requisitions or individual spend amounts in order to avoid the application of these Rules or Public Procurement Legislation (in their entirety or in part).</p>
<p><u>1.2 Officer and Member Responsibilities</u></p>	
1.2.1	<p>Powers / authority</p> <p>All powers should be exercised through Officers and it should be noted that only Officers authorised in the relevant local scheme of delegation have the authority to commit the Council to any contractual obligations. (Members exercise their powers through Officers).</p>
1.2.2	<p>Adequate Budget Provision</p> <p>Officers should not seek to enter into a Contract or purport to enter into a Contract, unless there is adequate provision in the agreed capital programme and/or agreed Revenue Budget for the relevant service.</p>

1.2.3	<p>Corporate Contracts</p> <p>A Corporate Contract is a pre-existing Contract or Framework Agreement that has been set up for use by all Services (or specific Services) in the Council to address a common or specific need and that allows Commissioning Officers to quickly and efficiently source those requirements without undertaking repetitive tendering exercises and to comply with aggregation rules of Public Procurement Legislation.</p> <p>Prior to any procurement activity, the Commissioning Officer shall ascertain whether any Corporate Contract exists in relation to their requirements. Where such a Corporate Contract exists, it shall be best practice to utilise Corporate Contracts.</p>
1.2.4	<p>Performance Bond or Parent Company Guarantee</p> <p>The Commissioning Officer, in discussion with the Procurement Officer, shall in respect of all Contracts consider the need for a performance bond or parent company guarantee after assessing the following factors:</p> <ul style="list-style-type: none"> • Potential risk to the Council in the absence of a bond or parent company guarantee; • Known technical difficulties associated with the project; • The financial status of the provider(s); • Whether it is relevant and proportionate to the Contract; • The period of the contract; and • Any costs associated with the provision of the bond.
1.2.5	<p>Conflicts of interest</p> <p>A conflict of interest includes a situation where a relevant individual's financial, economic or personal interests might be perceived to compromise their impartiality and independence.</p> <p>All Council employees (and third parties engaged on the Council's behalf) must take appropriate measures to effectively prevent, identify and remedy conflicts of interests. Any conflict of interest must be declared to the appropriate line managers within the Council as defined and in line with the Officer Code of Conduct.</p>
<p><u>1.3 Collaborative arrangements</u></p>	
1.3.1	<p>Framework Agreements</p> <p>Rules 2.1 and 3.1 will not apply where the requirements in question are to be procured by using a Framework Agreement which has itself been procured through compliance with these Rules or from a Central Purchasing Body or other Public Body.</p> <p>Where a Framework Agreement is used, the Procurement Officer will undertake to check that the Framework Agreement is legally compliant and whether the Council is</p>

	<p>named in the OJEU notice for the Framework Agreement (either specifically or named within a grouping of regional local authorities) and therefore able to utilise that Framework Agreement.</p> <p>The Procurement Officer must ensure that requirements are procured in accordance with the terms of the Framework Agreement (and where applicable Public Procurement Legislation).</p>
<p>1.3.2</p>	<p>Joint or partnering arrangements</p> <p>(a) Joint or partnering arrangements between the Council and other bodies shall be subject to the prior approval of the relevant Executive Director and in the case of arrangements with private entities also the Chief Executive.</p> <p>(b) Advice from Legal Services must be sought as to the most appropriate form of agreement to put in place, especially where either party is undertaking work and / or tendering activity for the other, and entering into contracts on behalf of the other. Appropriate agreements may take many forms (for e.g. Memorandum of Understanding, Partnership Agreements, etc.) depending on the nature of the arrangements.</p> <p>(c) Under any such agreement, where the Council is responsible for procuring any requirements, these Rules shall apply, regardless of who shall enter into the resultant contract.</p> <p>(d) Under any such agreement, where another party is responsible for procuring any requirements, their contract procedure rules, or equivalent, shall apply, regardless of who shall enter into the resultant contract unless agreed otherwise. Where the other party has no such contract procedure rules, the procedure applied by the other body shall comply with the principles and safeguards contained in these Rules. The requirements of Public Procurement Legislation shall be adhered to where relevant.</p> <p>(e) Under any such agreement, the terms and conditions for the arrangement shall include powers for the Council to have access to the records, assets, site, employees and sub-contractors of that party for the purposes of investigating or auditing compliance with the terms of the arrangement and with Public Procurement Legislation.</p>
<p><u>1.4 E-Procurement</u></p>	
<p>1.4.1</p>	<p>Electronic Tendering</p> <p>All tendering above the relevant EU Threshold (and for Contracts which are below the EU thresholds but higher than £25,000 in value) must be undertaken via an electronic tendering method and shall use the eE-tendering Portal accessible through the CPU. Where it is necessary to use another portal, prior approval must be sought on a tender-by-tender basis from the Procurement Manager.</p>
<p><u>1.5 Records</u></p>	

1.5.1	<p>Contracts Register</p> <p>As part of the Government's Transparency Agenda the Council is required to compile a contracts register to capture details of all live Contracts entered into by the Council ("Contracts Register"). The Contracts Register shall be controlled by the CPU and the Commissioning Officer must ensure that all Contracts above £5,000 in value are recorded.</p>
<u>1.6 Expenditure approval process</u>	
1.6.1	<p>Pre-Contract requirements</p> <p>All Officers requiring to commit expenditure in order to acquire goods, services or works on behalf of the Council must:</p> <ul style="list-style-type: none"> • Consider the Social Value implications • Make sure that the appropriate authority is in place to start the process and spend the money in accordance with the appropriate local scheme of delegation; • Make sure that there is enough money in the budget to cover the total whole life financial commitment being made (including any consultants or other external charges or fees); • Make sure that the Forward Plan and publicity requirements have been followed where the purchase is a Key Decision.
<u>1.7 Sustainable Development</u>	
1.7.1	<p>Sustainable development</p> <p>The Council endeavours to consider how it can help achieve sustainable development through its work including social, environmental, economic and other relevant issues.</p>
1.7.2	<p>Social value</p> <p>There is a duty to comply with the Public Services (Social Value) Act 2012. The Council will endeavour to consider and apply the provisions of the Act to all procurements regardless of their nature and value (although social value considerations (including any consultation) should be proportionate to the scale and nature of the Contract). Such consideration includes but is not limited to:</p> <ol style="list-style-type: none"> a) How what is proposed to be procured might improve the economic, social and environmental well-being of the area of the Council; and b) How in conducting the process of procurement, the Council might act with a view to securing that improvement. <p>Officers must have regard to the Council's Social Value Policy available at [Cheshire East Council social value policy (PDF, 350KB)].</p>

1.7.3	<p>Community right to challenge</p> <p>The Localism Act 2011 provides that under the ‘community right to challenge’, the Council is to consider an expression of interest (EOI) submitted by a ‘relevant body’ in relation to providing or assisting in providing a service provided by or on behalf of the Council.</p> <p>When the Council accepts an EOI it must run a procurement exercise and award any Contract following these Rules.</p>
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Part 2: Contract Procedure Rules concerning Contracts below the EU Threshold

2.1 Competition requirements

2.1.1	<p>Advertising and procedure</p> <p>Where the estimated costs of any requirements to be ordered on behalf of the Council is less than the applicable EU Threshold then proposals shall be invited as outlined below:</p> <table border="1" style="margin-left: 40px;"> <tr> <td style="width: 5%;">a)</td> <td style="width: 25%;">Up to £10,000</td> <td>3 quotes are advisable but not mandatory (local firms being preferable where appropriate)</td> </tr> <tr> <td>b)</td> <td>Between £10,000 and £25,000</td> <td>A minimum of three quotations shall be sought, together with advice from the CPU or Legal Services on the appropriate form of Contract</td> </tr> <tr> <td>c)</td> <td>Between £25,000 and the applicable EU Threshold</td> <td>A minimum of three quotations shall be sought via the E-tendering Portal, and/or Contracts Finder together with advice from the CPU or Legal Services on the appropriate form of Contract</td> </tr> </table> <p>Where compliance with (c) above is not possible due to less than 3 providers responding, authority to proceed with a procurement process must be obtained from the Procurement Manager.</p> <p>The requirement in (c) to use the E-tendering Portal to advertise may be waived where there is an urgent need to do so. However, the Procurement Manager's written approval must be given to any such waiver.</p> <p>Officers are permitted to sign up for subscriptions for membership of industry associations without the need for competition provided they consider that the subscription offers value for money and available budget provision.</p>	a)	Up to £10,000	3 quotes are advisable but not mandatory (local firms being preferable where appropriate)	b)	Between £10,000 and £25,000	A minimum of three quotations shall be sought, together with advice from the CPU or Legal Services on the appropriate form of Contract	c)	Between £25,000 and the applicable EU Threshold	A minimum of three quotations shall be sought via the E-tendering Portal, and/or Contracts Finder together with advice from the CPU or Legal Services on the appropriate form of Contract
a)	Up to £10,000	3 quotes are advisable but not mandatory (local firms being preferable where appropriate)								
b)	Between £10,000 and £25,000	A minimum of three quotations shall be sought, together with advice from the CPU or Legal Services on the appropriate form of Contract								
c)	Between £25,000 and the applicable EU Threshold	A minimum of three quotations shall be sought via the E-tendering Portal, and/or Contracts Finder together with advice from the CPU or Legal Services on the appropriate form of Contract								

2.1.2	<p>Cross-border interest</p> <p>When issuing Requests for Quotations for below EU Threshold Contracts, Officers should consider whether the Contract may be of interest to organisations / individuals in other EU Member States and explain any concerns to the Procurement Manager.</p>
2.1.3	<p>Award Criteria</p> <p>Below EU Threshold Contracts will generally be awarded on the basis of MEAT (Most Economically Advantageous Tender) defined on the basis of price or cost using a cost effectiveness approach, and may include the best price – quality ratio, however, awards on the basis of lowest price shall be acceptable in certain circumstances.</p> <p>The Award Criteria and their relative importance must be set out in the competition Request for Quotation documents.</p>
2.1.4	<p>Best and Final Offer (BAFO)</p> <p>In certain circumstances it may be possible to provide for a BAFO stage in the procurement process and should only be used in consultation with Legal Services. Where the Procurement Officer and Commissioning Officer consider that a BAFO stage would be beneficial and could be exercised fairly in a procurement process, they should explain the reasons for the use of the BAFO process to the Procurement Manager, and seek approval to proceed from the Procurement Manager (who shall consult Legal Services).</p> <p>Where a BAFO stage is used, it must be conducted by the CPU through the E-tendering Portal, and should set a deadline for submission of BAFOs, to be returned via the E-tendering Portal.</p> <p>Where a BAFO is submitted, any improvements in a Bidder's offer must be recorded in the applicable Evaluation Matrix with Bidder's submissions re-scored where appropriate. A record of both pre and post BAFO scoring must be maintained for audit purposes.</p>
<p><u>Part 3: Contract Procedure Rules concerning Contracts at or above the EU Threshold</u></p>	
<p><u>3.1 Competition requirements</u></p>	
3.1.1	<p>Advertising and procedure</p> <p>Procurement of Contracts over the EU Thresholds should be undertaken in accordance with the Public Procurement Legislation.</p> <p>This includes the requirements in terms of advertisement of Contracts over the EU Threshold on Contracts Finder.</p>

3.1.2	Award Criteria
	<p>Contracts will be awarded on the basis of MEAT (Most Economically Advantageous Tender) defined on the basis of price or cost using a cost effectiveness approach, and may include the best price – quality ratio. Where possible full lifecycle costs should be considered as part of the financial evaluation.</p> <p>The Award Criteria and weightings must be set out in the Invitation to Tender.</p>
<u>3.2 Forms of procurement</u>	
3.2.1	<p>The Public Procurement Legislation sets out the procedures which can be used to procure Contracts at or exceeding the EU Thresholds. These include:</p> <ul style="list-style-type: none"> a) Open Procedure b) Restricted Procedure c) Competitive Procedure with Negotiation d) Competitive Dialogue e) Innovation Partnerships f) Call Off from a Framework Agreement <p>Other procedures are possible for Contracts for Light Touch Regime Services (as defined in Public Procurement Legislation) and for Concessions Contracts.</p>
3.2.2	The Procurement Officer in consultation with the Commissioning Officer and Legal Services shall select the most appropriate procedure having regard to the requirements of the Public Procurement Legislation.
3.2.3	This process shall not remove or modify the responsibility of the relevant Executive Director to take such steps as may be reasonably necessary to safeguard the Council's best interests.
3.2.4	In order to determine a suitable procurement approach to a specific market, Officers, in liaison with CPU, may first choose to carry out non-committal soft market testing in order to inform the market of the Council's procurement plans and to understand the likely level of interest. Any such testing should not have the effect of distorting competition or result in a violation of the principles of non-discrimination or transparency.
<u>Part 4: Contract Procedure Rules: Procedures for ALL Requests for Quotation and Invitations to Tender</u>	
<u>4.1</u>	<u>Application and documentation</u>
4.1.1	Application
	This Part 4 applies to all Contracts over £25,000 in value (including those at or above the relevant EU Threshold).

	Procurement procedures for Contracts below £25,000 will follow any guidance issued from the CPU and will be assessed based on their risk.
4.1.2	<p>Documentation</p> <p>All Requests for Quotations (RFQs) and Invitations to Tender (ITTs) over £25,000 shall include the following:</p> <p>(i) The Council must issue RFQs and ITTs and receive Bids via the E-tendering Portal. Bids submitted by any other means shall not be considered.</p> <p>(ii) A requirement for Bidders to complete fully and sign or otherwise authorise the Form of Tender, which relates to canvassing and non-collusion before submission.</p> <p>(iii) All electronic responses will be held within the E-tendering Portal in a restricted area that is only accessible by the appointed Verifying Officer after the specified fixed time and date.</p> <p>(iv) All RFQs and ITTs must specify the goods, works or services that are required in sufficient detail to enable the submission of competitive Bids, together with the terms and conditions of the contract that will apply.</p> <p>(v) A description of the award procedure and a definition of the Award Criteria and weightings in objective terms. Where it is not possible to provide weightings for objective reasons, Award Criteria should be stated in descending order of importance.</p> <p>(vi) Notification that Bids are submitted to the Council on the basis that they are compiled at the Bidder's risk and expense (except where prior agreement is given to reimburse those Bidders / providers engaged in a competitive dialogue or competitive procedure with negotiation).</p> <p>(vii) Notification that amendments must not be made to the contract documents by the Bidder (unless appropriate for the procurement procedure).</p>
4.1.3	A record of Bids received in pursuance of these Rules shall be maintained by the CPU and retained in accordance with the Council's retention schedule.
4.1.4	An electronic contracts register will be maintained by the CPU and copies of Contracts are to be provided to Legal Services for retention.
4.1.5	For Contracts over the EU Thresholds, Officers must comply with Public Procurement Legislation in relation to the collation and retention of documentation and the preparation of a tender report.
<u>4.2 Closing date for receipt of Bids</u>	

4.2.1	<p>Bids received after the fixed date and appointed time, shall <u>NOT</u> be opened or considered, unless there are exceptional circumstances as agreed by the Procurement Manager, who will consult with Legal Services where appropriate.</p> <p>An exceptional circumstance could be a system problem (of which there must be demonstrable evidence) with the E-tendering Portal which has prevented potential Bidders from uploading their response documents.</p>
4.3 Method of opening Bids	
4.3.1	<p>In respect of Bids received electronically, <u>ONLY</u> a Verifying Officer as designated within the E-tendering Portal will have permission to open the Bids.</p> <ul style="list-style-type: none"> (i) Bids above £1,000,000 will be verified by Legal Services. (ii) Bids from the EU Threshold up to £1,000,000 will be verified by the Procurement Manager or a Category Manager that has not been involved in the tender in question. (iii) Bids below the EU Threshold will be verified by a Procurement Officer that has not been involved in the procurement process in question.
4.4 Evaluation of Bids	
4.4.1	<p>Evaluation and award</p> <p>Bids shall be evaluated and awarded on the basis of the value for money they offer to the Council.</p> <p>For Bids over the EU Threshold this must be in line with:-</p> <ul style="list-style-type: none"> (a) MEAT (<i>Most Economically Advantageous Tender</i>) Principles. Award Criteria must be relevant to the Contract and apportioned between cost and quality in a ratio reflecting the risk and value of the contract. (b) Bids shall be evaluated and awarded in accordance with Award Criteria and weightings determined, and documented in an Evaluation Matrix, which must not be changed at any time during the process. (c) The relevant Public Procurement Legislation should be considered in determining what shall be included in the evaluation of cost.
4.4.2	<p>Evaluation Panel</p> <ul style="list-style-type: none"> (a) Evaluation Panels should be established prior to the issue of the RFQ/ITT, to ensure that they are engaged with the process and understand the evaluation criteria and weightings. (b) Evaluation Panels should include representation from the CPU, the commissioning department/key stakeholders, and should consist of a minimum of two Officers. However, should the risk be assessed as significant then the minimum number of people on the panel should be increased proportionately and in accordance with more detailed guidance from CPU.

4.4.3	<p>Evaluation Matrix</p> <p>(a) The Evaluation Matrix will consist of defined evaluation criteria and weightings.</p> <p>(b) All Bids must be scored consistently against the Award Criteria set out in the Evaluation Matrix in the RFQ/ITT using the scoring model also set out in the RFQ/ITT.</p> <p>(c) All scores and notes made by the Evaluation Panel must be recorded in writing in the Evaluation Matrix and used for reference if further moderation is required.</p>
4.4.4	<p>Moderation</p> <p>(a) The Evaluation Panel will discuss their individual scores and must reach agreement on a consensus panel score and justifying comments.</p> <p>(b) Any consensus scores and applicable justifying comments must be recorded in the Evaluation Matrix for the procurement process.</p> <p>(c) All notes may be the subject of information requests or legal challenge against award of a Contract. It is crucial that accurate notes justifying awarded scores are maintained throughout and relate solely to the relevant Award Criteria.</p>
4.4.5	<p>Clarification</p> <p>(a) Where post Bid clarification is required, it must be requested (and responses returned) via the E-tendering Portal. Importantly, post Bid clarification may only be sought in relation to an element of the Bidder's submission that has been provided, and which needs further understanding. Post Bid clarification must be used in a non-discriminatory manner and so that Bidders are not being given an opportunity to improve their Bids.</p> <p>(b) Evaluation scores can only be amended where specific clarification has been requested relating to the Award Criteria. Any decision to rescore must be discussed with the Procurement Manager.</p> <p>(c) All clarification questions and returns must be noted and any amended scores which result from clarification are to be updated in the Evaluation Matrix.</p> <p>(d) For above EU Threshold procurements, post Bid negotiation will not be accepted unless permitted within the procedure available within Public Procurement Legislation.</p> <p>(e) For Contracts below the EU Thresholds in value, a best and final offer (BAFO) stage may be used. Refer to Rule 2.1.3.</p>
<p><u>4.5 Acceptance of Bids</u></p>	
4.5.1	<p>Approval process</p> <p>Bids may be accepted by the relevant Executive Director provided that all of the following apply:-</p>

	<p>(i) the Bid complies with the requirements, conditions and criteria set down in any OJEU notice (where applicable) and in the RFQ/ITT including any applicable selection criteria and Award Criteria;</p> <p>(ii) the Bid proposed to be accepted is the most economically advantageous tender (or, where appropriate for Contracts below the EU Threshold, is the lowest priced Bid);</p> <p>(iii) where a Bid for a Contract above the EU Threshold appears abnormally low, the Bidder has been asked to explain the price or cost and the Council considers the explanation provided to satisfactorily account for the low price or cost; and</p> <p>(iv) Cabinet approval has been given where the tender is a Key Decision.</p>
4.5.2	<p>Debrief – intention and award</p> <p>Once the award decision has been approved by the Officer with appropriate delegated authority, communication should be undertaken with all Bidders, providing details on the outcome of the procurement process.</p> <p>For Bids above EU Thresholds, the provisions of the Public Procurement Legislation shall be followed regarding the content of notifications to Bidders and including any mandatory standstill periods outlined.</p>
4.6 Errors in Tender	
4.6.1	<p>If, before both parties have executed the Contract, it is discovered that an error has been made in the Bid it shall be dealt with as follows:-</p> <ul style="list-style-type: none"> • The Procurement Manager should be consulted (who should consult Legal Services as necessary); • The Bidder should be given the opportunity of confirming or withdrawing the Bid. In the case of genuine and obvious errors the Bidder may be given the opportunity to correct the error. The same approach should be taken to all Bids. .
4.6.2	Clarification surrounding such errors shall be sought in writing via the E-tendering Portal.
4.6.3	Where the Bidder elects to withdraw the Bid the next highest scoring Bid shall be considered and the same rules shall be applied in considering that Bid.
<u>Part 5 Contract Procedure Rules - Contracts and post procurement requirements</u>	
5.1.1	<p>Conditions of Contract</p> <p>Every Bid will be accompanied by the relevant conditions of contract which will either be supplied by CPU or Legal Services. In every written Contract there are certain clauses which must be inserted. These clauses are identified in the standard form</p>

	contracts produced for use by the Council and may be amended by Legal Services from time to time. The removal of these clauses requires agreement by Legal Services.
5.1.2	<p>Signed Contracts</p> <p>Subject to 5.1.3, Contracts (with a value not exceeding £1,000,000) shall be signed on behalf of the Council by a duly authorised Officer in accordance with the local Scheme of Delegation.</p>
5.1.3	<p>Contract Sealing</p> <p>A Contract must be executed under seal by Legal Services where any of the following apply to the Contract:</p> <ul style="list-style-type: none"> • It exceeds £1 million in value; • Where the Contract is such that Legal Services consider that the extended limitation period of 12 years would be of value; • Where it is required by statute or an external funding body that it is executed under seal; • Where the price paid or received under the Contract is a nominal price and does not reflect the value of the goods, services or works; • Where it is a construction-related or works Contract and it is required to be sealed in accordance with guidance issued by CPU.
5.1.4	<p>Contract payments / settlements</p> <p>Contract payments / settlements shall be made in accordance with procedures referred to in the Finance Procedure Rules.</p>
5.1.5	<p>Authorisation of payments</p> <p>Payments shall be approved by an authorised Officer in accordance with the local Scheme of Delegation.</p>
5.1.6	<p>Modification to Contracts</p> <p>Modifications to a Contract shall be in writing and shall be authorised by the appropriate Executive Director or on their behalf by an authorised Officer with agreement from the Procurement Manager and Legal Services. Such agreement will be dependent upon commercial considerations as well as considering if the modification is permitted under Public Procurement Legislation and the completion of any required documents as issued by the CPU from time to time.</p>
5.1.7	<p>Payments before completion of formal Contract</p> <p>No payment shall be made by the Council to the provider without a formal purchase order or an appropriate Contract in place. Payments should normally be made following the receipt of the requirements / achievement of desired outcomes.</p> <p>Staged payments are permitted. Any such payments should only be made upon receipt of the desired requirements for that stage / milestone. Should the desired</p>

	<p>requirements / outcomes not be achieved when the provider submits an invoice, a dispute should be raised to prevent payment until such time as the desired requirements / outcomes have been achieved.</p> <p>Advance payments are generally <u>not</u> permitted and the only exceptions without further approvals being required, shall be for:</p> <ul style="list-style-type: none"> • Software Licences; • Hardware and / or Software Support and / or Maintenance; • Warranties; • Deposits; • Leases / Hires. <p>If any other reason arises for an advance payment to be made, approval must be sought from the relevant Executive Director and the Director of Legal Services.</p>
<p>5.1.8</p>	<p>Monitoring of Contracts</p> <p>All Contracts should be monitored throughout the period of the Contract, and the performance of providers should be reviewed regularly, including</p> <ul style="list-style-type: none"> • How savings might be achieved within the contract period; • Compliance with the specification and contract; • Performance; • Any best value requirements; • Levels of insurance, • User satisfaction; and • Risk Management; <p>Accurate records of Contract monitoring activity and meetings including any issues raised / dealt with must be kept by the Commissioning Officers responsible for monitoring the Contract.</p>

5.1.9	<p>Contract extensions</p> <p>a) Commissioning Officers and Contract Managers must consider a provider's performance throughout the period of a Contract when considering a contract extension. Officers should question whether the quality of goods or services being provided to the Council would continue to offer best value should an extension be agreed. When reviewing performance for the purpose of Contract extension, Officers should seek the views of the provider as to whether they have any suggestions or proposals which might improve value or delivery of service which might benefit the Council. These Officers should be aware of the market, the providers within the market, and the level of competition within the market.</p> <p>Commissioning Officers should consider alongside the award of any optional extension period provided for in the Contract, what other alternatives may be available to the Council, and should offer reasoning as to why such alternatives are not proposed.</p> <p>These Officers must ensure that prior to seeking approval of any proposed Contract extension; consultation is undertaken with the Procurement Manager and a Contract Extension Form is completed and signed by the Executive Director.</p> <p>Contracts may be extended beyond the stated core Contract period, where provision for such extension was included in the RFQ/ITT, and in respect of above EU threshold Contracts, the relevant OJEU Notices.</p> <p>b) It is not possible to extend a Contract, after expiry. Any such requests will be viewed as new Contracts and the relevant provisions with these Rules must be followed.</p> <p>c) Any requests to extend a Contract where there is no provision to extend for the period requested constitutes a modification to the contract and the appropriate provisions at Rule 5.1.6 must be followed.</p>
Part 6 Contract Procedure Rules: Waiver and breach	
6.1	Waiver
6.1.1	<p>Waiver process</p> <p>It is strongly expected that these Rules will be followed in all cases with very limited exceptions, however, in the event a Commissioning Officer believes a waiver to these Rules is essential to the efficient running of the Service they must seek a waiver by producing a report that must be approved by the S.151 Officer and the Director of Legal Services.</p> <p>The report must be in accordance with the prescribed format available from the CPU. The format of the report shall be determined by the Procurement Manager, and must be used in line with any associated guidance published:</p>

	<p>(a) Advice and guidance must be sought from the Procurement Manager prior to submission of the waiver form to the S.151 Officer and Director of Legal Services. If approval is granted, it is still required that an appropriate contract be entered into prior to any requirements being provided by the provider.</p> <p>(b) The waiver of these Rules and the reason(s) for waiver shall be clearly recorded and reported to the Commissioning and Procurement Board.</p> <p>(c) All notices of waiver reported to the Procurement shall be published retrospectively for information on the next appropriate Audit and Governance Committee agenda.</p> <p>The only exception to the above is for instances of extreme urgency, where there is an immediate risk to life, property or an individual's safety and wellbeing, and any inaction by the Council (related to risks to safety and wellbeing) would be a breach of our statutory duty and obligations. The agreement of the Procurement Manager must be sought prior to any action being taken except where the nature of the urgency and risk renders this impractical. Such instances must be reported at the earliest opportunity, retrospectively, to the S.151 Officer and Director of Legal Services and the relevant Executive Director following the incident.</p>
<p>6.2 Breach of Contract Procedure Rules</p>	
<p>6.2.1</p>	<p>Breach</p> <p>No Officer or Member, may seek to actively avoid the application of these Rules without following the necessary waiver process outlined within these Rules.</p> <p>Officers and Members must be aware that any non-adherence with these Rules is a breach of the Officer Code of Conduct / Member Code of Conduct and could result in disciplinary action being taken against them.</p> <p>Service Directors are responsible for ensuring that their Commissioning Officers are made aware of the consequences of non-adherence and that they comply with these Rules.</p>
<p>6.2.2</p>	<p>Reporting and investigating breaches</p> <p>Any breach of, or non-adherence to these Rules, must, on discovery, be reported immediately to the Section 151 Officer. The Executive Director or his/her designated representative shall complete the waiver process (detailed at 6.1 above) outlining the reasons for the non-adherence and the steps taken to prevent a re-occurrence.</p> <p>The Executive Director or his/her designated representative will be required to submit the form for sign off by the Section 151 Officer and the Director of Legal Services.</p> <p>Any such breaches will be reported to the Commissioning and Procurement Board setting out the number of non-adherence instances in the previous period and broken down by service and exceptional instance, following which all such notices reported to</p>

	<p>the Commissioning and Procurement Board shall be published retrospectively for information on the appropriate Audit and Governance Committee agenda.</p> <p>The S.151 Officer and Director of Legal Services shall consider whether each reported breach or non-adherence presents a significant risk of harm to the Council's interests and if satisfied that such risk exists, shall undertake any necessary investigation and report the findings to the relevant Executive Director and the Chief Executive.</p>
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Part F – Employment Rules

1 General

1.1 Staff within the organisation are employed, appointed, designated or engaged on behalf of the whole Council and not by parts of the organisation or individuals.

1.2 The employment, appointment, designation or engagement of all staff will be in compliance with the law and any policies and practices of the Council.

1.3 Persons employed, appointed, designated or engaged by contractors under specific agreements or contracts are not staff of the Council, but are employees engaged by the contractor.

1.4 The Council will provide the necessary resources to support the appointed officer structure. Officers may be employees and other persons engaged on temporary contracts, consultancy arrangements or other appropriate terms.

1.5 Generally (except for certain senior staff appointments) the function of appointment and dismissal of, and taking disciplinary action against a member of staff of the Council must be discharged on behalf of the authority by the Head of the Paid Service or by an officer nominated by him/her.

2 Recruitment and Appointment of Staff

2.1 Any candidate for any designation or appointment with the Council who knows that he/she is related to a Member or employee of the Council shall, when making application, disclose, in writing, that relationship to the Head of Strategic HR. A person who deliberately fails to disclose such a relationship shall be disqualified from designation or appointment and, if designated or appointed, shall be liable to dismissal.

2.2 Every Member and employee of the Council shall disclose to the Head of Strategic HR any relationship known to him/her to exist between him/herself and any person he/she knows is a candidate for a designation or appointment by the Council.

2.3 Any candidate for designation or appointment who directly or indirectly seeks the support of a Councillor or officer of the Council in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable to dismissal. A Councillor shall not solicit for any person in respect of any designation or appointment with the Council, but may give a written testimonial of a candidate's ability, experience or character.

2.4 Persons shall be deemed to be related to a candidate or officer if they are a spouse, partner (i.e. member of a couple living together) parent, parent-in-law, grandparent, child, stepchild, adopted child, grandchild, child of partner, brother, sister, uncle, aunt, nephew or niece or the spouse or partner of any of the preceding persons.

2.5 In the case of a dispute under paragraph 2.4 above about the status of a relationship in relation to an appointment, the Head of Strategic HR will rule and such ruling will be applied.

2.7 The Head of Strategic HR will ensure that the provisions of these Rules are reflected, as appropriate, in application forms or in any accompanying detailed procedures for each post, following advertisement.

3 Responsibility of the Staffing Committee

3.1 In addition to these rules, the responsibilities of the Staffing Committee are set out in the Staffing Committee's Terms of Reference under the "Responsibilities for Functions" Section of this Constitution.

3.2 Subject to the provisions of these Rules, the Committee is responsible for hearing and determining appeals as set out in the Staffing Committee terms of reference under the Council's employment-related policies. In determining these matters the Committee will have regard to the appropriate provisions of this procedure. The Committee may agree to discharge some of these functions through a Sub-Committee.

3.3 The Cabinet Member with responsibilities for individual Departments or Services and the associated resources is required to ensure that corporate personnel policies and procedures are applied by the Council, including training, matters relating to discipline, workforce performance management, and grievance.

4 Appointment of Head of the Paid Service

4.1 The appointment of Head of the Paid Service is subject to specific requirements as set out below.

4.2 Where the Council proposes to appoint to the Head of the Paid Service, the Staffing Committee will oversee the arrangements for filling the vacancy. For this purpose the Committee shall include at least one Member of the Cabinet in its membership.

4.2 The Staffing Committee shall:

- draw up a statement specifying the duties of the officer concerned and any qualifications or guidelines to be sought in the person to be appointed;
- where it is not proposed to appoint from existing employees, make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
- make arrangements for a copy of the statement mentioned above to be sent to any person on request;

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- where a post has been advertised as required above, the Committee will select from the applications a short list of qualified candidates and will then interview those included in the short list.

4.4 Following the interview of candidates, the Committee will come to a view as to the most suitable person to recommend for the position.

- 4.5 The Committee must advise the Head of Strategic HR of:
- the name of the person in question;
 - any other particulars which the Committee consider are relevant to the appointment.
- 4.3 Within two clear working days of receiving the notification in 4.5 above, the Head of Strategic HR will notify each Member of the Cabinet of:
- the information notified under paragraph 4.5 above;
 - the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Head of Strategic HR; such period shall not exceed five clear working days.
- 4.7 An offer of appointment must wait until:
- the Leader has, within the period of the notice under paragraph 4.6 above, notified the Committee through the Head of Strategic HR that neither he/she nor any Member of the Cabinet has any objection to the making of the offer; or
 - the Head of Strategic HR has notified the Committee that no objections have been received by her within the period of the notice under 4.6 above; or
 - the Committee is satisfied that any objection received from the Leader within the notice period is not material or is not well founded. In this regard, where necessary, the advice of the Director of Legal Services shall be sought.
- 4.5 Where following the above procedure there are no objections to the proposed appointment or any objections are not up-held, the Committee will recommend that person for appointment to the next meeting of the full Council or at a specially convened meeting of the Council. If the Council approve the recommendation, then a formal offer of appointment can be made.
- 4.6 Where following the interviews the Committee is of the view that there is no suitable candidate, it will re-advertise the post.
- 4.7 Where the Council does not approve the recommendation of the Committee, it shall indicate how it wishes to proceed.

5.0 Dismissal of Head of Paid Service, Statutory Chief Officers and Executive Director of Place

5.1 The provisions of Clause 1.5 shall not apply to any proposal to dismiss the Head of Paid Service, Statutory Chief Officers or the Executive Director of Place. This shall be the responsibility of the Staffing Committee, save that any dismissal of Head of Paid Service, the Section 151 Officer or Monitoring Officer must be approved by full Council, following a decision of the Investigation and Disciplinary Committee and consideration by the Independent Persons Panel. Any disciplinary action short of dismissal against the Head of

Paid Service, Section 151 Officer, or Monitoring Officer shall be the responsibility of the Investigation and Disciplinary Committee.

5.2 For the avoidance of doubt, action short of dismissal against the Head of Paid Service, Section 151 Officer, or Monitoring Officer shall include a decision to suspend the same. Such a decision shall be the responsibility of the Investigation and Disciplinary Committee.

5.3 The Investigation and Disciplinary Committee is designated as the Committee discharging, on behalf of the Council, the function of discipline and dismissal of the Head of the Paid Service, Section 151 Officer, or Monitoring Officer. The full Council must however approve that dismissal before notice of dismissal is given to him/her.

5.4 Notice of dismissal of the Head of the Paid Service, Section 151 Officer, or Monitoring Officer must not be given until:

(a) the Investigation and Disciplinary Committee has notified the Head of Strategic HR that it wishes to dismiss the officer and any other particulars which the Investigation and Disciplinary Committee considers are relevant to the dismissal;

(b) the Head of Strategic HR has notified every member of the Cabinet of:

- (i) the fact that the Investigation and Disciplinary Committee wishes to dismiss the officer;
- (ii) any other particulars relevant to the dismissal which the Investigation and Disciplinary Committee has notified to the Head of Strategic HR;
- (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Head of Strategic HR; and

(c) either –

- (i) the Leader has within the period specified in the notice under sub-paragraph (b) (iii), notified the Head of Strategic HR that neither he/she nor any member of the Cabinet has any objection to the dismissal;
- (ii) the Head of Strategic HR has notified the Investigation and Disciplinary Committee that no objection was received by him/her within that period from the Leader on behalf of the Cabinet to the Head of Strategic HR;
- (iii) the Investigation and Disciplinary Committee is satisfied that any objection received from the Leader within that period is not well founded or material. In this regard, where necessary, the advice of the Director of Legal Services (or, if appropriate an alternative legal adviser) should be sought.

5.5 Where following the above procedure there are no objections to the proposed dismissal or the objections are not upheld, the Investigation and Disciplinary Committee will:

- (a) follow the procedure set out in paragraph 5.8; and
- (b) recommend the dismissal to a meeting of the full Council.

5.6 (a) This procedure applies if the Investigation and Disciplinary Committee proposes disciplinary action involving the dismissal of the Head of Paid Service, Section 151 Officer or Monitoring Officer.

(b) Where this procedure applies, the Investigation and Disciplinary Committee will provide the Independent Persons Panel with the information and any other matters provided to members of the Cabinet and any other particulars relevant to the dismissal that the Investigation and Disciplinary Committee considers appropriate or that the Panel may reasonably require. The Investigation and Disciplinary Committee may invite the Independent Persons Panel to attend any disciplinary or capability hearing.

(c) The Independent Persons Panel will meet to consider what, if any, advice, views or recommendations to give to the full Council.

(d) The Council may pay such remuneration, allowances or fees to an Independent Person appointed to the Panel as it thinks appropriate but the payment must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of his or her role as an independent person under the Localism Act 2011.

(e) Full Council will not meet to consider whether or not to approve the proposal of the Investigation and Disciplinary Committee to dismiss the officer until a period of at least 20 working days has elapsed from the appointment of the Independent Persons Panel.

(f) Before full Council takes a vote at a meeting on whether or not to approve such a dismissal, they must take into account, in particular—

- (i) any advice, views or recommendations of the Independent Persons Panel;
- (ii) the conclusions of any investigation into the proposed dismissal; and
- (iii) any representations from the officer.

5.7 If the full Council approve the recommendation of the Investigation and Disciplinary Committee, then notice of dismissal can be issued. Where the full Council do not approve the recommendation, they shall indicate how they wish to proceed

5.8 The requirements of the Local Authorities (Standing Orders)(England) Regulations 2001 as amended will be followed.

6.1 The offer of appointment for:

- (a) the officer designated as the head of the authority's paid service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
- (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups)

must not be made by the appointor until--

- (a) the appointor/dissmissor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
- (b) the proper officer has notified every member of the executive of the authority of--
 - (i) the name of the person to whom the appointor wishes to make the offer;
 - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and

(iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and

(c) either--

(i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he nor any other member of the executive has any objection to the making of the offer;

(ii) the proper officer has notified the appointor that no objection was received by him within that period from the executive leader; or

(iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

6.2 In this paragraph, "dismissor" means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be, notice of the dismissal of:

(a) the officer designated as the head of the authority's paid service;

(b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);

(c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;

(d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or

(e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

must not be given by the dismissor until--

(a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;

(b) the proper officer has notified every member of the executive of the authority of--

(i) the name of the person who the dismissor wishes to dismiss;

(ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and

(iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and

(c) either--

(i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he nor any other member of the executive has any objection to the dismissal;

(ii) the proper officer has notified the dismissor that no objection was received by him within that period from the executive leader; or

(iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

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