

Special Council Meeting

Agenda

Date: Monday 19th April 2021
Time: 11.00 am
Venue: Virtual Meeting

How to Watch the Meeting

For anybody wishing to view the meeting live please click in the link below:

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The agenda is divided into two 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 at the top of each report.

It should be noted that Part 1 items of Cheshire East Council decision making meetings are 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. **Minutes of Previous Meeting** (Pages 3 - 18)

To approve as a correct record the minutes of the meeting of Council held on 17 February 2021.

4. **Mayor's Announcements**

To receive such announcements as may be made by the Mayor.

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

In accordance with paragraph 1.32 of the Council Procedure Rules and Appendix 7 to the rules, a total period of 15 minutes is allocated for members of the public to speak at the Council meeting on the items of business on the agenda only. Individual members of the public may speak for up to 2 minutes, but the Chairman will have discretion to vary this requirement where they consider it appropriate.

Members of the public wishing to ask a question or make a statement 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.

6. **Leader's and Deputy Leader's Announcements**

To receive such announcements as may be made by the Leader and Deputy Leader.

7. **Site Allocations and Development Policies Document (SADPD) Submission**
(Pages 19 - 30)

To approve the submission of the SADPD to the Secretary of State for independent examination by an appointed Planning Inspector.

The Appendix to the report has been circulated as a separate document to all members of the Council.

8. **Transitional Provisions and Future Constitutional Work** (Pages 31 - 42)

To consider a report on the transitional provisions and future constitutional work.

9. **Recommendation from Constitution Committee: Calendar of Meetings 2021-22**
(Pages 43 - 52)

To consider the recommendations from the Constitution Committee and approve the calendar of meetings for the municipal year 2021/22.

10. **Constitutional Update to Implement the Committee System** (Pages 53 - 338)

To consider a report on the Constitutional Update to Implement the Committee System.

11. **Political Representation on the Council's Committees** (Pages 339 - 346)

To determine the political representation on the Council's Committees.

CHESHIRE EAST COUNCIL

Minutes of a virtual meeting of the **Council**
held on Wednesday, 17th February, 2021

PRESENT

Councillor B Burkhill (Mayor/Chairman)
Councillor S Edgar (Deputy Mayor/Vice Chairman)

Councillors B Burkhill, S Edgar, Q Abel, M Addison, S Akers Smith, M Asquith, R Bailey, J Barber, M Beanland, M Benson, L Braithwaite, J Bratherton, S Brookfield, D Brown, C Browne, J Buckley, C Bulman, P Butterill, S Carter, J Clowes, S Corcoran, L Crane, S Davies, T Dean, D Edwardes, B Evans, H Faddes, A Farrall, JP Findlow, K Flavell, R Fletcher, T Fox, A Gage, S Gardiner, L Gilbert, M Goldsmith, A Gregory, P Groves, S Handley, A Harewood, G Hayes, S Hogben, S Holland, M Houston, M Hunter, D Jefferay, L Jeuda, A Kolker, C Leach, I Macfarlane, N Mannion, D Marren, A Martin, A Moran, R Moreton, B Murphy, D Murphy, J Nicholas, K Parkinson, J Parry, S Pochin, B Puddicombe, P Redstone, J Rhodes, L Roberts, J Saunders, M Sewart, M Simon, L Smetham, J Smith, L Smith, D Stockton, A Stott, R Vernon, L Wardlaw, M Warren, J Weatherill, P Williams, J Wray and N Wylie.

35 PRAYERS

The Reverend Ralph Kemp said prayers at the request of the Mayor.

36 APOLOGIES FOR ABSENCE

There were no apologies for absence.

37 DECLARATIONS OF INTEREST

Item 8 - In the interest of openness, Councillor B Puddicombe declared that he was the Council's nominated representative on the Peaks and Plains Housing Trust, which was mentioned as being part of a consortium making a bid for a green homes grant in the report.

38 MINUTES OF PREVIOUS MEETING**RESOLVED:**

That the minutes of the meeting held on 16 December 2020 be approved as a correct record.

39 MAYOR'S ANNOUNCEMENTS

The Mayor

- 1 expressed his thanks to all those Members who had joined him at the Council's Holocaust Memorial Day Service last month. He also thanked Mrs Judith Hayman, who at the Service had talked in such an engaging way about the horrific impact of the Holocaust on her family, and thanked the Rev Michael Morton, from St Winifred's Church, Sandbach, who had also spoken at the Service.
- 2 referred to the recent media interest in a meeting of Handforth Parish Council, of which he was a member, and stated that nothing should detract from the importance of the business being considered at today's meeting which included agreeing the budget and the Council Tax precept, and that the Council had an agreed procedure for dealing with code of conduct issues.

40 PUBLIC SPEAKING TIME/OPEN SESSION

Jane Smith referred to planning application 20/2540C and asked why the Council had given permission for the removal of the 10 metres of hedgerow for temporary vehicular access in spite of Alsager Town Council's concerns, which were backed up by policies in their recently adopted Neighbourhood Plan. The Portfolio Holder for Planning responded that Local Plan Policy PG6 – Open Countryside allowed for the development of public infrastructure and essential work to be undertaken by public service or authorities or statutory undertakers and the application related to the upgrading of a water treatment plant and was therefore acceptable in principle. Policy NBE4 of Alsager Neighbourhood Plan stated that, if because of development, trees and hedgerows were lost they should be replaced by native species and this had been secured by a condition of approval of the application.

Sue Helliwell referred to the Brighter Future Together Programme and stated that it appeared from details within the budget that there were going to be cuts or savings to the Programme and made reference to member behaviours. Sue Helliwell asked how the Council could ensure that the culture of the council kept on improving if cuts were to be made to the Brighter Future Programme. In response the Portfolio Holder for Public Health and Corporate Services stated that the Council's Brighter Future workstream was much wider than the cultural workstream and include four other areas of transformation and that there were no savings proposals in the MTFS relating to the cultural work.

Paul Duffy spoke in relation to the proposal to close the Congleton Recycling Centre with no option for a replacement and asked if the submitted petition and calculations for extra CO₂ were taken into consideration in deciding to close the recycling centre in Congleton and

how did closing a recycling centre fit in with the Climate emergency declared by Cheshire East back in 2019. The Portfolio Holder for Highways and Waste confirmed that the consultation responses and petition were taken into consideration and emphasised that a decision had not yet been made, and the matter would go back to the scrutiny committee before a decision was made by Cabinet.

Congleton Town Councillor Robert Douglas referred to the proposal for the closure of the Congleton Recycling Centre, making reference to damage it would cause to the environment, and stated that it was unthinkable that a town the size of Congleton would not have its own recycling site. He asked how many alternative sites Cheshire East had seriously considered to replace the existing site and what was their approximate acreage and distance from the centre of Congleton. In response the Portfolio Holder for Highways and Waste stated that the decision had not been taken to close the site and the matter would go back to the scrutiny committee before going to Cabinet for decision and asked that people put forward any suggestion where cuts could be made in other services to enable a site to be built in Congleton which they would consider.

41 LEADER'S AND DEPUTY LEADER'S ANNOUNCEMENTS

The Leader of the Council, in summary:

- stated that the Covid-19 infection rates in Cheshire East had fallen sharply in January from a peak of about 400 per 100,000 of population but in early February the decline had stopped at about 200 per 100,000 and that this appeared to be due to a number of outbreaks in care homes.
- reported that the rate was now at 134 per 100,000 and he thanked everybody who has helped to reduce the infection rate, including those simply following the rules and observing the hands, face, face guidance.
- stated that the vaccination programme organised by NHS Cheshire CCG and local GPs was going exceptionally well and over 90% of those in the top 4 cohorts had been vaccinated.
- encouraged those over 70 and who had not yet had their first vaccination to call 119 and book an appointment.
- praised the work done in distributing food and energy vouchers to the vulnerable and that with the help of schools, colleges, early years settings and other family support service more than 11,000 vouchers had been distributed.

The Deputy Leader of the Council, in summary:

- reported that since November last year a total of 14,000 business grants, had been paid out and that the Business Support Team had processed a further 561 applications within the last week. By the end of March the Council was expected to have paid out more than £4.5m in grant payments.

- reported that public consultation had commenced on second phase of our active travel schemes to encourage cycling and walking following a further award of government funding.
- reported that the Council's expression of interest to the Department of Transport's Rural Mobility Fund had been successful and a business case for a demand responsive transport scheme serving rural communities in the south of the Borough had been submitted.
- stated that HS2 Phase 2A had gained royal assent, which would bring high speed rail travel to Crewe.

42 RECOMMENDATION FROM CABINET: THIRD QUARTER REVIEW (FINANCE) 2020/21

Council considered the recommendations from Cabinet in relation to the approval of supplementary revenue estimates and supplementary capital estimates.

RESOLVED: That Council approve:

1. fully funded supplementary revenue estimates above £1,000,000 relating to Covid-19 grants in accordance with Financial Procedure Rules, as detailed in Appendix 2 Table 1 to the report;
2. a supplementary capital estimate of £1,808,000 relating to Best4Business in accordance with Financial Procedure Rules, as detailed in Appendix 4, Annex D to the report;
3. an additional Supplementary Capital Estimate of up to £3,500,000 from the Public Sector Decarbonisation Fund to further the Council's carbon neutrality objectives; and
4. an additional Supplementary Capital Estimate in relation to £1,523,750 from The Department for Business, Energy and Industrial Strategy (BEIS) for Green Homes Grant, Local Authority Delivery Scheme Phase 1B (GHG LAD P1B).

43 RECOMMENDATION FROM CABINET: CORPORATE PLAN AND MEDIUM-TERM FINANCIAL STRATEGY 2021-25

Cabinet, at its meeting on 2 February 2021 had considered a report presenting the Corporate Plan and the Medium-Term Financial Strategy for Cheshire East Council for 2021-25. The report set out how the Council would approach the financial challenges over the medium term and forecast a balanced budget for 2021/22.

Cabinet had recommended to Council the items in Appendix A to the report and these were proposed and seconded.

During the debate two amendments were proposed.

Amendment 1

To start the initiative for devolved ward budgets it is recommended that:

- a) the Council establish devolved ward member budgets of at least £4,200 per Ward Member for the financial year 2021/2022.*
- b) the proposals to be funded from the current allocation of Capital Grant funding to the Area Highway Groups of £350,000.*
- c) that the Committee System be asked to review achievements of the ward budgets scheme in 2021/22 with a view to widening the scheme in 2022/23 and beyond with a significant increase in the budget amount to be allocated to each Ward Member.*

The amendment was moved and seconded. The mover and seconder of the recommendations from Cabinet to Council agreed to accept the amendment subject to the addition of 'highways' so it read "...devolved *highways* ward budgets...". This was acceptable to the mover and seconder of the amendment and therefore the amendment became part of the substantive proposition.

Amendment 2

Propose that an additional £1m be added into the highways budget. This should be used for a concerted gully emptying programme to protect our highways infrastructure and to reduce flooding across the borough. This money should come from savings on travel and subsistence as we have saved over £1m so for this year! Any further saving in this year's budget should be ringfenced for highways to reduce any risk. On next year's budget any shortfall to be funded from unified communications p165 and waste extra tonnage p189.

The amendment was moved and seconded.

The Section 151 officer advised that a balanced business case in relation to the amendment had not been submitted and that the funding within the amendment was not a surplus and that the underspend on travel was already reflected in the budget as it stood. The amendment would lead to a unbalanced budget and the Section S151 Officer therefore advised Council not to adopt the amendment. The Monitoring Officer confirmed that the amendment as put would leave the budget unbalanced and was something which could not be voted on as it would be an unlawful budget.

In the light of the advice received the mover and seconder withdraw their amendment.

Following debate on the substantive recommendations, these were put to the vote, and in accordance with legislation, a recorded vote was carried out with the following results:

FOR

Councillors Q Abel, S Akers Smith, J Barber, L Brathwaite, J Bratherton, S Brookfield, C Browne, C Bulman, P Butterill, S Carter, S Corcoran, L Crane, D Edwardes, B Evans, H Faddes, A Farrall, K Flavell, T Fox, M Goldsmith, S Handley, A Harewood, S Hogben, M Houston, M Hunter, D Jefferay, L Jeuda, I Macfarlane, N Mannion, D Marren, A Moran, R Moreton, B Murphy, J Nicholas, J Parry, S Pochin, B Puddicombe, J Rhodes, J Smith, L Smith, A Stott, R Vernon and M Warren.

AGAINST

Councillors M Addison, M Asquith, R Bailey, M Beanland, M Benson, D Brown, J Buckley, J Clowes, S Davies, T Dean, S Edgar, JP Findlow, A Gage, S Gardiner, L Gilbert, A Gregory, P Groves, G Hayes, S Holland, A Kolker, C Leach, A Martin, D Murphy, K Parkinson, P Redstone, L Roberts, J Saunders, M Sewart, M Simon, L Smetham, D Stockton, L Wardlaw, J Weatherill, P Williams, J Wray and N Wylie.

NOT VOTING

Councillor B Burkhill and R Fletcher.

The motion was declared carried with 42 votes for, 36 against and 2 not voting.

RESOVLED:

That Council approve:

- 1 The Corporate Plan 2021-2025 (Appendix B to the report).
- 2 The Revenue estimates for the 2021/22 budget and the medium-term Capital Programme estimates 2021-2025, as detailed in the Medium-Term Financial Strategy Report (MTFS) 2021-2025 (Appendix C to the report).
- 3 Band D Council Tax of £1,579.03 representing an increase of 4.99%. This is below the referendum limit (including 3% ringfenced for Adult Social Care) and arises from the provisional finance settlement (Appendix C, Section 2 to the report).
- 4 The 2021/22 non ring-fenced Specific Grants, and that any amendments to particular grants will be reported to Council if further information is received from Government Departments or other funding bodies (Appendix C, Annex 8 to the report).
- 5 The 2021/22 Capital Grants, and that any amendments to particular grants will be reported to Council if further information is received from Government Departments or other funding bodies (Appendix C, Annex 9 to the report).

- 6 The relevant Portfolio Holder to agree the use of additional Specific Grants received in conjunction with the Portfolio Holder Finance, ICT and Communication as further updates to the 2021/22 funding position are received.
- 7 The Prudential Indicators for Capital Financing (Appendix C, Annex 11 to the report).
- 8 The Portfolio Holder for Children and Families to agree any necessary amendment to the 2021/22 Dedicated Schools Grant (DSG) of £245.3m and the associated policy proposals, in the light of further information received from DfE, pupil number changes, further academy transfers and the actual balance brought forward from 2020/21 (Appendix C, Annex 8 to the report).
- 9 The Capital Strategy (Appendix C, Annex 11 to the report).
- 10 The Treasury Management Strategy (Appendix C, Annex 12 to the report).
- 11 The Investment Strategy; including the financial limits for various classifications of investment, and the investment decision making process set out in the Strategy (Appendix C, Annex 13 to the report).
- 12 The Reserves Strategy (Appendix C, Annex 14 to the report), which includes proposed movements to and from reserves, and to note the opening balance within the Collection Fund Earmarked Reserve includes a temporary £30m balance for Extended Retail Relief, to be used in full in 2021/22.
- 13 The amendment to Key Decisions as defined in the Constitution and the financial limits to be included within the Council's Finance Procedure Rules (Appendix C, Annex 15 to the report).
- 14 The amendment to establish devolved ward member highways budgets of at least £4,200 per Ward Member for the financial year 2021/2022, with the proposal to be funded from the current allocation of Capital Grant funding to the Area Highway Groups of £350,000 and that the Committee System review achievements of the ward budgets scheme in 2021/22 with a view to widening the scheme in 2022/23 and beyond with a significant increase in the budget amount to be allocated to each Ward Member.

and that Council recognises that Cabinet has noted:

- 15 The results of the Corporate Plan Consultation (Appendix B, Annex 1 to the report).

- 16 The Budget Engagement exercise undertaken by the Council, as set out in the attached Appendix C, Annex 2a to the report.
- 17 The results of the Budget Consultation (Appendix C, Annex 2b to the report).
- 18 The Report of the Council's Section 151 Officer, contained within the MTFs Report, regarding the robustness of estimates and level of reserves held by the Council based on these budget proposals (Appendix C to the report - Report from the Section 151 Officer).

44 COUNCIL TAX STATUTORY RESOLUTION

Consideration was given to a report relating to the setting of the Council Tax for 2021/22.

It was reported that Cheshire East Council, as a billing authority, was responsible for the billing and collection of Council Tax from local taxpayers and must, therefore, make a resolution to set the overall Council Tax level. This meant the Authority also collected Council Tax income to cover not only its own services but also precepts set by other authorities. The Council Tax levied was, therefore made up of four elements: -

- Cheshire East Borough Council
- Town & Parish Council precepts
- Police and Crime Commissioner for Cheshire precept
- Cheshire Fire Authority precept

Council was recommended to set the Council Tax for Cheshire East Council for the financial year 2021/22 at £1,579.03, in accordance with the formal resolutions as shown in section 13 of the report.

The motion in respect of the setting of the Council Tax was proposed and seconded. Following debate, in accordance with legislation a recorded vote was carried out in respect to this item, with the following results: -

FOR

Councillor Q Abel, S Akers Smith, J Barber, L Braithwaite, J Bratherton, S Brookfield, C Browne, J Buckley, C Bulman, P Butterill, S Carter, S Corcoran, L Crane, D Edwardes, B Evans, H Faddes, A Farrall, K Flavell, R Fletcher, T Fox, M Goldsmith, S Handley, A Harewood, S Hogben, M Houston, M Hunter, D Jefferay, L Jeuda, I Macfarlane, N Mannion, D Marren, A Moran, R Moreton, D Murphy, J Nicholas, J Parry, S Pochin, B Puddicombe, J Rhodes, J Smith, L Smith, A Stott, R Vernon, M Warren and P Williams.

AGAINST

Councillors M Addison, M Asquith, R Bailey, M Beanland, M Benson, D Brown, J Clowes, S Davies, T Dean, S Edgar, JP Findlow, A Gage, S Gardiner, L Gilbert, A Gregory, P Groves, G Hayes, S Holland, A Kolker, C Leach, A Martin, K Parkinson, P Redstone, L Roberts, J Saunders, M

Sewart, M Simon, L Smetham, D Stockton, L Wardlaw, J Weatherill, J Wray and N Wylie.

NOT VOTING

Councillors B Burkhill and B Murphy.

The motion was declared carried with 45 votes for, 33 against and 2 not voting.

RESOLVED:

That the Council Tax for Cheshire East Council for the financial year 2021/22 be set at £1,579.03, in accordance with the formal resolutions as shown in section 13 of the report, as follows: -

Formal Resolution

- 1 That it be noted that on 16 December 2020 the Council calculated the Council Tax base 2021/22.
 - (a) for the whole Council area as 153,796.10 (item T in the formula in Section 31B of the Local Government Finance Act 1992, as amended (the “Act”)).
 - (b) for individual parishes, as in Appendix A to the report.
- 2 That the Council Tax requirement for the Council’s own purposes for 2021/22 (excluding Parish precepts) is £242,848,656.
- 3 That the following amounts be calculated for the year 2021/22 in accordance with Sections 31 to 36 of the Act:
 - a. £681,018,752 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act taking into account all precepts issued to it by Parish Councils.
 - b. £429,079,573 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act.
 - c. £251,939,179 being the amount by which the aggregate at 3(a) above exceeds the aggregate at 3(b) above, calculated by the Council, in accordance with Section 31A(4) of the Act as its Council Tax requirement for the year (Item R in the formula in Section 31B of the Act).
 - d. £1,638.14 being the amount at 3(c) above divided by the amount at 1(a) above, calculated by the

Council, in accordance with Section 31B of the Act, as the basic amount of its Council Tax for the year (including Parish precepts).

- e. £9,090,523 being the aggregate amount of all special items (Parish precepts) referred to in Section 34(1) of the Act.
- f. £1,579.03 being the amount at 3(d) above less the result given by dividing the amount at 3(e) above by the amount at 1(a) above, calculated by the Council, in accordance with Section 34(2) of the Act, as the basic amount of its Council Tax for the year for dwellings in those parts of its area to which no Parish precept relates.
- g. Appendix A to the report being the amounts calculated by the Council, in accordance with regulations 3 and 6 of the Local Authorities (Calculation of Council Tax Base) Regulations 1992, as its total council tax base for the year and council tax base for dwellings in those parts of its area to which one or more special items relate.
- h. Appendix B to the report being the amounts given by adding to the amount at (f) above, the amounts of special items relating to dwellings in those parts of the Council's area mentioned above divided by in each case the appropriate tax base from Appendix A, calculated by the Council in accordance with Section 34(3) of the 1992 Act, as the basic amounts of its Council Tax for the year for dwellings in those parts of the area to which one or more special items relate. (Band D charges for each Parish area).
- i. Appendix C to the report being the amounts given by multiplying the amount at (h) above by the number which, in the proportion set out in Section 5(1) of the 1992 Act, is applicable to dwellings listed in a particular valuation band divided by the number which in that proportion is applicable to dwellings listed in valuation band D, calculated by the Council, in accordance with Section 36(1) of the 1992 Act, as the amounts to be taken into account for the year in respect of categories of dwellings listed in different valuation bands (Local charges for all Bands).

- j. Appendix D to the report being the aggregate of the local charges in (i) above and the amounts levied by major precepting authorities, calculated in accordance with Section 30(2) of the 1992 Act (The total Council Tax charge for each band in each Parish area).

- 4 That it be noted that the Police & Crime Commissioner and the Fire Authority have issued precepts to Cheshire East Council in accordance with section 40 of the Local Government Finance Act 1992 for each category of dwellings in the Council's area as shown in sections 10 and 11 of the report.
- 5 It was accepted that Cheshire East Council's basic amount of Council tax for 2021/22 was not excessive in accordance with principles approved under Section 52ZB and 52ZC of the Local Government Finance Act 1992.

45 RECOMMENDATION FROM STAFFING COMMITTEE - PAY POLICY STATEMENT 2021/22

Consideration was given to the recommendations of the Staffing Committee in respect of the Pay Policy Statement for 2021/22.

The Staffing Committee, at its meeting on 21 January 2021, had considered the draft Pay Policy Statement and resolved that Council be recommended to approve and publish the Pay Policy Statement 2021/22 and delegate authority to the Monitoring Officer to make any necessary in-year amendments to the Statement.

Councillor C Bulman, Chair of Staffing Committee, referred to The Restrictions of Public Sector Exit Payments Regulations 2020, which had come into effect on 4 November 2020 and introduced a £95,000 cap on exit payments. Cllr Bulman reported that the Government had agreed that the cap may have unintended consequences and that the Treasury had ruled that it would disapply the regulations with immediate effect and therefore the cap would no longer apply. As a result of this the Monitoring Officer would be asked to amend the Pay Policy Statement accordingly.

RESOLVED: That

- 1 the Pay Policy Statement for 2021/22 be approved and published accordingly; and
- 2 the Monitoring Officer be authorised to make any necessary in year amendments and any further changes required to the Statement.

46 **NOTICES OF MOTION**

Consideration was given to the following Notices of Motion, which had been submitted in accordance with paragraph 1.34 of the Council Procedure Rules.

1 Universal Credit

Proposed by Councillor L Smith and Seconded by Councillor D Marren

This Council notes:

- *This April the Government plan to cut the benefit level for millions of claimants by ending of the time limited increase to the basic rate of Universal Credit (and the tax credit equivalent) announced by the Chancellor on 20th March as part of his pandemic response package.*
- *The £20 a week boost reflected the reality that the level of benefits were not adequate to protect the swiftly increasing number of households relying on them as the crisis hit. Exactly because that increase was a very significant and welcome move to bolster low- and middle-income families living standards, its removal will be a huge loss.*
- *Pressing ahead would see the level of unemployment support fall to its lowest real-terms level since 1990-91, and it's lowest ever relative to average earnings. Indeed, the basic level of out-of-work support prior to the March boost was – at £73 a week (£3,800 a year) – less than half the absolute poverty line.*
- *The increase in benefits have had a positive effect on the lives of thousands of local claimants who are better able to pay for life's essentials such as food, clothing, and utilities.*
- *The local economy has also benefited from the increase in benefit levels as claimants spend their money locally thereby supporting local businesses and jobs.*

This Council resolves to:

- *Write to the Chancellor, Rushi Sunak and to the Prime Minister, Boris Johnson demanding that the £20 increase to Universal Credit is made permanent and extended to claimants on legacy benefits.*
- *Work with other local government organisations to form a coalition to pressure the government to make the £20 increase to Universal Credit permanent.*

RESOLVED:

That the Motion be referred to Cabinet.

2 International Holocaust Remembrance Alliance definition of Anti-Semitism

Proposed by Councillor S Gardiner and Seconded by Councillor M Asquith

This Council reaffirms its commitment to employ the International Holocaust Remembrance Alliance (IHRA) definition of anti-Semitism as a key pillar of the Council's equality and diversity policies.

RESOLVED:

That the Motion be referred to Cabinet via the relevant overview and scrutiny committee.

3 Covid 19 Vaccination Programme Thanks

Proposed by Councillor R Bailey and seconded by Councillor M Beanland

This Council places on record their thanks to all involved in the Covid 19 vaccination programme within Cheshire East. This includes all health staff, Cheshire Fire and Rescue Service and volunteers.

RESOLVED:

That the Motion be approved.

Before consideration of the next Notice of Motion, the Mayor announced that it would be inappropriate for him to chair the meeting whilst the Motion was being considered and would therefore leave the meeting during its consideration and that, following consultation with the Group Leaders, Councillor Rod Fletcher would take the chair.

The Mayor left the meeting room and Councillor Fletcher took the Chair.

4. Mayor of Cheshire East Council

Proposed by Councillor L Wardlaw and Seconded by Councillor J Saunders

The recent national coverage of the Handforth Parish Council meeting and our Mayors' participation in that meeting has led us to believe he has brought this Council and his role within this Council into disrepute.

He made no attempt to intervene as it became clear participants in that meeting were being bullied.

The work that has been done at Cheshire East over the last 3 years with the cooperation and commitment of all Members and officers to transform its culture and reputation from one of bullying and intimidation has been undermined by this sad episode.

The inaction of the Mayor could be seen as a demonstration of his complicity in the bullying that occurred, and this cannot be ignored if the integrity of the Brighter Futures Programme is to be maintained.

The role of Mayor is one that should promote Cheshire East Council, its residents, and its businesses across the country. In accepting the role as representative of Her Majesty Queen Elizabeth, the Mayor should be mindful at all times of his reputation and of those he represents. Sadly, the recent highly publicised events have shown that this has not been the case for Cllr Mr Barry Burkill.

Motion

In light of the above this Council resolves that it has no confidence in the Mayor and that his term of office as Mayor and Chairman of the Council will cease immediately.

Councillor Fletcher referred to the Monitoring Officer's advice note which concluded that the Motion 'must be referred to the Standards Committee' via the standards procedure and, in the light of this, he invited the mover to introduce their Motion and speak for 2 minutes and thereafter the Motion would stand referred to the Standards Committee without debate or vote.

RESOLVED:

That the Motion be referred to the Standards Committee.

Councillor Fletcher vacated the Chair and the Mayor returned to the meeting room and took the Chair.

47 QUESTIONS

Councillor P Redstone asked how many planning officers had left since 2018, whether they had been replaced, what was the establishment of the department in 2018 and what was it now. The Portfolio Holder for Planning undertook to provide a written answer.

Councillor D Marren, in relation to flooding in his ward, referred to the Local Government Ombudsman setting up virtual meeting with the Council on

23 February and asked who would be attending, and if he could attend. The Portfolio Holder for Highways and Waste agreed to provide a written response to the question.

Councillor A Farrall referred to the Armed Forces Covenant and asked if the Council would consider if establishing a dedicated housing outreach officer to engage directly with members of the armed forces. The Portfolio Holder for Environment and Regeneration responded that he would ask officers to look at examples at other councils to see if the Council could improve its offer and asked Councillor Farrall to forward the information he had.

Councillor J Clowes and Councillor M Asquith both referred to planning enforcement issues in their wards and asked that action be taken on these and meetings be arranged so the Parish Councils could put forward their concerns. The Portfolio Holder for Planning responded that they would need to discuss the issues raised with officers and undertook to provide a written response.

Councillor S Gardiner asked about the Council's policy for the reuse/recycling of items taken to the household waste sites which were of sufficient quality to be recycled. In response the Portfolio Holder for Highways and Waste stated that the operator's contract allowed for goods which could be reused to be salvaged and undertook to provide a written response with the details.

Councillor S Akers Smith referred to two Congleton residents who had received awards from the High Sheriff of Cheshire for their volunteer work and asked if the Council could also recognise the achievement of volunteers during the pandemic. The Portfolio Holder for Communities responded that the lockdown restrictions had prevented the holding of any events to recognise the work of volunteers and asked Members to let him know of ideas on how this Council could do this. The Leader of the Council asked Councillor Akers Smith to forward him the details of the two Congleton residents so that they could personally congratulate them on their award.

Cllr B Puddicombe asked about what plans the Council was making for post covid recovery in Cheshire East and especially in major towns. The Portfolio Holder for Environment and Regeneration responded that the Council had been working hard to process and pay out grants to businesses and was working on an economic recovery plan. In Macclesfield the Council had been working with the Town Council and stakeholders to develop a town centre recovery plan and these plans would be developed for the other towns in Cheshire East.

Cllr C Bulman asked for clarification on the situation in relation to highways which had been raised earlier in the meeting and asked if the administration was going all they could to investing in the Borough's highways and footpaths. The Portfolio Holder for Highways and Waste

responded that the MTFS document before the meeting today, on page 316, set out the investment in highways. However the DoT had announced yesterday the level of funding the Council would be receiving, and this was £3million less than last year. The Council would ensure that it would do the best it could with the funding received.

Councillor M Simon referred to previous questions they had asked in relation to the removal of roads from the winter gritting routes and asked if any decision had been made in relation to Colleys Lane, Williston. The Portfolio Holder for Highways and Waste responded that the Council was hoping to make an announcement in April and that as soon as they had any information on the changes to winter gritting routes it would be shared with all Members.

Councillor R Bailey referred to a report in the Daily Telegraph on the slow payment of business support grants and asked what the backlog of applications at the Council was. The Portfolio Holder for Environment and Regeneration responded that there were currently 184 grant applications awaiting assessment – a 14-day backlog, and they would provide a written response with the details.

Cllr H Faddes referred to the refurbished Market Hall in Crewe and asked when it would be reopening. The Portfolio Holder for Environment and Regeneration responded that the reopening would depend on when the Government lifted the lockdown restrictions, but the Council was working to a provisional date in early May.

48 REPORTING OF URGENT DECISIONS TAKEN BY THE CHIEF EXECUTIVE

Council received a schedule of urgent decisions taken by the Chief Executive on behalf of Council, which was reported for information in accordance with Appendix 4 of the Council procedure rules.

RESOLVED:

That the schedule of urgent decisions be noted.

The meeting commenced at 11.00 am and concluded at 5.08 pm

Councillor B Burkhill
MAYOR/CHAIRMAN



Working for a brighter future together

Council

Date of Meeting: 19 April 2021

Report Title: Site Allocations and Development Policies Document – Submission

Senior Officer: Frank Jordan – Executive Director of Place

1. Report Summary

- 1.1. The Site Allocations and Development Policies Document (SADPD) forms the second part of the Council's Local Plan. The Council published a Revised Publication Draft SADPD between 26 October and 23 December for public representations. This report now seeks the Council's agreement to submit the Plan to the Secretary of State for examination.

2. Recommendations

- 2.1. That Council:
- 2.1.1. approves the submission of the Revised Publication Draft Site Allocations and Development Policies Document to the Secretary of State for examination, accompanied by its supporting documents and evidence base published with the Plan in October 2020;
 - 2.1.2. approves the submission of the Regulation 20 Representations Statement to the Secretary of State, appended to this report (Appendix 1) and a copy of all the representations made under Regulation 20;
 - 2.1.3. approves the completion of the Duty to Co-operate Statement of Common Ground published with the Revised Publication Draft Plan and its submission to the Secretary of State;
 - 2.1.4. authorises the Head of Planning to write to the Inspector at the start of the examination requesting them, under section 20(7C) of the Planning and Compulsory Purchase Act 2004, to recommend any main modifications necessary to make the Plan sound and legally compliant;

- 2.1.5. authorises the Head of Planning to respond to questions raised by the Inspector during the examination; and
- 2.1.6. authorises the Head of Planning to approve any non-material changes to the Revised Draft Site Allocations and Development Policies Document or within its supporting documents as necessary.

3. Reasons for Recommendations

- 3.1. To enable the SADPD to progress towards adoption following the further period that has been given for residents, organisations and others to make representations about it.

4. Other Options Considered

- 4.1. There is no other realistic option other than to submit the SADPD for examination. The Plan that the Council has recently published for representations should be its final version, which is considered ready for examination; this means sound and legally compliant, and therefore capable of adoption.

5. Background

- 5.1. The first part of the Council's Local Plan, the Local Plan Strategy (LPS), was adopted in July 2017. It sets out the vision and overall spatial strategy for the borough to 2030. It includes strategic policies and allocates 'strategic sites' for development.
- 5.2. The SADPD is the second part of the Local Plan. Its purpose and scope are limited to making provision for additional sites, where necessary, to accommodate the level of growth anticipated for specific uses and areas within the settlement hierarchy left over from the adopted Local Plan Strategy. It allocates a limited number of additional, generally smaller-scale sites for development and, in the north of the borough, designates parcels of safeguarded land around Local Service Centres. It also follows the strategic lead of the LPS and sets out more detailed, non-strategic policies to guide planning application decision-making. The SADPD does not supersede policies in the LPS.
- 5.3. The preparation of the SADPD commenced in 2016 and has been shaped by the feedback received through public consultation and relevant evidence. The key stages in its preparation to date are listed in the table below.

Stage	Details
Issues Paper (Regulation 18) February 2017	<p>Consultation on the SADPD Issues Paper took place for 6 weeks between February and April 2017. It was the first opportunity for residents, developers and other organisations to give their views on the scope of the SADPD and the direction that its policies should take.</p> <p>The Issues Paper identified a range of matters and issues that the SADPD was likely to address and asked a series of questions to encourage feedback on them. In parallel, consultation also took place on a draft sustainability appraisal scoping report, setting out the proposed environmental, economic and social issues against which SADPD policies and proposals would be tested.</p> <p>The consultation also included a 'call for sites' exercise, through which landowners and developers were invited to submit sites for consideration, to inform the allocation and designation of land in the SADPD for potential future development.</p> <p>A Report of Consultation, summarising the 1,478 responses to the Issues Paper was published on the Council's website.</p>
First Draft SADPD (Regulation 18) September 2018	<p>The First Draft SADPD was published for consultation between 11 September and 22 October 2018. It was close to a full draft Plan.</p> <p>During the consultation, a further 'call for sites' took place specifically to address Gypsy, Traveller and Travelling Showpeople accommodation needs.</p> <p>A Report of Consultation, summarising the 3,042 responses made to the First Draft Plan was published on the Council's web site.</p>
Publication Draft SADPD (Regulation 19) August 2019	<p>The initial Publication Draft version of the SADPD was subject to a six-week period for representations from 19 August to 30 September 2019.</p> <p>A Report of Consultation, summarising the 2,698 responses made to the initial Publication Draft Plan was published on the Council's web site in May last year.</p>
Revised Draft SADPD Publication (Regulation 19)	<p>On 6 October last year, the Cabinet agreed a number of changes to the Plan. Because these were significant, a further period to allow public representations to be made to the Plan was necessary ahead of its submission for examination. Further</p>

<p>19)</p> <p>October 2020</p>	<p>background about the changes is included in the Cabinet report:</p> <p>https://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?CId=241&MId=7927&Ver=4</p> <p>The representations period ran from 26 October to 23 December 2020. This included an extension of the deadline for submitting comments by just over two weeks in response to libraries closing for a time during the representations period because of the Covid-19 situation.</p>
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Representations received

- 5.4. A total of 1,711 representations from 598 respondents have been received to the Revised Publication Draft Plan. The respondents include residents, town and parish councils, developers, landowners and key bodies such as Historic England and Highways England.
- 5.5. The SADPD's policies cover a very broad range of topics and, as a reflection of this, the submitted comments about the Plan raise a wide variety of issues. Two matters, the level of new housing provision and the identification of land for potential future development, tend to attract the greatest level of interest in plan-making and these themes are reflected in many representations about the SADPD. Some of the main issues raised in the representations include:
- Housing land supply is inadequate and needs to be boosted through further allocations at all tiers of the settlement hierarchy
 - Housing allocations at Local Service Centres should be reinstated into the SADPD
 - Some components of the Council's five-year housing land supply are questionable
 - Various sites are promoted as further or alternative allocations
 - The requirement to demonstrate 'exceptional circumstances' has not been met to alter the Green Belt boundary in order to designate safeguarded land around Local Service Centres
 - A number of the policy requirements in the Plan will adversely affect the viability of new development

- There is a need to further review and make changes to settlement, infill village, Strategic Green Gap and Green Belt boundaries

Next steps

- 5.6. The next step in progressing the SADPD towards adoption is its submission to the Secretary of State for examination. An Inspector, appointed by the Secretary of State, will conduct the examination on his behalf. As noted earlier, the version of the Plan that has, most recently, been published should be the Council's final Plan, capable of being adopted and therefore ready for examination. Subject to the decision of Full Council, the representations received will be submitted to the Inspector to consider, alongside the Plan and its other supporting documents. The Council is required to prepare a statement summarising the main issues raised in the representations. Councils are also encouraged¹ to prepare brief responses to these main issues to assist the Inspector. These are set out in the Regulation 20 Representations Statement appended to this report (Appendix 1). Because representations have been sought on an initial Publication Draft version in 2019 and then, in 2020, a Revised Publication Draft version of the Plan, both under Regulation 19 of the Local Planning Regulations², the Statement addresses the feedback received to both of these versions of the Plan. Both sets of representations will also be submitted to the Inspector.

Duty to Co-operate Statement of Common Ground

- 5.7. Local planning authorities are under a duty to cooperate with each other, and with other prescribed bodies, when preparing policies which deal with strategic matters that cross administrative boundaries. The National Planning Policy Framework sets out that authorities should produce, maintain, and update one or more statement(s) of common ground addressing such matters.
- 5.8. In terms of the Cheshire East Local Plan, a range of strategic matters arose through the preparation of the LPS in relation to its strategic policies. No additional strategic matters have been identified in preparing the SADPD

¹ Procedure Guide for Local Plan Examinations, Planning Inspectorate, February 2021
<https://www.gov.uk/government/publications/examining-local-plans-procedural-practice>

² Town and Country Planning (Local Planning) Regulations 2012 (Statutory Instrument 2012 No. 767)
<https://www.legislation.gov.uk/ukSI/2012/767/contents/made>

either by Cheshire East Council or any other bodies, reflecting the non-strategic nature of its policies. The Duty to Co-operate Statement of Common Ground confirms this and neighbouring local authorities and other relevant bodies were invited to become signatories to it at the time that the Revised Publication Draft SADPD was published for representations.

- 5.9. The recommendation at 2.1.3 provides for the completion of the SADPD Duty to Co-operate Statement of Common Ground by the addition of the signatories to it and its approval for submission to the Secretary of State for the purpose of the Plan's examination.

The examination process

- 5.10. The examination will assess whether the Plan has been prepared in accordance with legal and procedural requirements and if it is sound, namely that it has been positively prepared and is justified, effective and consistent with national policy. These four tests of soundness are set out in the National Planning Policy Framework.
- 5.11. The Inspector will consider the evidence provided by the Council to support the Plan and any representations which have been put forward by local people and other interested parties. It is expected that the examination will include hearing sessions which are held in public. Depending on the restrictions in place at the time due to the Covid-19 situation, they may be conducted virtually in whole or in part.
- 5.12. There are three potential outcomes to the examination process:
- a) The Plan is found to be sound and legally compliant;
 - b) Changes (known as 'main modifications') to the Plan are necessary to make it legally compliant and sound; or
 - c) The Plan is unsound and/or not legally compliant and any deficiency(ies) cannot be remedied through main modifications.
- 5.13. The outcome for almost all plan examinations is (b), involving 'main modifications'. However, an Inspector can only deal with any problems with the Plan through 'main modifications' if formally requested to do so by the Council, hence the recommendation at 2.1.4 of this report. If such a request is not made, and modifications were necessary, the Inspector would only be able to find a plan unsound or not legally compliant. In these circumstances the Plan could not be adopted by the Council. Such a request was made during the examination of the LPS, enabling it to be adopted in 2017.

- 5.14. Proposed main modifications that the Inspector considers necessary are subject to public consultation for a period of six weeks during the examination. At the end of the examination the Inspector will send a report to the Council with their findings including final, recommended main modifications. After that, the Plan, incorporating the main modifications, can be adopted by the Council. Upon adoption it would become part of the statutory development plan and would replace the remaining 'saved' policies contained in the legacy local plans prepared by the three predecessor borough councils.

Delegated authority for the examination

- 5.15. The recommendation at 2.1.5 of this report seeks delegated authority to enable the Council to respond promptly to matters raised by the Inspector. During the examination, both leading up to and during public hearings, the Inspector is likely to request further information and opinions from the Council. Such requests require a prompt response to enable the examination to proceed efficiently. These requests could include questions about the Plan's evidence base or possible alternative policy wording.

Minor amendments

- 5.16. The recommendation at 2.1.6 would enable any minor amendments to be made to the Plan and its supporting documents. These do not alter the substance of the Plan, its policies or the supporting documents but are intended to provide further clarity to the reader and rectify factual, grammatical and/or typographical errors. Due to their non-material nature minor amendments to the Plan do not need to be published for representations prior to submission. The Inspector will not address minor amendments. It would be left for the Council to make any necessary non-material changes to the Plan before it was adopted.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. In accordance with Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'), the Council has a statutory duty to prepare planning policies and maintain an up-to-date development plan.
- 6.1.2. Secondary legislation relating to the preparation of development plan documents is set out in the Town and Country Planning (Local

Planning) (England) Regulations 2012. Representations were sought on the Revised Publication Draft SADPD in line with Regulation 19.

6.1.3. As noted earlier in this report, the publication draft (Regulation 19) version of a Plan should be the version that a Council considers legally compliant and sound and therefore ready for submission for examination and capable of adoption.

6.1.4. In line with the requirements of Section 19 of the 2004 Act, the Council has carried out a Sustainability Appraisal of the proposals in the Plan and prepared a report of the findings of the Appraisal. The Plan has also been prepared:

- in accordance with the Local Development Scheme that came into effect on 16 February 2021,
- having regard to national policies and advice, and
- in accordance with the Council's Statement of Community Involvement.

6.2. Finance Implications

6.2.1. The initial estimate of costs associated with the examination of the SADPD is around £100,000 to cover:

- Planning Inspectorate fee for the appointed Inspector
- Programme officer to provide examination support for the Inspector
- Legal support
- Additional consultancy support – to address issues where specialist expertise is required
- Expenditure on printing and the running of examination hearing sessions, particularly if these are physical hearings

6.2.2. However, this is only an estimate at this time and this figure may change depending on various factors such as the number of matters and issues that the Inspector may raise, whether the Council is asked to provide additional information and how other parties wish to present their representations at the examination. These may affect the length of the examination and the legal and consultancy support that the Council requires. The cost of the examination will be funded from the Planning budget.

6.2.3. The SADPD also directly supports investment in, and the delivery of, key new highway infrastructure. It safeguards land required to implement committed schemes (Policy INF 6 – Protection of existing and proposed infrastructure). It also establishes, in principle, that a financial contribution can be sought from developers towards infrastructure that has been forward funded (including, but not limited to, highway schemes which the Council has forward funded), in circumstances where that infrastructure has mitigated, in advance, the effects of their proposed development (Policy GEN 4 – Recovery of forward-funded infrastructure costs).

6.3. Policy Implications

6.3.1. The SADPD is a key policy document, central to the achievement of sustainable development in Cheshire East. When adopted it will form part of the statutory development plan. At this point, the saved policies within the local plans prepared by the three predecessor borough councils will no longer be in force and no longer be considered in the determination of planning applications.

6.3.2. The SADPD supports a range of priorities identified in the Council's Corporate Plan 2020-24. This includes supporting good health and well-being and creating a thriving and sustainable place - notably the Council's ambitions for the environment and to tackle climate change through its Environment Strategy and Carbon Action Plan.

6.4. Equality Implications

6.4.1. The Council has a duty under Section 149 of the Equalities Act to have due regard to the need to: eliminate discrimination; advance equality of opportunity between persons who share a "relevant protected characteristic" and persons who do not share it; foster good relations between persons who share a "relevant protected characteristic" and persons who do not share it.

6.4.2. An Equality Impact Assessment is incorporated into the integrated Sustainability Appraisal of the SADPD. This considers how development proposals and planning policies will impact on different groups within the community.

6.5. Human Resources Implications

6.5.1. There are none arising from this report.

6.6. Risk Management Implications

6.6.1. The SADPD has been prepared taking account of the need to demonstrate the Plan's legal compliance and soundness at examination.

6.6.2. Currently, the Council still relies for many planning decisions on detailed planning policies adopted by the former borough councils. These all considerably pre-date the National Planning Policy Framework, and whilst the age of a policy does not automatically render it out of date, as national policy evolves there is a growing risk that older policies fall out of step with it. There is hence a significant advantage in securing the timely progression of the SADPD.

6.6.3. In a similar vein, the SADPD addresses a number of wider policy priorities such as climate change – and such policies can only be applied with full weight once the plan is adopted.

6.7. Rural Communities Implications

6.7.1. The Local Plan has implications for rural communities across a range of policies. The draft Plan has been informed by rural proofing as part of an integrated Sustainability Appraisal.

6.8. Implications for Children & Young People/Cared for Children

6.8.1. There are a wide range of policies in the SADPD that aim to protect and enhance the health and well-being of children and young people.

6.9. Public Health Implications

6.9.1. There are a wide range of policies in the SADPD that aim to support well-being and healthy lifestyles. These include promoting prosperity, meeting housing needs, protecting and providing open space and recreation facilities and encouraging walking and cycling. A Health Impact Assessment is incorporated into the integrated Sustainability Appraisal of the SADPD.

6.10. Climate Change Implications

6.10.1. The Revised Publication Draft SADPD includes detailed policies that address climate change mitigation and adaptation including energy efficiency, renewable energy, flood risk management and biodiversity.

7. Ward Members Affected

7.1. The SADPD will guide planning application decision making across every ward.

8. Consultation & Engagement

- 8.1. Extensive consultation and engagement have taken place in developing the SADPD. The key stages are explained in paragraph 5.3. A summary of the main issues raised in representations to the SADPD and a short response to these are set out in the Regulation 20 Representations Statement appended to this report (Appendix 1).

9. Access to Information

- 9.1. The Regulation 20 Representations Statement is appended to this report (Appendix 1).

- 9.2. The individual representations made under Regulation 20 about the initial and Revised Publication Draft versions of the SADPD can be viewed at:

Initial: <https://cheshireeast-consult.objective.co.uk/portal/planning/cs/sadpd/pubsadpd>

Revised: <https://cheshireeast-consult.objective.co.uk/portal/planning/cs/sadpd/rpdsadpd>

- 9.3. The Revised Publication Draft SADPD, its supporting documents and evidence can be viewed online at:

<https://cheshireeast-consult.objective.co.uk/portal/planning/cs/sadpd/revpubevidence>

- 9.4. The report regarding the publication of the Revised Publication Draft SADPD considered by the Cabinet on 6 October 2020 can be viewed online at:

<https://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?CId=241&MIId=7927&Ver=4>

(Please scroll down to Item 39 on this web page)

10. Contact Information

- 10.1. Any questions relating to this report should be directed to the following officer:

Name: Jeremy Owens

Job Title: Development Planning Manager

Email: jeremy.owens@cheshireeast.gov.uk

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Council

Date of Meeting: 19 April 2021

Report Title: Transitional provisions and future constitutional work

Senior Officer: Director of Governance and Compliance

1. Report Summary

1.1. This report makes provision for the transition of past executive decisions into the new committee system. The report identifies the methodology for the distribution of decisions within the new arrangements and describes the translation of cabinet/portfolio roles into the new arrangements. The report also set out the some of the consequential impacts relating to some sub committees, external boards and appointments. The report provides for an indicative process for budget setting for next year and summarises the list of further work that will be undertaken on the constitution

1.2. All the relevant background information and decision making is set out in the Report to Council, for the Extraordinary Council Meeting on 19 November 2021

‘Proposed Change of the Council’s Governance Arrangements: Formal Resolution to Move to a Committee System Form of Governance’. (The November 2020 Report). This report had 13 Appendices A to M which are referenced this report. For clarity, the appendices of this report for 19 April 2021 are numbered 1, 2 and 3.

1.3 This report was considered and approved, in draft, by the Constitution Committee which met on 9th April 2021. In approving the draft report, the Committee made specific changes to it, and which have now been incorporated into paragraphs 5.3 and Appendix 1 to this report. These changes relate to:

- The budget process, and the opportunity for service committees to comment upon future proposals relating to their areas, by individual service area.
- Appendix 1: the removal of the previous proposal that matters currently to be decided by portfolio holders should be decided by

officers; this being changed to require decisions by service committees.

2. Recommendations

2.1. That Council:

- 2.1.1. Agree the transitional provisions in paragraph 4.6 and appendix 1.
- 2.1.2. Note and approve the indicative approach to budget setting appendix 2.
- 2.1.3. Agree the scope of the further constitutional review work in appendix 3.

3. Background

- 3.1. At its Annual Council meeting on 22nd May 2019, Council stated its commitment to implementing a change in its decision-making governance arrangements, comprising the implementation of a committee system of governance, subject to a legally and constitutionally robust process being in place to facilitate this.
- 3.2. On 19th November 2020, Council resolved to cease operating the existing Leader and Cabinet model of governance, and to implement a committee system of governance; this will take effect from the Annual Council meeting in 2021. This is currently proposed for the 12 May 2021.
- 3.3. In summary Council agreed policy approach that overall engagement with residents and councillors could be improved. The political solution adopted to achieve greater inclusivity was to change the governance structure of the Council to a committee system.
- 3.4. Council confirmed the five design principles as set out in appendix G of The November 2020 Report:
 - Openness
 - Quick efficient decision making
 - Affordability
 - Legal requirements
 - A modern committee system
- 3.5. Council also resolved to authorise the Director of Governance and Compliance to prepare in accordance with the principles agreed the necessary constitutional provisions associated with the new arrangements.
- 3.6. The administrative approach to deliver the Council's objectives must be legally compliant, it must be operationally practicable, enforceable in terms of governance, understandable to the public, officers, and members.

Importantly the final product must reflect the initial design principles in paragraph 3.4. This report assists Council the administrative delivery of the transitional provisions, note the indicative administrative approach to the budget and agree the scope of additional work to be completed.

4. Transitional provisions Appendix 1

- 4.1. Whilst every effort has been made to facilitate a seamless transition to the new committee system in May 2021, it is prudent for Council to put in place general provisions which will remove any future uncertainty in respect of the changes which will be implemented, and issues which might subsequently arise following the transfer from an executive system, to a committee system of governance.
- 4.2. Since the Council was formed in 2009 each decision has been made under an executive model. Every decision made by any cabinet will create a legacy which extends past the implementation of the committee system. The Council must be certain that previous decisions and any action or activity under those decisions may continue under the new arrangements. Any matter in progress which involves a decision of the Council's Cabinet or is delegated to a Portfolio Holder or officer is resolved in using the principles in appendix 1. This for example, could apply to the delegation of powers by the Cabinet to a Portfolio Holder, or to an officer in consultation with a Portfolio Holder. Provision must be made for such delegation to operate effectively in the absence of a Portfolio Holder.
- 4.3. A further example might be that of a matter which Council had resolved to be considered by an overview and scrutiny committee. Provision must be made for the matter to continue to be considered in the light of the absence of overview and scrutiny committees.
- 4.4. Provision also needs to be made for the continuity of the work of various bodies, appointed by the Council, or attended by the Council, after May 2021. Such bodies may have members who are nominated by the Leader or Cabinet; for example, the Health and Wellbeing Board.
- 4.5. Council should also provide certainty for those Members appointed to the large number of its partner outside organisations, and for the organisations themselves, by making provision for the continuation of appointments. This provision should continue until the next appropriate review date, whether that be the next Annual Council meeting date, or the regular review of most outside organisation appointments, which takes place after the local elections.

4.6. This report, therefore, seeks a resolution of Council in respect of the following miscellaneous matters:

4.6.1. Any matter currently in progress which involves, or is reliant upon, the Council's Cabinet or executive members will continue to be progressed by the executive until Annual Council and thereafter by officers with the involvement of the appropriate service committee, or consultation with its chair as appropriate.

4.6.2. Where any work of the Council's overview and scrutiny committees remains unfinished as at the date of the Council's Annual General Meeting in May 2021, the appropriate Director will be required to consult with the chair and deputy chair of the responsible service committee to decide whether and how such work should be progressed.

4.6.3. Appendix 1 also sets out the approach to be applied to the realignment of sub committees within the new structures. The nature and continuation of the sub committee in question will be then revisited by the parent committee at its first meeting.

4.6.4. Each Committee will also be asked to review the provisional workstream and calendar of meetings.

4.6.5. That existing outside organisation appointments shall continue until the next appropriate review date. Appointments may currently be made entirely on the basis of Cabinet membership, such appointees will, following the change to the committee system, be replaced by a member of the appropriate service committee.

5. Provisional approach to budget Appendix 2

5.1. The budget is and remains the responsibility of Council and primary budgetary responsibility rest with the Corporate Policy Committee (and Finance Sub-Committee) and the Chief Officers who are responsible for administering the budget. The Statutory obligations of the Chief Financial Officer to ensure, and if required impose, sound financial management controls is unchanged.

5.2. Service Committees will be constrained by the budgetary framework. Budgets have wherever practicable been aligned with service committees to facilitate expenditure assurance. Council wide budget control rests with the Corporate Policy Committee and Council. Committee members will receive further training on budget issues, but the fundamental principle is that officers are responsible for budget management; budgets are aligned to committees; committees do not hold 'a budget' but the Committee is responsible for

assuring the budget is spent on delivering the objectives set out in the policy framework of the Corporate Plan.

- 5.3. The new budget process will provide each committee with a review of the mid year position and the opportunity to comment on future proposals relating to their areas, by individual service area, which can be considered within the budgetary consultation process, and will be considered by Corporate Policy Committee for recommendation to Council.

6. Ongoing workstreams to November 2021 Appendix 3

- 6.1. The constitutional revision is a fundamental piece of work being undertaken by this council impacting on virtually all areas of business. The November 2020 Report at paragraphs 1.15 to 1.19 identified a significant number of strategic risks accompanying this change. The council has continued to manage the strategic response to the Covid-19 pandemic, and to understand, respond to and plan for recovery from an emergency that affects lives, health, care, education, businesses, livelihoods, culture and leisure.
- 6.2. The council has been operating in this emergency mode for more than 13 months and the next six months will continue to be challenging as the road map out of lock down is implemented and the plans on mitigating the impact of the pandemic on our residents are implemented.
- 6.3. Officer resources remain stretched and this is reflected in the phased approach being taken to implementation which remains the only major change facing the council that is entirely under its own control. The council has never before had to navigate through such high levels of uncertainty where it is difficult to forecast major issues even over the short term, for example at the time of drafting the mechanism to hold an 'in person' annual general meeting in May is unknown. Nor are the detailed arrangements for the inaugural May committees fully known.
- 6.4. The statutory countdown has commenced and the committee system will start at the next Annual General Meeting. This must occur by the end of May 2021, (albeit the mechanism for holding such a meeting currently is unknown). Since November and allowing for a pandemic, new staff, Christmas and Easter it was necessary to phase the approach for commencement of the committee system into the 'must haves' (phase 1) and the consequential changes (phase 2) Appendix 3 represents a summary of the phase 2 work that must be undertaken. This approach was anticipated in recommendation 2.6 of the November 2020 Report which requires a further report to be presented for consideration at council by 12 November 2021.

7. Implications

7.1. Legal Implications

- 7.1.1. It is imperative that a lawful and transparent decision-making process exists which translates the existing forms of decisions into the new style of governance. If Council remains silent on these issues the efflux of time will create issues of urgency and cost which require officers to act. This would be costly and defeat the design principles of openness.

7.2. Finance Implications

- 7.2.1. The clear decision making, and the adoption of a budget setting process is a necessity. A failure to set a budget due to a failure to agree an approach would result in statutory intervention. A failure to set a lawful budget may result in personal liability for Councillors. This process is designed to facilitate the setting of the budget, assist residents in understanding the process that will be followed and protect councillors.

7.3. Equality Implications

- 7.3.1. There are no direct implications for equality. Every effort will be made to ensure the revised constitution is available in accessible formats.

7.4. Human Resources Implications

- 7.4.1. There are no direct implications for staff.

7.5. Risk Management Implications

- 7.5.1. The transitional provisions and future work streams form part of the wider risk management of the change of governance arrangements.

7.6. Rural Communities Implications

- 7.6.1. There are no direct implications for rural communities.

7.7. Implications for Children & Young People

- 7.7.1. There are no direct implications for children and young people.

7.8. Public Health Implications

- 7.8.1. There are no direct implications for public health.

8. Ward Members Affected

- 8.1. This report impacts on the functioning of the entire Borough.

9. Consultation & Engagement

- 9.1. A recommendation from the constitution committee.

10. Access to Information

- 10.1. Additional, supporting information is available to member on the committee system share point site.

11. Appendices

- 11.1. Appendix One-Schedule of Transitional Provisions
11.2. Appendix Two-Indicative Budget Setting Process
11.3. Appendix Three-Phase 2

12. Contact Information

- 12.1. Any questions relating to this report should be directed to the following officer:

Name: David Brown

Job Title: Director of Governance and Compliance

Email: david.c.brown@cheshireeast.gov.uk

APPENDIX 1

Schedule of Transitional Provisions

General Provisions Cabinet

Any matter in progress which involves a decision of the Council's Cabinet will continue to be progressed for decision by the appropriate service committee.

The Head of Democratic Services and Governance will allocate matters to appropriate service committees in accordance with their terms of reference. Where a matter appears to be relevant to more than one service committee, it will be allocated to the service committee which the Head of Democratic Services and Governance determines is the most appropriate.

General Provisions Portfolio Holder

Where Cabinet delegated the making of any decision to an individual Cabinet member, that decision will be allocated to the appropriate service committee, by the Head of Democratic Services and Governance in accordance with the following principles:

Matters to be decided by the relevant committee

- a) Any matter of policy
- b) Any matter requiring a decision in respect of a material¹ budget increase or decrease in relation to the original decision
- c) Any matter relating to material service increase or decrease in relation to the original decision
- d) Any matter not within the scope of the Corporate Plan or the current MTFS
- e) Any other matter previously delegated to a member of Cabinet/Portfolio Holder.

Portfolio Holder consultation

Where a decision is delegated to an officer but requires consultation with an executive member, the matter remains delegated to the relevant officer. Consultation will be with the chair of the appropriate service committee².

General Provisions in respect of Scrutiny

Save where work relates to the remaining terms of reference of the Scrutiny committee, where any other work of the Council's existing overview and scrutiny committees

¹ Material budget change is determined by the Chief Finance Officer and a material service change by the Chief Executive.

² It is not possible for the committee chair to re-consider or revisit the original decision.

remains unfinished as at the date of the Council's Annual General Meeting in 2021, the Head of Democratic Services and Governance will allocate the work to the forward plan of the appropriate service committee and the appropriate Director will be required to consult with the chair and deputy chair of the service committee to determine whether and how such work should be progressed and the Head of Democratic Services and Governance will amend the forward plan.

Cabinet 4 May 2021

If any decision of Cabinet on the 4 May 2021 is subject to a call in by members, the existing appropriate scrutiny committee shall consider the call-in, in accordance with the rules currently in force. The scrutiny committee must conclude its deliberations upon any such call-in no later than the day prior to the Council's Annual General Meeting in 2021. The decision of the scrutiny committee may be referred to the relevant service committee.

Continuation of Specific Committees, subcommittee, and boards.

Health and Wellbeing Board: the lead service committee in respect of this Board will be the Adults and Health Committee; and the three Council nominees to the Board will be formally nominated by the Adults and Health Committee, the Corporate Policy Committee, and the Children and Families Committee.

The Local Authority School Governor Appointments Panel shall become a sub-committee of the Children's & Family Committee and shall be appointed at the Committee's first meeting.

The Community Governance Review Sub-Committee shall become a sub-committee of the Corporate Policy Committee and shall be appointed at the Committee's first meeting.

The role of the ASDV Shareholder Committee shall be undertaken on behalf of the Corporate Policy Committee by the Finance Sub Committee.

Shared Services and Scrutiny Committees

The Shared Services Joint Committee shall continue to undertake the functions and responsibilities allocated to it by Cabinet on 24th March 2009, but the Council's nominees to the Committee shall be chosen by the Corporate Service Committee.

Where any work was initiated by, or which involved a decision of the Council's overview and scrutiny committees, or Cabinet, (for example, the delegation of powers to officers or work with other local authorities e.g. relating to Best4Business), such delegation or work will continue after the implementation of the committee system. Any necessary reports to Members will, thereafter, be made to the appropriate service

committee of the Council or, where there are any cross-cutting issues, to the Council's Corporate Policy Committee.

The **Joint Extra Care Housing Management Board** last met on 12 December 2016. The Board is expected to carry out further work to potentially provide input (ranging from reviewing documents to approving decisions) as changes are negotiated to the PFI contract, and oversight of the contract management over the next two to three years. The Board comprises three Portfolio Holders from each authority nominated by the leader. Nominations will be made by the Chair of Corporate, Adults and the Finance Sub -Committee.

The Appeals Sub-Committee

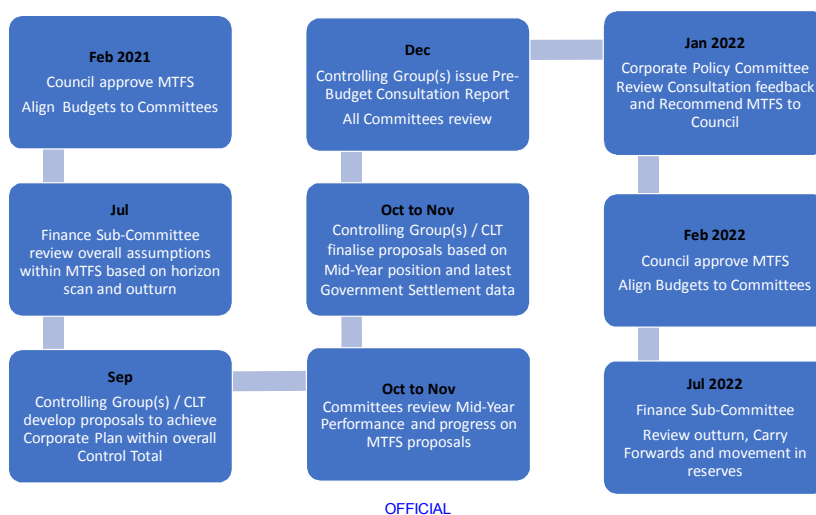
This is a sub-committee of the Constitution Committee, which will no longer exist under the committee system arrangements. This function is transferred to the Corporate Policy Committee for reappointment of the sub-committee.

Appointments to Outside Bodies

Where an appointment is made entirely on the basis of Cabinet membership, the chair of the relevant service committee shall continue in that role until a Member of the appropriate service committee is appointed.

Any other outside appointments shall continue until the next appropriate review date.

Indicative Budget Setting Process



APPENDIX 3

Phase 2

Council has directed the Director of Governance to provide a further report by 12 November 2021.

The provisional dates for Council meetings in the 2021/2022 municipal year provides for a meeting on 18 November 2021.

1. Finalise constitution review to remove inaccuracies and legislative inconsistencies.
2. Review of committee terms of reference to identify and clarify any anomalies following implementation.
3. Review of the Council and Committee procedure rules following the initial committees.
4. Access to information and transparency rules to be reviewed and checked for legal compliance.
5. Finance Procedure Rules review following implementation.
6. Contract Procedure Rules review following implementation
7. Review of the employment procedures rules and change of role of Appointment Committee.
8. Member Code of Conduct. Review and redraft to consider LGA model code and Committee for Standards in Public Life recommendations.
9. Officer Code of Conduct Review
10. Member & Officer Protocol Review
11. Planning and other protocols to be refreshed
12. Review of the scheme of delegation

COUNCIL MEETING – 19TH APRIL 2021**CALENDAR OF MEETINGS 2021-22****RECOMMENDATION**

That the draft Calendar of Meetings for Cheshire East Council 2021-22 be approved subject to:

- (a) the meeting of the Environment and Communities Committee scheduled for 11th November 2021 being held at 2.00 pm to allow for the two minutes' silence to be observed at 11.00 am on Remembrance Day; and**
- (b) meetings of the Corporate Parenting Committee being held at 4.00 pm, as at present.**

NOTE

- I. In order to assist Members, the above proposed changes have been made to the draft Calendar.***
- II. Since the date of the meeting of the Constitution Committee, officers have been informed that joint discussions have taken place between Cheshire East and Cheshire West & Chester Councils, resulting in agreement that meetings of the Shared Services Joint Committee should:***
 - a. commence at 10.00am, rather than 2.00pm; and***
 - b. be altered so that the June 2021 meeting will take place on 11th June 2021, rather than 25th June 2021, and that an additional meeting will take place on 23rd July 2021.***

(Council is respectfully asked to take into account the above late changes as part of its deliberations upon the recommendations from the Constitution Committee)

Extract from the Minutes of the Constitution Committee meeting on 6th April 2021

14 CALENDAR OF MEETINGS 2021-22

The Committee considered a report on the draft Calendar of Meetings for Cheshire East Council for 2021-22.

The Committee noted that the legislation which permitted virtual meetings to take place was due to expire on 6th May 2021 and that, unless the legislation was amended, meetings from 7th May onwards would have to take place in meeting rooms, with Members and the public being physically present, although the inaugural meetings of the service committees were likely to be held virtually for the reasons set out in the report.

Officers reported that the meeting of the Environment and Communities Committee scheduled in the draft calendar for 11th November 2021 at 10.30 am would be held at 2.00 pm to allow for the two minutes' silence to be observed at 11.00 am on Remembrance Day.

Members commented that meetings of the Corporate Parenting Committee, which were scheduled in the calendar to start at 2.00 pm, should start at 4.00 pm as at present to enable children's representatives to attend.

RESOLVED

That the draft Calendar of Meetings for Cheshire East Council 2021-22 be recommended to Council for approval subject to:

- (a) the meeting of the Environment and Communities Committee scheduled for 11th November 2021 be held at 2.00 pm to allow for the two minutes' silence to be observed at 11.00 am on Remembrance Day; and
- (b) meetings of the Corporate Parenting Committee be held at 4.00 pm as at present.



Working for a brighter future together

Constitution Committee

Date of Meeting: 6 April 2021

Report Title: Calendar of Meetings 2021-22

Senior Officer: David Brown, Director of Governance and Compliance

1. Report Summary

- 1.1. This report appends a draft Calendar of Meetings for Cheshire East Council for 2021-22.
- 1.2. The Committee is invited to recommend the draft Calendar to Council for approval.

2. Recommendation

- 2.1. That the draft Calendar of Meetings for Cheshire East Council 2021-22 be recommended to Council for approval.

3. Reasons for Recommendation

- 3.1. The Council is required to give public notice of its meetings in order to fulfil its legal obligations under the Access to Information Rules set out in the Constitution and to meet its obligations under the Local Government Act 1972. The Calendar will assist the Council in meeting these requirements and will provide certainty for Members.

4. Background

- 4.1. As set out in its Constitution (Chapter 3 – Part 1 para 1.1) the Council is required to decide when its meetings will take place. These are set out in a Calendar of Meetings.

Full Council must approve the Calendar.

- 4.2. Under Chapter 2 – Part 5 of the Constitution, the Constitution Committee is responsible for

“overseeing, monitoring, co-ordinating and implementing the Council’s administrative and political business, including.....administrative arrangements for the conduct of the Council and other meetings.”

- 4.3. The scheduling of meetings has taken into account the Council’s business planning/performance reporting cycle, together with a range of additional issues

OFFICIAL

arising from the implementation of the committee system, which will take place after the Council's Annual General Meeting (AGM). In brief summary, the Calendar no longer shows meetings of Cabinet, the existing four overview and scrutiny committees, or other bodies which will cease to exist following the AGM, such as the Constitution Committee.

- 4.4. The Calendar has been updated to include the six new service committees, a Finance Sub Committee, and the new Scrutiny Committee. The scheduling of these meetings has taken place following extensive work amongst officers to identify cyclical business, such as that which arises from the "financial cycle" and known forthcoming business. It should be noted that, given the scale of changes which arise from the introduction of the Council's forthcoming decision-making arrangements, there will be a period of time during which further changes might need to be made to the Calendar of Meetings, based upon the experience of the Council's new decision-making bodies. Such changes can be made in line with powers in law and the Constitution.
- 4.5. At the time of writing this report, the legislation which permits virtual meetings to take place, rather than requiring face to face meetings, expires on 6th May 2021.
- 4.6. Therefore, unless the legislation is amended, meetings from 7th May onwards will have to take place in the traditional way, in meeting rooms, with Members and the public being physically present.
- 4.7. In order to minimise risk at this stage of recovery from the pandemic, it has been determined that the inaugural meetings of the service committees should take place virtually. The business which they would be expected to deal with at their first meetings is non-formal business, such as training and awareness in respect of the committee terms of reference, meeting key officers, and giving thought to draft work programmes etc.
- 4.8. For that reason, and given that there appears to be no substantive formal business to conduct at this early stage of the Municipal Year, there is no need for formal face to face meetings to take place.
- 4.9. The arrangements for these meetings have not been finalised, but provisional dates for them (which could be subject to change) are as follows:
- 4.10. Finance Sub Committee– 17 May at 2pm
Highways & Transport Committee – 18 May at 10.30am
Corporate Policy Committee – 18 May at 2pm
Children & Families Committee – 20 May at 2pm
Economy & Growth Committee – 24 May at 2pm
Environment & Communities Committee– 25 May at 10.30am
Adults & Health Committee – 27 May at 10.30am
- 4.11. Members will be kept informed of any need to change the dates of these inaugural meetings.

- 4.12. The existing pattern of scheduling by those committees which remain unaffected by the new arrangements, has been largely retained. Some minor changes have been made to this scheduling, to accommodate such issues as arise from the financial cycle and to avoid meeting clashes, where possible. For example, it can be seen that there are a very small number of changes to the regular meeting day of Council.
- 4.13. The approach adopted to the construction of the Calendar of Meetings is based upon “cost neutrality” as set out in the report to Council on 19th November 2020, and the approved Design Principles for the new arrangements. Whilst careful attention has been paid to the business needs of the organisation, the draft Calendar proposes no more meetings than can be found in the existing Calendar of Meetings. The following principles, many of which will not be unfamiliar to Members, have also been observed:
- 4.14. August has been retained for recess except for planning meetings.
- 4.15. Meetings of full Council have been scheduled to be held on 21 July 2021, 20 October 2021, 18 November 2021, 15 December 2021, 24 February 2022, and 18 May 2022, with the start time of 11 am.
- 4.16. Due to the uncertainty of virtual meetings, a provisional date of 22 June 2021 has been arranged for Full Council meeting. If not required, this meeting will be cancelled.
- 4.17. Meetings of service committees have been scheduled to take place, based upon the business need of the Council rather than a set cycle of meetings . If there is a specific need for additional or fewer meetings, this can be dealt with under existing arrangements.
- 4.18. Strategic Planning Board, Northern Planning Committee and Southern Planning Committee are scheduled on a four-weekly cycle of meetings on Wednesdays; with any site visits taking place on the Friday before the meeting.
- 4.19. The Public Rights of Way Committee had been scheduled to take place quarterly, with the Audit and Governance Committee taking place six times each year and Licensing Committee meeting five times each year. Provisions exist for additional meetings to be called if needed.
- 4.20. The scheduling of meetings of the Scrutiny Committee has been approached on a quarterly basis. It is acknowledged however that there may be the need to arrange ad-hoc meetings, when required to deal with bespoke external scrutiny matters eg external proposals by health providers, using the general powers of the Committee Chair.

- 4.21. The quarterly scheduling will provide for annual reporting, with flexibility around the dates of meetings, to suit business needs.
- 4.22. Due to the evolving nature of the Calendar, the usual Member consultations have not taken place. The Calendar has, however, been shared with the Corporate Leadership Team, Group Leaders, Group Whips, Constitution Committee members, and members of the Governance Working Group.
- 4.23. The Committee is asked to refer the Calendar to Council for approval.

5. Implications of the Recommendations

5.1 Legal Implications

- 5.1.1 There are no specific legal implications other than those identified in the main body of the report.

5.2 Finance Implications

- 5.2.1 There are no direct finance implications.

5.3 Policy Implications

- 5.3.1 There are no direct policy implications.

5.4 Equality Implications

- 5.4.1 There are no direct implications for equality.

5.5 Human Resources Implications

- 5.5.1 There are no direct implications for human resources.

5.6 Risk Management Implications

- 5.6.1 A published calendar of meetings enables effective business planning and decision-making procedures.

5.7 Rural Communities Implications

- 5.7.1 There are no direct implications for rural communities.

5.8 Implications for Children & Young People

- 5.8.1 There are no direct implications for children and young people.

5.9 Public Health Implications

- 5.9.1 There are no direct implications for public health.

5.10 Climate Change Implications

5.10.1 There are no implications for climate change.

6. Ward Members Affected

6.1. All Wards

7. Consultation & Engagement

7.1. The draft calendar of meetings has been circulated to the Corporate Leadership Team, Committee Chairmen, Group Leaders and Group Whips, and members of the Governance Working Group.

8. Access to Information

8.1. Background papers relating to this report can be inspected by contacting the officer named below.

9. Appendices

9.1. Appendix A-Draft Calendar of Meetings.

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

Name: Brian Reed

Job Title: Head of Democratic Services and Governance

Email: brian.reed@cheshireeast.gov.uk

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Calendar of Meetings 2021-2022

COMMITTEE	MAY	JUNE	JULY	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APRIL	MAY
Council (11 am)	12	22 (provisional)	21			20	18	15		24			18
Corporate Policy (10.30 am)		3	6		7		4	2	12	10	3		
Economy and Growth (2 pm)			15		16		15		11		17		
Highways and Transport (10.30 am)			19		21		16 (2.00 pm)		13		2		
Environment and Communities (10.30 am)			7		9		11 (2 pm)		20		7		
Children and Families (2 pm)			12			6	8 (10.30 am)		10 (10.30 am)	14 (10.30 am)	24		
Adults and Health (10.30 am)			13		27	12	16		18		28		
Finance Sub Committee (2 pm)			1		2		1		4		1		
Scrutiny Committee (10.30 am)		1			6			6			21		
Audit and Governance Committee (2 pm)	27		29		30		25		17		10		
Appeals Sub Committee (10 am)		8	8		14	12	9	7	11	8	15	5	3
Licensing Committee (2 pm)		7			6		8		10		8		
General Licensing Sub Committee (10 am)		15	15		8	21	10	16	26	17	30	28	

COMMITTEE	MAY	JUNE	JULY	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APRIL	MAY
Public Rights of Way Committee (2 pm)		14			13			6			14		
Strategic Planning Board (10 am)	19	16	14	18	15	13	17	22		2	9	6	4
Southern Planning (10 am)	26	23	28	25	22	27	24		5	9	16	13	
Northern Planning (10 am)		2 30		4	1 29		3	8	19	23	23	20	
Health and Wellbeing Board (2 pm)	25	29			7		23		25		22		
Local Authority School Governor Appointments Panel (2 pm)			5			11				14			
Corporate Parenting Committee (4 pm)		21			14			21			15		
Shared Services Joint Committee (10 am)		11	23		24		26		21		25		



Working for a brighter future together

Council

Date of Meeting: 19 April 2021

Report Title: Constitutional Update to Implement the Committee System

Senior Officer: Director of Governance and Compliance

1. Report Summary

- 1.1. The report asks Council to agree those matters referred by the Constitution Committee and to note the committee's deferral of the consideration of the Constitution.
- 1.2. The revised Constitution is not referred to Council by the Constitution Committee, but separate parts of the Constitution are recommended by the Constitution Committee and have been incorporated into the draft Constitution as set out below.
- 1.3. Mayoralty Code is referenced in Chapter One paragraphs 24 to 33 and the Code is to be hyperlinked at paragraph 31 (full text set out in the Appendix at page 317).
- 1.4. Audit and Governance Committee terms of reference are to be included in Chapter Two part 4 at page 31 (full text set out in the Appendix at page 323).
- 1.5. The Health and Wellbeing Board terms of reference are set out in Chapter Two part 4 at page 36 (full text set out in the Appendix at page 329).
- 1.6. The revised Constitution is not intended to be a 'perfected' document at this stage, but a working document that will be subject to significant ongoing revision and change over the coming months and years.
- 1.7. The approach to the committee system, as set out in the attached draft, reflects the design principles confirmed at the 19 November 2020 Council meeting and these principles can be found at appendix G of the November 2020 report (the November report). The five design principles are in summary:

- Openness: The new form of governance (committee system) will be easy to understand. There will be the opportunity for Councillors and Members of the public to ask questions at committee.
- Quick Decision Making: The new arrangements will ensure that decisions are made quickly, the number of committees and number of meetings will be kept to a minimum, and technology will be used to avoid unnecessary paperwork. Paper copies will be provided upon request by members.
- Affordability: The cost of a committee system will be kept to a minimum.
- Legal Requirements: The council must comply with all legal requirements and legal advice will be available to all meetings.
- A Modern Committee System: The Committee system will be modern, open and transparent. Public participation will be encouraged. There will be a separate Scrutiny Committee to look at health partners, crime and disorder, and flood risk management.

- 1.8. Since November 2020 and allowing for the ongoing pandemic, key staff changes, Christmas and Easter holidays, it was necessary to phase the approach to drafting the new constitution into the 'must haves' (phase 1) and the consequential changes (phase 2). Where possible and appropriate, obvious inconsistencies and anomalies which would ordinarily be in phase 2 have been rectified at this earlier stage.
- 1.9. The phased approach to implementation ensures the necessary changes are in place for the commencement of the committee system. The committee system will start at the next Annual General Meeting currently the 12 May 2021. (AGM). The AGM must occur by the end of May 2021.
- 1.10. The previous proposal was for version one to be considered at Constitution Committee on 6 April 2021. Version two of the constitution to be produced following that meeting (reflected in the appended copy) and provided to Council. Council was to consider if the proposed constitution met the design principles set by full council, decide if it reflected the democratic will of the council in the November 2020 decision and approve the Constitution. Any minor amendments following full Council recommendation would be incorporated into a third version which would be considered at Constitution Committee on the 29 April 2021. The Constitution Committee would undertake any fine tuning and any changes incorporated into the Constitution (version 4). If necessary, Council may note any amendments on 12 May 2021.

1.11. On the 6 April Constitution Committee deferred consideration of the Constitution to a future date. The next date for a Constitution Committee is the 29 April 2021.

1.12. The key considerations/risks are:

- Cheshire East Council must have a Constitution that supports the Committee system
- The draft Constitution provides a working committee system.
- The Council has a planned review in November 2021 to further update the Constitution following implementation of the committee system and may undertake further reviews as required.
- An early focus of the review via the Constitution Committee and/or Corporate Policy Committee is suggested in the section 5 Areas for further development.
- Delay in pursuit of perfection creates uncertainty. The adoption of a solid and robust Constitution facilitates the transition to a committee system.
- Delivery of the Council's medium-term Financial Strategy is at risk in the absence of a clear budget process.
- Delivery of the Council's Corporate Plan is at risk in the absence of a clear decision-making process.

2. Recommendations

2.1. That Council is recommended to agree the matters referred by Constitution Committee for inclusion in the constitution:

2.1.1 Agree the Mayoralty Protocol.

2.1.2 Agree the revised terms of reference and composition of 9 elected members for Audit and Governance Committee.

2.1.3 Agree the revised terms of reference for the Health and Wellbeing Board.

2.1.4 Note the Constitution Committee decision to defer the referral of the draft Constitution (as set out in appendix 1) to Council.

3. Background

3.1. At its Annual Council meeting on 22 May 2019, Council stated its commitment to implementing a change in its decision-making governance arrangements to a committee system of governance. On 19 November 2020, Council resolved to cease operating the existing Leader and Cabinet model of governance and to implement a committee system of governance from the

Annual Council meeting in May 2021. That decision is legally binding on the Council and cannot be changed for five years.

- 3.2. Full council represents the overall democratic will of the people of Cheshire East. The residents of Cheshire East through their elected representatives have decided to adopt a committee system of governance from 12 May 2021.
- 3.3. At the November 2020 meeting, Council agreed the five design principles set out at Appendix G of the November 2020 report. Council also agreed the basic committee structure, terms of reference, roles of leader and deputy, decision review process, urgency provisions, role and powers of committee and sub-committee chairs. The majority of the consequential matters remain to be decided and are resolved in the draft constitution and are aligned with the design principles.
- 3.4. Council also resolved to authorise the Director of Governance and Compliance to prepare, in accordance with the principles agreed, the necessary constitutional provisions associated with the new arrangements.
- 3.5. The constitution is broadly structured by reference to the certainty which is found in the model constitution, combined with the updated legislative provisions and modern stylistic approach. For example, the use of masculine words to cover people regardless of gender or sex is generally unnecessary, inaccurate and tends to reinforce historic gender stereotypes. Local Government is obligated to promote fairness and gender-neutral writing is about clarity, inclusion, and equality. This assists the Council in complying with statutory obligations, the design principal of openness, improving accessibility and plain language.
- 3.6. A local authority is a creature of statute. It must, by its very nature be subservient to the statutory regime imposed upon it. This means the Council has no legislative competence to opt out or change how legislation is applied. For example: terms such as openness and transparency may be open to interpretation by Councillors but the Council has a clear legislative framework, both in primary legislation (statute) and regulations on what must be published, when reports and committee meetings are open to the public and what must be disclosed on request. There are additional requirements imposed by legislation impacting upon the Council such as the Freedom of Information Act. All of these requirements *must* be met and the Council is unable to restrict access to information. However, the opposite is also true, the Human Rights Act places restrictions on interference with private and family life, the Data Protection Act and the General Data Protection Regulations, Local Government Act 1972 Schedule 12 and other legislation sets out limitations and restrictions on information that can be disclosed. The

Council must not disclose information without lawful authority. These statutory and regulatory limitations are repeated throughout many parts of the constitution and although the semantics may change, the substance does not. There is often only limited discretion available to Councillors on significant parts of the Constitution.

- 3.7. The key areas where members have greater freedom to adapt existing conventions to provide the best service to the council and residents relates to the structure, and process and procedures which apply the statutory framework to the council.
- 3.8. It is essential the Council has an operational system in place for it to deliver the Corporate Plan as supported by the budget and medium-term financial strategy as agreed by the Council in February 2021. The attached draft constitutional changes set out in the appendices recognises the legislative framework and the need to adapt process and procedures as the Council moves forward with the committee system. The attached draft Constitution is sufficiently robust to implement the committee system.
- 3.9. A rigid or prescriptive approach would frustrate the business of the Council and ambiguity or uncertainty would impede progress. The attached Constitution is not a counsel of perfection but a working document which members must continue to work with over the coming months. Council has already anticipated and provided for the review in November 2021. The associated transitional report highlights some of the additional areas of work that will be required.
- 3.10. Members should note that typographical errors, punctuation, and numbering corrections are addressed at the final stage when the attached document will be proof-read and an index provided. These should be ignored at this stage.

4. Constitution

PART 1

- 4.1 The Index remains indicative until the final pagination is undertaken.
- 4.2 Chapter 1 This chapter sets out an overview of how the Council operates, what key parts of the Constitution cover and what rights members of the public have. It explains how decisions are taken within a committee system and how the Mayor is elected. This part is complete with the inclusion of the Mayoralty Protocol.

PART 2

4.3 Chapter 2 sets out the way in which functions have been allocated and which decision-making body/person within the Council has responsibility for making those decisions:

1. Diagrammatic explanation of Councillor decision-making bodies. This was approved in appendix H of the November 2020 report. Since November the diagram has been updated and where possible simplified. For example, the Public Rights of Way Committee may exist in harmony with the Highways Committee. Alternative diagrammatic representation will also be produced for use in the coming months which include colour coding of committee by function such as regulatory, oversight, or service, and members will be asked if they wish to further update the diagrammatic representation next November.

Further efficiency may be obtained by considering whether the staffing subcommittee appeal function should be the appropriate appeal body for Statutory Officers. This could benefit from renaming to 'employment appeals' or similar. This would help reduce confusion with the appeals subcommittee which deals with a mixture of miscellaneous general appeals which is being renamed. The general appeals committee is aligned with Corporate Committee. These are non-essential changes and may occur after May 2021.

2. This part sets out an introduction as to who makes decisions in the Council and has been redrafted to remove all the reference to executive functions. As Council has already noted and agreed there is no single member decision-making and no executive function. This corporate policy framework currently lists the statutory policies and full council may wish to make further additions in November 2021.
3. Council. This is largely unchanged and full council retains all its responsibilities for the organisation.
4. Committees. This section has removed all references to Cabinet, Portfolio Holders and references to the executive style of governance. This has been replaced with service, regulatory and oversight committees. As part of the process, where practicable, functions at risk of being 'orphaned' have been allocated to service committees. e.g. ASDV shareholder function to finance subcommittee. Officers have attempted to align budget responsibility with committee terms of reference so that committees have

a degree of budgetary homogeneity: this has resulted in some minor changes to committee functions.

5. This part sets out the Scheme of Officer Delegation and will include a diagram (pending) of the officer structure at the Council. It sets out the areas of responsibility, in a tabular form, of the Senior Officers and Statutory Officers and the arrangements for the discharge of the Proper Officer functions. This has been amended to reflect the committee system but will require further redrafting and is currently largely reflective of the current scheme of delegation based upon the 3 executive director model. The draft Constitution provides for Council Leadership Team (CLT) as the senior management body. This is designed to provide additional flexibility without the necessity of concerns around chief officer status etc. as officers can be seconded as required. As the Committee system moves forward the alignment of Director and Heads of Service to Committee provision will evolve and it is anticipated a more informed review of alignment and delegations may be required in November 2021 and April 2022 after the system has operated for a period of time.

- 4.4 Significant changes have been made to Chapter 2 which provides a working Committee system of governance. Members must note this is an evolving area of the Constitution and will inevitably require further changes as committee decision-making takes over from the previous executive model.

PART 3 Chapter 3 and 4

- 4.5 Chapter 3 provides the greatest area for members to engage and create bespoke approaches which best enable the Council to engage with residents. The procedure rules look significantly different in presentation and now read sequentially with internal appendices reduced to a minimum.

The drafting design for ease and efficiency seeks to avoid repetition. An example is found in the urgent decision provision for full council. This sets out the *definition* of an urgent decision which is not repeated. The urgent decision *process* is repeated as council and committee have different consultees, but the *criteria* is the same.

The design principles set by full council require officer support for each committee and a wider range of members and officers will now be required to access, understand and advise on the constitutional provisions, and paragraph numbers, section headings and sequential approach will be invaluable. The majority of the full council procedures are unchanged save where repetition or inconsistency was identified.

All the previous cabinet/executive procedure rules etc have been removed and the committee procedure rules updated. There are significant changes to the rules relating to the powers of chairperson, debate, length of speech and potential for time limits on debates and meetings.

- 4.6 Public engagement is also a design requirement and mentions petitions, public questions and speaking. It is suggested an approach of continuous development is taken to this aspect with the Council adopting elements that work well and redesign for parts that work less well. A fundamental basis of engagement by the public is the ability to attend a committee, speak to a topic on the agenda and attempt to persuade the committee to adopt a particular position. This engagement and interaction will allow the committee to be better informed and have a greater understanding of an issue. The ability to ask a question does not always achieve this outcome and can confuse the route for the public to engage with services. To allow questions to be answered in a meaningful way will require early notification, otherwise, they risk the moment or relevance to the committee being lost. The development of the best approach to questions is likely to engage members into the future.

The role, engagement and empowerment of the public, ensuring the public obtain a timely and efficient response to questions, rather than multiple responses from different service areas, aligning service based questions with the customer service strategy will require further policy development through the Corporate Policy Committee.

The public also engage with the council through ward members, who are often asked to intervene or assist members of the public in dealing with the council. A key element of improving public engagement is likely to be through the empowerment and engagement of ward councillors which is again an area for further policy development.

- 4.7 Consideration has also been given to member questions, the role or purpose of questions in a cross group/party committee which is fundamentally different from questions to a controlling executive or cabinet. With a proportionate committee groups are already engaged in the decision-making process, so the purpose and management of questions dealing with accountability, challenge, service requests etc and how this relates to the role of and empowerment of ward councillors will require further policy development. Members will be required to strike a balance between ward issues and committee issues, to decide if ward councillors are to be the primary conduit or if committees are to engage in very local issues rather than borough-wide decisions. This balance is likely to be reached through the evolution of the Cheshire East committee system and variation and

additions to these provisions should be expected at each review point following recommendation from the Corporate Policy Committee.

- 4.8 The access to information rules are largely untouched but require substantial review for legislative compliance and these will be updated for November 2021.
- 4.9 The Budget and Policy framework sets out the rules providing the framework for managing the Council's financial affairs. These remove reference to the framework for executive decisions and replace them with the committee approach. The indicative budget process for the first year is set out in the transitional paper.
- 4.10 In the Finance Procedures Rules the fundamental elements remain unchanged and there are no significant variations to delegations. They have been substantively rewritten in respect of style and approach. The rules provide a mechanism for virement between committees and controls through full council, corporate committee, and the finance subcommittee.
- 4.11 The Contract Procedure Rules are again broadly unchanged save for updating to language to reflect the post EU procurement landscape.
- 4.12 The removal of the Staffing Committee and creation of the Appointments Committee has resulted in a need for a technical rewrite of the Employment Procedure Rules which have consequential updates to reflect changes in the local government landscape.

PART 4

- 4.13 This part remains as currently drafted save for consequential changes to use consistent language and cross referencing in codes and protocols. All the substantive changes to the codes and protocol are due for revision and this work will continue through the next two updating cycles of the constitution. There are some changes driven by engagement with the committee system, for example the member/officer protocol has been updated to reflect changes from officer interaction with portfolio holders to officer interaction with service committee chairpersons and other consequential changes. The substantive changes will require careful member consideration of command papers such as Local Government Ethical Standards January 2019 and the LGA changes to the draft model codes of conduct. This is not required for the committee system of governance in May 2021.
- 4.14 Chapter 5 will be the member allowance scheme and will be drawn directly from the Independent Remuneration Panel report and is simply a link to the web page that has been populated with the relevant data after agreement at council on the 12 May 2021.

- 4.15 Chapter 6 is the glossary. The removal of definitions in the body of the text and the use of a single definition in a glossary is a significant aid to interpretation and helps avoid errors and duplication. This also allows for single amendments e.g. the membership of a group such as Corporate Leadership Team (CLT) need only be changed in one place: the glossary, to take effect throughout the document and hugely reduces the risk of error creeping into the text from imperfect editing.
- 4.16 Chapter 7 is a schedule of supporting documents. Some of these documents have been removed from the main body of the text, some documents that have always been linked to the Constitution are formally referenced for clarity. It should be noted that some of these documents such as the Mayoralty Code of Practice have been updated. Some, such as the Member Allowances is in the process of being updated and will be available via the Constitution Committee for the 12 May 2021, others will be updated in phase 2.

Areas for further development

Council may wish the Constitution Committee to consider amongst other matters:

- Confirmation of the decision-making structure diagram as this is fundamental tool for the public to see which committee of the council makes a decision.
- To consider elements relating to public engagement as the Public will now have the right to ask questions and to speak to Committee on a topic.
- To consider if the right to speak at Committee should be limited to an agenda item and if the time limits are appropriate.
- To consider the link between the Public and the role of ward councillor.
- The procedure rules are locality based and must reflect both custom, practice and the needs of the council. The use of time limits to speak in committee, limitations on length of meetings, are all legitimate tools that council may wish to consider ensuring the 5 design principles are maintained.
- The role or function of opposition spokesperson is not defined in the constitution. Council may feel the Constitution Committee could provide helpful guidance on development of this role.

5. Implications

5.1. Legal Implications

- 5.1.1. It is imperative that a lawful and transparent decision-making process exists which translates the existing forms of decisions into the new style of governance. If Council remains silent on these issues the efflux of time will create issues of urgency and cost which require officers to act. This would be costly and defeat the design principles of openness.
- 5.1.2. The Committee System must be implemented from the date of the next AGM (12 May 2021) and in the absence of an updated Constitution the Council must continue to operate but the level of risk increases and officers will be required to step in and fill any constitutional gaps.
- 5.1.3. The Council will maintain all necessary statutory services, and business. Member engagement in service provision relies upon a constitutional framework which gives certainty to members, officers and third parties, in their relationship with the Council. A failure to provide certainty will damage confidence and create doubt over lawful decision making which will impede the Council's ability to transact business.

5.2. Finance Implications

- 5.2.1. Clear decision making, and the adoption of a budget setting process is a legal necessity:
- The council must set a budget.
 - The process for setting a budget is set out in the Constitution.
 - A failure to set a budget will result in statutory intervention.
 - A failure to set a lawful budget may result in personal liability for Councillors.
- 5.2.2. In February 2021 Council agreed the medium-term financial strategy (MTFS) based on budgetary assumptions and as a response to recognised issues. Implementation will remain challenging and will soon become the remit of the Council's new Committee System. Achievement of business cases will be particularly difficult if capacity is reduced due to any emerging issues. A failure to implement an effective Constitution places achievement of a balanced budget at risk.
- 5.2.3. Council should also note that in respect of the adequacy of reserves, that reserves are adequate to support the proposals within this four-year strategy, however members must recognise that there is virtually no scope for variation to retain the balanced position. and does not provide any

scope for non-delivery of proposals. A failure to implement a decision-making process ultimately jeopardises the financial stability of the Council.

- 5.2.4. The Council budget is based upon a condition precedent accepted in the MTFS by full Council that the budget presents a robust set of forecasts, subject to the achievement of proposals identified within the budget report. A failure to achieve the budget proposals due to an inability to agree a decision-making process undermines the budgetary position.

5.3. Equality Implications

- 5.3.1. The Council's governance arrangements must enable all groups to engage in the decision-making process. No equality implications are identified.

5.4. Human Resources Implications

- 5.4.1. There are no direct implications for human resources although Council should be aware wider training will be taking place to assist the transition of staff into the new arrangements.

5.5. Risk Management Implications

- 5.5.1. This represents the first phase of legal and financial compliance and risk management. The absence of a functioning constitution would place the council at risk and severely impede the council ability to make lawful decisions.

5.6. Rural Communities Implications

- 5.6.1. There are no direct implications for rural communities.

5.7. Implications for Children & Young People

- 5.7.1. There are no direct implications for children and young people.

5.8. Public Health Implications

- 5.8.1. There are no direct implications for public health.

6. Ward Members Affected

Borough wide

7. Consultation & Engagement

- 7.1. Leader, Deputy leader, have been consulted. The constitution committee working group has met twice and this has been widely contributed by

officers across the council via the project board. All Councillors will be offered training on the committee system and an introduction to the constitution session.

8. Access to Information

- 8.1. Additional information is available to members from the council's committee system sharepoint site.

9. Contact Information

- 9.1. Any questions relating to this report should be directed to the following officer:

Name: David Brown

Job Title: Director of Governance and Compliance

Email: David.C.Brown@cheshireeast.gov.uk

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Draft Constitution

Cheshire East Council

Please note the appended draft is awaiting approval.

Cross referencing, typographical errors and miscellaneous corrections are undertaken when the draft text is settled.

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CHESHIRE EAST COUNCIL

CONSTITUTION

Remember to delete when complete

Date	Version	Author	Summary of amendments made
15.03.21	2	J Barnes BB	Update
22.03.21	3	J Barnes BB	Update
23.03.21	4	D Brown CEC	Update
08.04.21	5	J Barnes BB	Updated following receipt of councillor comments and Constitution Committee

EDITION: April 2021

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Contents

Chapter	Title	Contents
1	Introduction, Summary and Explanation	This Chapter sets out an overview of how the Council operates, what the key parts of the Constitution cover and what rights members of the public have. It explains how decisions are taken and how the Mayor is elected.
2	Responsibility for Functions	<p>This Chapter sets out the way in which functions have been allocated and which decision-making body/person within the Council has responsibility for making those decisions:</p> <ol style="list-style-type: none"> 1. Diagrammatic explanation of Councillor decision making bodies 2. Council 3. Committees 4. Officer delegations (including a diagram of the officer structure/ Council management)
3	Procedure Rules	<p>This Chapter sets out the procedural rules relating to all Council activities grouped into the following parts:</p> <ol style="list-style-type: none"> 1. Procedure Rules governing meetings and decisions: <ul style="list-style-type: none"> • Full Council Meetings • Committees and Sub-Committee Meetings • Scrutiny Procedure Rules • General Provisions relating to Procedure Rules 2. Access to Information Procedure Rules 3. Finance Procedure Rules (FPRs) 4. Contract Procedure Rules (CPRs) 5. Employment Procedure Rules

Chapter	Title	Contents
4	Codes and Protocols	<p>This Chapter sets out codes and protocols covering Councillor and Officer conduct, including:</p> <ol style="list-style-type: none"> 1. Councillor Code of Conduct 2. Officer Code of Conduct 3. Councillor/Officer Protocol 4. Planning Code of Conduct 5. Whistleblowing Policy
5	Councillors' Allowance Scheme	This is the list of Councillors' Allowances.
6	Glossary	The Glossary explains some of the key terms used throughout this document.
7	List of associated documents	These are associated documents that support this constitution and can be accessed from it electronically.

Chapter 1

Introduction, Summary and Explanation

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

Purpose of the Constitution

- 2 This is a document to help residents, businesses, partners, stakeholders, Councillors and Officers understand how the Council works. We have included hyperlinks between different parts of the Constitution wherever possible to make it easy to navigate your way around the information. We have also included hyperlinks to other documents, information or sites where we think this will be helpful. All hyperlinks are coloured [blue like this](#).
- 3 If you have any queries about anything in this Constitution please contact:
Brian Reed (Head of Democratic Services and Governance)
01270 686670 brian.reed@cheshireeast.gov.uk

The Council

- 4 Cheshire East Council has 82 elected Councillors (also called Members). Each Councillor represents the residents in their Ward. There are 52 Wards in the Council's area. Councillors are elected every four years. Find out when the [next election](#) will take place.
- 5 Find out which [Ward](#) you are in and who your [Councillors](#) are. See a [list of all Councillors](#) with their contact details. View details of the [political composition](#) of the Council.

Councillors

- 6 Councillors are directly accountable to residents and service users for the running of the Council. They have a duty to represent all constituents in their Ward and they must make decisions in the best interests of the borough as a whole. They are involved in decision making and [Chapter 2](#) of the Constitution gives details of who has authority to make decisions. Councillors can also represent the Council on external bodies.
- 7 Councillors have to observe a [Code of Conduct](#) and a [Protocol on Councillor/Officer Relations](#). As public servants Councillors should treat people with mutual respect and courtesy.
- 8 Councillors also have to register and declare certain interests. You can access the [Register of Councillors' Interests](#) online.

How the Council makes decisions

- 9 All Councillors meet together a number of times each year as the full Council. You can get details of forthcoming full Council Meetings [here](#). Full Council elects a Mayor (who is the chair of the full Council Meeting, performs the Council's civic role and represents the Council in the community) and appoints a Deputy Mayor.
- 10 There are three different types of Council meeting:
 - 10.1 The Annual Meeting of the Council, which will usually be held in May;
 - 10.2 Ordinary meetings; and
 - 10.3 Extraordinary meetings, which will be called as and when required in accordance with the [Council Procedure Rules](#).
- 11 You can find details of the calendar of full Council and other meetings on the [Council's website](#).
- 12 The Council operates a 'committee system' form of governance. This means that decisions are made by full Council or delegated to Committees, Sub-committees and Officers. All Councillors meet together as full Council. Full Council is ultimately responsible for the exercise of all functions and certain matters are expressly reserved to be taken by a meeting of the full Council.
- 13 To enable it to operate more effectively some Council functions may be carried out jointly with other local authorities or in certain cases, by another local authority or public body on the Council's behalf. The structure of the Council's Committees and Sub-committees can be found [here](#). Those matters reserved to full Council are listed [here](#).
- 14 The meetings of Council and the committee system are modern, open and transparent. Public participation is encouraged and there is usually the opportunity for public speaking and petitions. There is a regularly updated work programme outlining the decisions to be made by each committee in the Forward Plan which can be found [here](#).
- 15 The Council's Scrutiny Committee is able to look at proposed decisions relating to health partners, crime and disorder issues and flood risk management. The Scrutiny Committee may contribute to those issues and make recommendations as it sees fit.

Principles of decision-making

- 16 The following principles apply to all decision making. 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
- take into account statutory duties such as best value and fiduciary duties
- consider relevant professional advice
- respect equalities and human rights
- approach decision making on a transparent and open basis.

The Council's Staff/Employees

- 17 Councillors are supported by staff/employees (who are also called "officers"). Officers provide advice, implement decisions and manage the day to day delivery of the Council's services.
- 18 The most senior officer is the Chief Executive. Other senior managers lead different parts of the Council's services. Some officers have specific duties to ensure that the Council operates within the law and uses resources wisely. These are the Monitoring Officer (who has duties regarding the law and the Ombudsman) and the Chief Finance Officer (who has responsibility for the proper management of the Council's financial affairs under Section 151 Local Government Act 1972).
- 19 See the [Council's Senior Management Structure](#). The functions and responsibilities which the Council has given to the senior officers are listed in the [Scheme of Delegation](#) in [Chapter 2](#).
- 20 The Chief Executive will designate one of the Executive Directors as the Deputy Chief Executive.
- 21 Officers have to comply with the [Officers' Code of Conduct](#) and the [Protocol on Councillor/Officer Relations](#). As public servants officers should treat people with mutual respect and courtesy.
- 22 The [recruitment, selection, discipline and dismissal of officers](#) must be done in accordance with specific rules.

Rights of residents and the public

- 23 Everyone has an equal right to access high quality Council services. Members of the public have rights to:
 - 23.1 vote at local elections
 - 23.2 stand for election as a councillor if they live or work in Cheshire East
 - 23.3 attend the Council's meetings except where confidential or exempt information is being discussed
 - 23.4 participate in [Public Speaking and Questions](#) and present petitions in accordance with the Council's procedure rules

- 23.5 contact local Councillors about any matters of concern – access [Councillor details](#)
- 23.6 contribute to reviews by the Scrutiny Committee
- 23.7 complain where there are problems with Council services – access a [complaint form](#)
- 23.8 complain to the Local Government and Social Care Ombudsman after complaining to the Council if the Council has not followed its procedures properly – access the [Ombudsman complaint form](#)
- 23.9 complain to the Monitoring Officer if you believe there is evidence that a Councillor has not followed the Councillors' Code of Conduct – access the [Code of Conduct Complaint Form](#)
- 23.10 inspect the [Council's accounts](#).

Role of the Mayor and Chair of the Council

Civic Role

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

Council Role

- 27 The Mayor is elected at the Annual Council meeting, usually held in May. The Deputy Mayor is appointed at the same meeting.
- 28 The Mayor is responsible for:
 - 28.1 upholding and promoting democracy and this Constitution and interpreting it, where necessary, with advice
 - 28.2 presiding over meetings of the full Council to ensure that business is carried out efficiently and effectively
 - 28.3 ensuring the rights of Councillors and local people are protected in the running of Council meetings (Guidance on the Role of a Chair which is relevant for all Chairs of Council meetings)
 - 28.4 ensuring that matters of concern to local people and Councillors can be debated at full Council or the relevant Committee

- 28.5 promoting public involvement in the Council's activities and acting as a link between members of the public and organisations and the Council
- 28.6 carrying out other roles on behalf of the Council.
- 29 The Deputy Mayor will:
 - 29.1 support the Mayor in his/her civic role and also carry out civic duties on behalf of the civic office
 - 29.2 deputise for the Mayor in his/her absence.
- 30 The Mayoralty Code of Practice**
- 31 The Mayor shall comply with the [Mayoralty Code of Practice](#).
- 32 Who may become Mayor or Deputy Mayor**
- 33 Any Councillor shall be eligible for election to the office of Mayor, or appointment as Deputy Mayor, except for Councillors who are Chairs or Vice Chairs of the service or oversight Committees.

Review of the Constitution

- 34 This Constitution will be kept under review by the [Monitoring Officer](#) who may make minor adjustments, or will report to Councillors with a view to making significant changes.

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CHESHIRE EAST COUNCIL CONSTITUTION

Chapter 2 - Remember to delete when complete

Date	Version	Author	Summary of amendments made
15.03.21	1	J Barnes BB	Update
22.03.21	2	J Barnes BB	Update s151 to CFO; add ToR for Committees
22.03.21	3	J Barnes BB	DB comments & update with officer reflections on the ToR,
8.04.21	4	J Barnes BB	Updated following receipt of councillor comments and Constitution Committee

EDITION: April 2021

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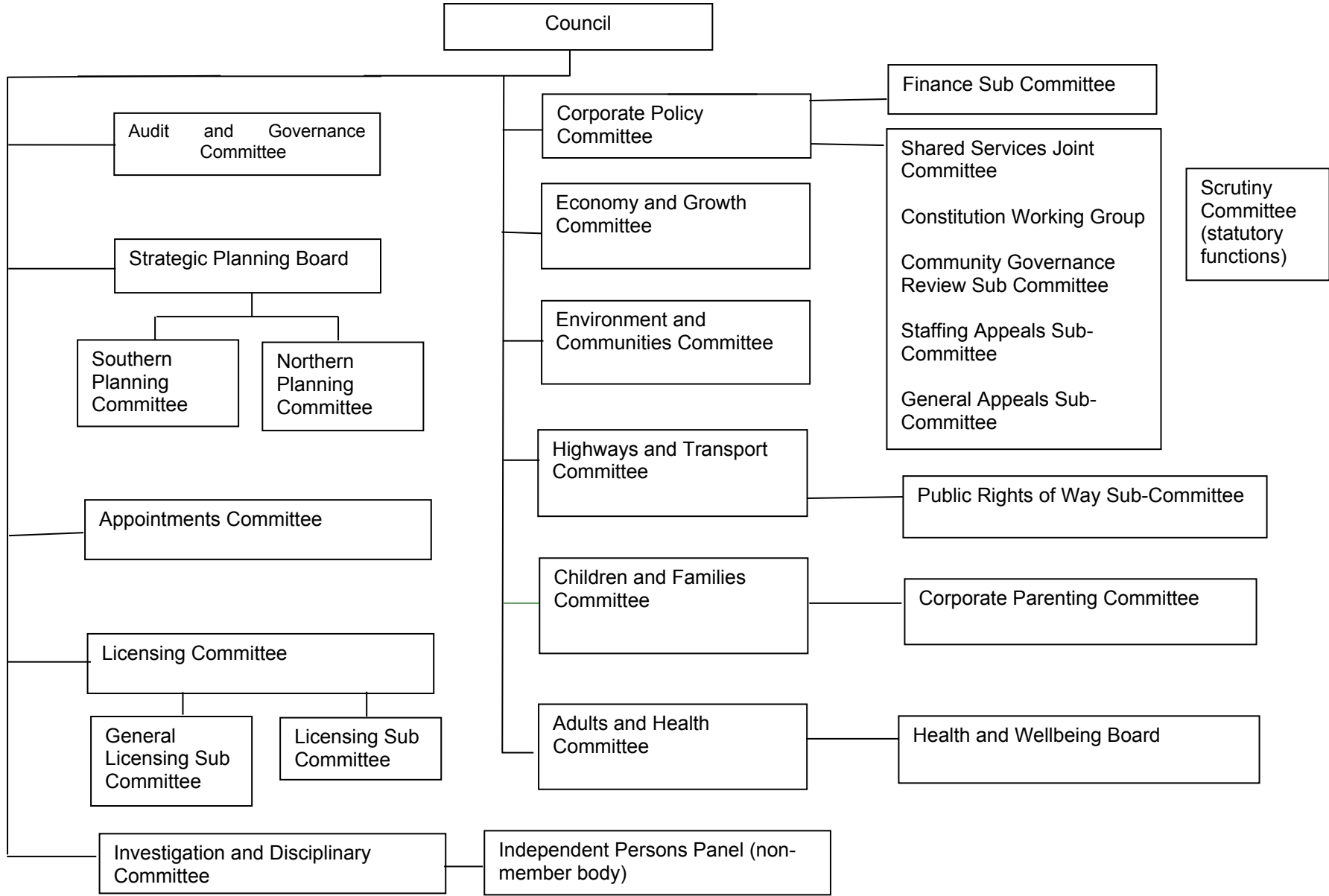
Chapter 2

Responsibility for Functions

Part	Title	Contents
1	Explanation of Decision Making	This part shows a diagram of the Committee Structure
2	Introduction to Decision Making	This part sets out an introduction to who makes decisions in the Council
3	The Full Council	<p>This part sets out:</p> <ul style="list-style-type: none"> • Functions of the Full Council • Council Meetings • Policy Framework • The Budget • Appointment to Outside Organisations
4	Functions of Committees	<p>This part sets out the Functions, Roles and responsibilities of the Committees of the Council, which are:</p> <ul style="list-style-type: none"> • Corporate Policy Committee • Finance Sub-Committee • Staffing Appeals Sub-Committee • General Appeals Sub-Committee • Community Governance Review Sub-Committee • Economy and Growth Committee • Environment and Communities Committee • Highways and Transport Committee • Public Rights of Way Sub-Committee • Children and Families Committee • Corporate Parenting Committee • Health and Adults Committee • Health and Wellbeing Board • Scrutiny Committee

Part	Title	Contents
		<ul style="list-style-type: none"> • Strategic Planning Board <ul style="list-style-type: none"> ○ Northern Planning Committee ○ Southern Planning Committee • Licensing Committee • General Licensing Sub-Committee • Licensing Sub-Committee • Appointments Committee • Investigation and Disciplinary Sub-Committee • Independent Persons Panel • Audit and Governance Committee • Standards Sub-Committee • Independent Remuneration Panel • Joint Arrangements <ul style="list-style-type: none"> ○ Shared Services Joint Committee ○ Cheshire Police and Crime Panel ○ Cheshire Fire Authority
5	Officer Delegations	<p>This part 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>

Chapter 2 – Part 1: Committee Structure



Chapter 2 – Part 2

Introduction to decision making

- 1 This Part of the Council's Constitution sets out how decisions are made so that members of the public are clear about which part of the Council or which individual has responsibility for particular types of decisions.
- 2 The Council and any Committee or Sub-Committee of the Council may delegate a function or decision to an officer in accordance with this Constitution. This can be on a permanent or one-off basis.
- 3 Where a matter covers numerous Committee Terms of Reference or there is any dispute or disagreement between Committees on:
 - Whether something falls within a Committee's Terms of Reference; or
 - A proposed course of action;the matter shall be referred to the Corporate Policy Committee (or Council if more convenient) to resolve and decide upon a way forward.

Types of decision and the decision-takers

- 4 When the Full Council makes decisions, it will comply with the [Council Procedure Rules](#).
- 5 When Committees and Sub-Committees make decisions, they will comply with the [Committee Procedure Rules](#).
- 6 When the Scrutiny Committee makes decisions, it will comply with the Scrutiny Procedure Rules (Agenda for Scrutiny Committee).
- 7 On occasions, the Council, a Committee, Sub-Committee 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.
- 8 Significant decisions may appear on the [Council's Forward Plan](#).

Chapter 2 – Part 3

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 residents and service users for the proper discharge of all of its functions and the delivery of 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 public and the delivery of services in the most efficient and effective way to deliver best value
 - 1.3 will adopt the Council's Constitution and approve any amendments to it (except where specifically delegated to the Corporate Policy Committee or the Monitoring Officer)
 - 1.4 will:
 - 1.4.1 elect the Mayor
 - 1.4.2 appoint the Deputy Mayor
 - 1.4.3 elect the Leader of the Council and appoint the Deputy Leader
 - 1.4.4 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 adopt the Council's [Codes of Conduct](#) for Councillors and Officers and the [Protocol on Councillor/Officer Relations](#)
 - 1.9 will agree:
 - 1.9.1 the establishment and composition of Committees and Sub-Committees (except for ad-hoc Sub-Committees or Panels envisaged by this Constitution)

- 1.9.2 The political balance of such bodies as required from time to time
- 1.9.3 the allocation of Chairs and Vice-Chairs to those bodies (see paragraph 2 below).
- 1.10 will agree and amend the terms of reference of its Committees and Sub-Committees and the job description for committee Chairs
- 1.11 will determine any matter which is referred to it for determination by a Committee or Sub-Committee
- 1.12 will adopt (or otherwise) Motions submitted in accordance with the Council Procedure Rules
- 1.13 will approve the [Councillors' Allowance Scheme](#) for elected Members following advice from the [Independent Remuneration Panel](#)
- 1.14 will appoint/dismiss the Head of Paid Service, dismiss the Monitoring Officer and Chief Finance Officer, designate an officer to act as Monitoring Officer and an officer to act as Chief Finance Officer
- 1.15 will appoint the Returning Officer and Electoral Registration Officer
- 1.16 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 community governance functions
- 1.17 may take decisions relating to the name of the area and may confer the title of Honorary Alderman or Freedom of the Borough
- 1.18 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
- 1.19 will take decisions in respect of functions which have not been delegated by the Council to Committees, officers or elsewhere.
- 2 Nominations to the Council's Committees, Sub-committees and decision-making bodies, and changes to such nominations, including nominations to Chairs and Vice-Chairs, shall be notified by the Council's Group Leaders or Group Whips in writing or by email to the Head of Democratic Services and Governance and shall thereafter be published on the Council's website. Such nominations shall be in accordance with the relevant numerical allocations made by Council for that body in line with the [political balance](#) 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 decided by the full Council. These are set out in the Budget and Policy Framework Procedure Rules.

Budget

- 4 The Full Council sets the Council's budget each year, following a recommendation from the Corporate Policy Committee. The budget has a number of elements as follows:
 - 4.1 The allocation of financial resources to different services and projects
 - 4.2 The Medium Term Financial Strategy
 - 4.3 The Council tax base
 - 4.4 Setting the Council tax
 - 4.5 The Capital Strategy
 - 4.6 The Reserves Strategy
 - 4.7 The Treasury Management Strategy, which includes the Council's borrowing requirement and Investment Strategy
 - 4.8 Council also sets the financial limits within the Finance Procedure Rules.

Appointment to Outside Organisations

- 5 The Corporate Policy Committee may make appointments to a number of ASDV's and [local and regional organisations](#) which can be found by clicking on the link.

Chapter 2 – Part 4

Functions of Committees

- 1 This section sets out the functions, roles and responsibilities of the Committees of the Council, which are listed in the Contents section on page 4. The Terms of Reference are set out below.
- 2 All committees and sub-Committees will be appointed in accordance with the political balance rules except for Licensing Sub-Committees and other quasi-judicial bodies, such as appeals and the Hearings Sub-Committee. (Political balance is not required where an alternative arrangement is proposed and no Councillor votes against).
- 3 The quorum for all Committees and Sub-Committees is one third unless otherwise stated.
- 4 Committees are able to exercise all of the functions of their Sub-Committees and anything calculated to facilitate or conducive or incidental to the exercise of those functions.
- 5 Committees and Sub-Committees are appointed by the Council and they may appoint informal working groups, panels or task groups with defined terms of reference and timeframes (and may or may not be politically balanced).
- 6 All Panels, Working Groups and ad-hoc meetings of Sub-Committees may be convened by the Head of Governance and Democratic Services under the normal processes for making appointments to committees (via Group Leader/Whip notification to the Head of Governance and Democratic Services).

Corporate Policy Committee

Membership: 13 Councillors

With the Leader of the Council as Chair and Deputy Leader as Vice Chair

Functions

- 1 The Corporate Policy Committee will provide strategic direction to the operation of the Council by developing and recommending the Corporate Plan to full Council and making decisions on policies and practice where such decisions are not reserved to full Council.
- 2 The Committee's responsibilities include:
 - 1.1 formulation, co-ordination and implementation of the Corporate Plan and
 - 1.2 corporate policies and strategies, alongside the medium term financial plan (budget) which is the responsibility of the Finance

Sub-Committee. In the discharge of those responsibilities the Committee shall determine such matters to the extent that they are not reserved to full Council.

- 1.3 Human Resources, Organisational Development and Health and Safety matters affecting the Council; including adopting HR policies and practices;
- 1.4 making recommendations to Council in relation to the annual Pay Policy Statement and any amendments to such statement.
- 1.5 making recommendations to Council in relation to decisions affecting the remuneration of any new post where the remuneration is or is proposed to be or would become £100,000 p.a. or more.
- 1.6 making decisions in relation to proposed severance packages with a value of £95,000 or more as appropriate (excluding contractual and holiday pay), subject to the need to obtain a approval from Council and central Government if required.
- 1.7 exercising 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.
- 1.8 determining key cross-cutting policies and key plans that impact on more than one service committee.
- 1.9 determining policy matters not otherwise allocated to any other committee.
- 1.10 determining any matter of dispute or difference between any committees.
- 1.11 a co-ordinating role across all other committees and exercising a corporate view of outcomes, performance, budget monitoring and risk management.
- 1.12 determining any matter that has a major impact on a number of Council services or the Council as a whole.
- 1.13 oversight and scrutiny of the Corporate Services Directorate, including the following functions: Legal, Governance and Compliance, Finance and Customer Services and Transformation; Human Resources, ICT; together with Strategic Partnerships and shared services;
- 1.14 independent assurance of the adequacy of the HR service and staffing related matters;
- 1.15 oversight and monitoring of the Councillors' Allowances budget and keeping under review the scheme for the payment of allowances to Councillors through the appointment of an

Independent Remuneration Panel (IRP) to advise full Council on the adoption and any proposed amendments to such scheme.

- 1.16 reviewing the Council's Constitution and the recommendation of any changes to the Council;
 - 1.17 considering recommendations and an Annual Report of the Council's involvement in ASDVs;
 - 1.18 appointing representatives to serve on outside bodies and organisations (including education bodies and establishments) and reviewing the process for considering appointments to outside organisations;
 - 1.19 appointing Lay Members (who shall not be Councillors) to serve on the Independent Admissions and Exclusion Appeals Panel as required under the relevant legislation;
 - 1.20 approving the payment of a reasonable and proper allowances and expenses for the work undertaken by the Council's Independent Persons;
 - 1.21 approving annual conference and seminar attendance.
- 3 The Corporate Policy Committee shall be entitled to exercise: any function of the Council not otherwise allocated; as well as the functions of all other Committees and Sub-Committees, particularly where plans, strategies or activities straddle a number of Committees.

Finance Sub-Committee

Membership: 8 Councillors

Functions

- 1 The Finance Sub-Committee will co-ordinate the management and oversight of the Council's finances, performance and corporate risk management arrangements. The Sub-Committee will make recommendations to the Corporate Policy Committee regarding the development of the Medium Term Financial Strategy and the setting and monitoring of the Capital and Revenue Budgets in accordance with the Corporate Plan and the Policy Framework.
- 2 The Sub-Committee's responsibilities include:
 - 2.1 determination of finance issues, including but not limited to Treasury Management, Insurance, Procurement, debt write off, settlement payments and virements in line with the constitution;
 - 2.2 establishment of a Procurement Forward Plan;
 - 2.3 oversight of the Investment Strategy;
 - 2.4 grant awards for sums in excess of £50,000;

- 2.5 estates and property transactions including buying selling and appropriation of land and property (including compulsory purchase where required);
- 2.6 management of the Council's involvement in ASDVs and overseeing the production of an Annual Report on performance;
- 2.7 making decisions as Shareholder, reviewing and approving Business plans, including risk registers and commissioning services and functions from the Council's ASDVs;
- 2.8 oversight and scrutiny of the following functions: Estates, Pensions and Funding.

Staffing Appeals Sub-Committee

Membership: 3 Councillors, established on an ad hoc basis in consultation with the Chair of the Corporate Policy Committee drawn from a pool of 10.

The requirement of political proportionality under section 15 of the Local Government and Housing Act 1989 is waived in relation to the sub-committee.

Before a Councillor can attend a meeting and participate in the business of the meeting, the determination of an application or an appeal by any individual or body, the Councillor must attend a suitable training course dealing with the quasi-judicial nature of the role of the Sub-Committee.

Functions

- 1 To consider appeals from [senior] Staff in the following circumstances:
 - 1.1 Appeals against dismissal
 - 1.2 Appeals against grievances
 - 1.3 Appeals against policy (but only the first appeal where the appeals are based on the same issues/circumstances)

General Appeals Sub-Committee

Membership: 5 Councillors drawn from a pool of 10

The requirement of political proportionality under section 15 of the Local Government and Housing Act 1989 is waived in relation to the sub-committee.

Before a Councillor can attend a meeting and participate in the business of the meeting, the determination of an application or an appeal by any individual or body, the Councillor must attend a suitable training course dealing with the quasi-judicial nature of the role of the Sub-Committee.

Functions

- 1 The Sub-Committee is responsible for:

- 1.1 hearing and determining appeals lodged under the various Marriage and Civil Partnership Acts;
- 1.2 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);
- 1.3 hearing and determining any appeals lodged with the Council in respect of school transport or school organisation;
- 1.4 hearing and determining appeals from bus contractors in accordance with contract procedures;
- 1.5 hearing and determining any appeals lodged with the Council as Social Services Authority, and as authorised under all relevant social services legislation;
- 1.6 hearing and determining any other appeals (other than staffing matters).

Community Governance Review Sub-Committee

Membership: 7 Councillors

Functions

- 1 The Sub-Committee is responsible for:
 - 1.1 undertaking a Borough-wide review of community governance arrangements for Cheshire East;
 - 1.2 Appointing persons to fill vacancies on Parish Councils where such Councils are otherwise unable to act; and
 - 1.3 All other Parish Council matters.

Constitution Working Group

Membership: [8] Councillors

Functions

- 1 The Constitution Working Group will make recommendations to the Corporate Policy Committee and Council on:
 - 1.4 the Council's administrative business, including electoral matters; administrative boundaries and support for Councillors;
 - 1.5 determining policies and conventions in relation to the political management of the Council, including political balance and party groups for the purpose of Councillors' duties;

- 1.6 reviewing the Council's Constitution and recommending any changes to the Monitoring Officer (where not significant), or Corporate Policy Committee and Council;
- 1.7 recommending to Council or Corporate Policy Committee, as appropriate, the appointment of Councillors to Committees and Sub-Committees (including any co-opted Members);
- 1.8 overseeing and monitoring the Councillors' Allowances budget and keeping under review the scheme for the payment of allowances;
- 1.9 making recommendations to the Council on civic issues, including those affecting the Mayoralty, Honorary Freeman and Aldermen, nationally significant events and the Council's flag flying policy and civic regalia.

Environment and Communities Committee

Membership: 13 Councillors

Functions

- 1 The Environment and Communities Committee is responsible for developing policies and making decisions on matters relating to the delivery of inclusive and sustainable economic growth, improving the quality of the environment and delivering improvement in key front line services.
- 2 The Committee's responsibilities include:
 - 2.1 development and delivery of the Council's strategic objectives for Environmental Management, sustainability, renewables and climate change;
 - 2.2 the development and delivery of the Council's Environment Strategy and Carbon Neutral Action Plan;
 - 2.3 development and delivery of Strategic Planning policies;
 - 2.4 the development and delivery of the Local Development Framework including the Local Plan, Supplementary Planning Documents, Neighbourhood Plans, the Brownfield Land Register, Conservation Areas, Locally Listed Buildings, the Community Infrastructure Levy, and Statement of Community Involvement;
 - 2.5 external health and safety good practice and enforcement including instituting proceedings and prosecutions;
 - 2.6 determination of policies, exercising functions and delivering improvement in relation to waste collection and disposal, recycling, fly tipping, parks and green spaces, leisure, libraries, the arts and sports development, bereavement services, trading

standards, environmental health, emergency planning, CCTV, nuisance and anti-social behaviour, public space protection orders, community enforcement, animal health and welfare, food safety/licensing, pest control, contaminated land and air quality;

Economy and Growth Committee

Membership: 13 Councillors

Functions

- 1 The Economy and Growth Committee will be responsible for developing policies and making decisions on matters relating to delivering inclusive and sustainable economic growth
- 2 The Committee's responsibilities include:
 - 2.1 determination of policies and making of decisions in relation to housing management and delivery;
 - 2.2 determination of policies and making of decisions in relation to economic development, regeneration, skills and growth;
 - 2.7 development and delivery of the Council's estates, land and physical assets policies;
 - 2.3 determination of policies and making decisions in relation to the rural and cultural economy;
 - 2.4 compulsory purchase of land to support the delivery of schemes and projects promoted by the Committee;
 - 2.5 oversight and scrutiny of the following functions: Facilities Management; Development Management, Strategic Planning, assets; farms; rural and cultural management; Tatton Park; licensing and regulatory services, Building Control, the Visitor economy and cultural services.

Highways and Transport Committee

Membership: 13 Councillors

Functions

- 1 The Highways and Transport Committee shall be responsible for developing policies and making decisions on matters relating to highways and transport as they affect the area of the Council taking into account regional and national influences.
- 2 The Committee's responsibilities include:
 - 2.1 formulation, co-ordination and implementation of corporate policies and strategies in connection with all car parking, transport and accessibility matters;

- 2.2 determination of any matter affecting the Council's interests in relation to national infrastructure matters, for example HS2, Northern Powerhouse Rail and the National Road Network;
- 2.3 discharge of the Council's responsibilities as Highway Authority, including, but not limited to, highway adoption, highway maintenance, road safety, network management, flooding and street lighting;
- 2.8 determination of policies and making decisions in relation to flooding and accessibility, in co-ordination with the Scrutiny Committee;
- 2.4 compulsory purchase of land to support the delivery of schemes and projects promoted by the Committee;
- 2.5 oversight and scrutiny of the following functions: Transport, Car-parking, infrastructure and HS2.

Public Rights of Way Sub-Committee

Membership: 7 Councillors

Before any Councillor can attend a meeting and participate in the business of the meeting, determination of an application or an appeal by any individual or body he/she must attend a suitable training course dealing with the quasi-judicial nature of the role of the Committee.

Functions

- 1 The Public Rights of Way Sub-Committee's responsibilities include:
 - 1.1 discharge all the functions of the Council in relation to public rights of way (except the determination of non-contentious Public Path Order applications which has been delegated to the Executive Director Place);
 - 1.2 discharge of Commons and Town and Village Greens functions;
 - 1.3 being apprised of, approve, and comment on a range of policies, programmes and practices relating to Rights of Way, Commons, Town and Village Greens and countryside matters including but not limited to:
 - 1.3.1 progress reports on implementation of the Rights of Way improvement Plan (part of the Annual Progress Review for the Local Transport Plan);
 - 1.3.2 Statements of Priorities;
 - 1.3.3 Enforcement Protocols;
 - 1.3.4 Charging Policy for Public Path Order applications.

Children and Families Committee**Membership: 13 Councillors**

The Chair of the Committee shall be the statutory Lead Member for Children's Services

Functions

- 1 The Children and Families Committee will be responsible for those services which help keep children and young people safe and enable them to achieve their full potential. The responsibility incorporates matters in relation to schools and attainment, early help and family support and social care for children and families. The Committee will oversee the work of the Corporate Parenting Committee, which focuses on those children who are cared for by the local authority and for whom the Council has corporate parenting responsibility.
- 2 The Committee's responsibilities include:
 - 2.1 determining policies and making decisions in relation to the delivery of services to children and young people in relation to their care, well-being, education and health.
 - 2.2 discharging the Council's functions in relation to children in need and child protection including safeguarding and youth justice.
 - 2.3 discharging the Council's functions and powers in relation to the provision of education and oversight of the Schools Forum.
 - 2.4 support to and maintenance of relationships with schools in relation to raising standards of attainment.
 - 2.5 oversight of the Council's role as Corporate Parent with a focus on fostering and adoption.
 - 2.6 discharging the Council's functions in relation to Special Educational Needs and/or Disability (SEND).
 - 2.7 discharging the Council's functions in relation to early help and family support;
 - 2.8 making arrangements for the nomination of school governors;
 - 2.9 oversight and scrutiny of the following functions: Education, Children's social care, Children's mental health, prevention, youth engagement, Children's transport, SEND, Safeguarding and the Children's Trust and Board.

Corporate Parenting Committee**Membership: 12 Councillors**

Additionally the Committee is informed by representative young people from the My Voice (Cheshire East's Children in Care Council) to advise the Committee.

The Chair is the Lead Member for Children and Families.

Functions

- 1 The purpose of the Corporate Parenting Committee in its role as an advisory committee to the Children and Families Committee 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.
- 2 The Committee's responsibilities include:
 - 2.1 acting as advocate 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;
 - 2.2 ensuring key strategic plans relating to children in care and care leavers are in place and are delivered including the Corporate Parenting Strategy, Sufficiency Statement and Children and Young People's Plan;
 - 2.3 overseeing the implementation of Cheshire East's Corporate Parenting Strategy and action plan and monitoring the quality and effectiveness of services to ensure that they fulfil the Council's responsibilities;
 - 2.4 monitoring the quality of care delivered by Cheshire East's residential children's homes through visits and reports, including summary reports of Ofsted inspections;
 - 2.5 reviewing 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 annual reports including the Health of Cared for Children and Care Leavers, the Virtual School, Fostering and the Independent Reviewing Service;
 - 2.6 establishing an environment whereby Councillors 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;
 - 2.7 overseeing with the Children and Families 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;

- 2.8 supporting the work of foster carers and adopters in making a difference to the care and support they provide;
- 2.9 making sure that staff and partners commit to follow the pledges to cared for children and young people and care leavers set out in the Corporate Parenting Strategy.

Governance

- 3 The Committee will:
 - 3.1 meet bi-monthly;
 - 3.2 report to the Children and Families Committee on at least an annual basis; and
 - 3.3 review its terms of reference annually.
- 4 The Committee will be serviced by Democratic Services.
- 5 Minutes and agendas will be distributed and published no later than 5 clear working days prior to the meeting

Health and Adults Committee

Membership: 13 Councillors

Functions

- 1 The Health and Adults Committee will be responsible for the Council's communities, public health and adult social care services with a view to enabling all people to live fulfilling lives and to retain their independence. When discharging its functions the Committee shall recognise the necessity of promoting choice and independence.
- 2 The Committee's responsibilities include:
 - 1.1 promotion of the health and well-being of residents and others;
 - 1.2 determination of policies and making decisions in relation to people aged 18 and over (some young people up to the age of 25 may still be within Children's services as care leavers or with a Special Educational Needs and Disability) with eligible social care needs and their carers including;
 - 1.3 adult safeguarding, adult mental health, physical health, older people and learning disabilities and lifelong learning;
 - 1.4 determination of policies and making decisions in relation to Public Health in coordination with the Health and Wellbeing Board and the Scrutiny Committee;
 - 1.5 oversight of the Communities Strategy;
 - 1.6 provision and commissioning of domestic violence support services and quality assurance;

- 1.7 Prevent reporting and Channel Panel counter terrorism oversight;
- 1.8 oversight and scrutiny of the following functions: Public Health, lifelong learning, health improvement and intelligence, Adult social care and safeguarding, Adult Mental Health, Learning difficulties, Adult social care operations, Care4CE and commissioning of support for adults.

Scrutiny Committee

Membership: 13 Councillors

Functions

The purpose of the Scrutiny Committee is to undertake reviews and make recommendations on services or activities carried out by other organisations and which affect residents, businesses as well as the Council and its Committees.

- 1 The Committee's responsibilities include:

The discharge of the Council's responsibilities set out in section 19 of the Police and Justice Act 2006, section 244 of the Health and Social Care Act 2006, and section 9JA and 9JB of the Local Government Act 2000 in relation to flood risk management.

Planning and Development Control

Committee Structure and Delegations

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

- 1.1 **Strategic Planning Board** (12)

- 1.2 **Northern Planning Committee** (12)

- 1.3 **Southern Planning Committee** (12)

Any Councillor (including planning pool Councillors), must attend all planning training sessions held each year (including induction), in order to properly discharge their planning committee obligations.

Any Member who cannot attend the training must submit their apologies in advance to the event organiser. If a Member fails to attend, they must undertake refresher training, in line with the Committee training programme.

Substitutes and Pool of Planning Substitutes

- 2 A cross party pool of 9 planning substitutes, in political balance, shall be maintained to supplement the substitution arrangements for planning

committees. Each member of the pool must receive appropriate and up to date planning training without which they may not serve as a member of a planning committee. Political groups may nominate their own members to the pool in accordance with the proportionalities in force at the time and may vary their nominees as and when required subject to the training requirements.

Strategic Planning Board

Functions

- 1 To oversee the division of the Council's Development Management functions and workload in order to ensure timely and consistent decision making at the most appropriate level, and to that end:
 - 1.1 monitor the volume and type of applications determined; assessing the performance of the Development Management service, and, if appropriate
 - 1.2 vary the division of functions and delegations between the Board, the Planning Committees and the Head of Planning
 - 1.3 adopt working protocols and procedures: e.g. protocols governing the direction of applications between the Planning Committees, public speaking rights, Referral procedure and others.
- 2 To exercise the Council's functions relating to town and country planning and development control, protection of important hedgerows, preservation of trees, regulation of high hedges, and any relevant applications pursuant to Schedule 17 of the High Speed Rail (West Midlands-Crewe) Act 2021. Most of these functions are delegated to the Planning Committees and then onwards to the Head of Planning, but the following are reserved to the Board:
 - 2.1 Applications for Large Scale Major Development as defined by the Strategic Planning Board from time to time. Currently this includes:
 - 2.1.1 residential developments of 200 dwellings or more, or 4 ha. or more
 - 2.1.2 10,000 square metres or more, or 4ha. or more of retail, commercial or industrial or other floor space.
 - 2.2 This does not include re-applications for extant schemes or detailed applications where outline consent has been given or removal/variation of conditions.
 - 2.3 Applications for major minerals or waste development other than small scale works which are ancillary to an existing mineral working or waste disposal facility.

- 2.4 Applications involving a significant departure from policy which has been referred to SPB which a Planning Committee is minded to approve.
- 2.5 Any other matters which have strategic implications by reason of their scale, nature or location.
- 2.6 Any other matters referred up to it at the discretion of the Head of Planning, including major development of less than the thresholds set out in paragraph 2.1 above which have wider strategic implications.
- 2.7 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.
- 2.8 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.
- 2.9 To determine any relevant Schedule 17 applications as deemed appropriate by the Head of Planning.
- 3 Where the application is to vary or remove a condition that was imposed by the Planning Committee it will not be delegated.
- 4 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.

Northern and Southern Planning Committees

Functions

- 1 To exercise the Council's functions relating to town and country planning and development control, the protection of important hedgerows, preservation of trees, regulation of high hedges and any relevant applications pursuant to Schedule 17 of the High Speed Rail (West Midlands-Crewe) Act 2021. Some applications have been reserved to the Strategic Planning Board: others are delegated on to the Head of Planning: the following are retained for the Planning Committees:

- 1.1 Applications for Small Scale Major Development for:

- 1.1.1 residential developments of 20 to 199 dwellings or between 1 and 4ha.
- 1.1.2 retail or commercial/industrial or other floor space of between 5,000 and 9,999 square metres or 2-4 ha.

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

- 2 To determine any other planning and development control matters:
 - 2.1 advertised as a departure from policy, which the Head of Planning is minded to approve;
 - 2.2 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;
 - 2.3 considered to be 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;
 - 2.4 referred up to the Committee by a Councillor in accordance with the Committees' Referral procedure. However, 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 (except for a request to review a Schedule 17 application, where a 7 day time frame will apply);
 - 2.5 any other matters referred up to them at the discretion of the Head of Planning;
 - 2.6 any relevant Schedule 17 applications as deemed appropriate by the Head of Planning.
- 3 Applications for householder development, listed building consents to alter/extend and conservation area consents will normally be dealt with under delegated powers.
- 4 Applications for advertisements, tree work, prior approvals, Certificates of Lawfulness and notifications will normally be dealt with under delegated powers.
- 5 Where the application is to vary or remove a condition that was imposed by the Planning Committee it will not be delegated.
- 6 However, there will be a presumption that a Referral request by a local ward Member will be agreed where applications are for the renewal (or extension of time) of extant, unimplemented permissions.
- 7 Each Committee will refer up to the Strategic Planning Board matters involving a significant departure from policy which it is minded to approve contrary to recommendation by the Head of Planning.

Licensing

- 1 The Licensing functions of the Council shall be carried out by the following bodies:
 - 1.1 A full Licensing Committee of **15 Councillors**
 - 1.2 Sub-Committees to be established by the Licensing Committee on an ad hoc basis, comprising **3 Councillors** drawn from the full Committee, to deal with matters under the Licensing Act 2003 and the Gambling Act 2003.
 - 1.3 Sub-Committees to be established by the Licensing Committee on an ad hoc basis, comprising **5 Councillors** (with a **quorum of 3**) drawn from the full Committee (of which at least one shall, subject to availability, be the Chair or Vice-Chair of the full Committee), to deal with 'general' licensing matters.
 - 1.4 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 the above sub-paragraph.
- 2 Before any Councillor who is a member of the Licensing Committee can attend a meeting and participate in the business of the meeting, 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.

Functions

- 3 The Licensing Committee and its Sub-Committees have responsibility for the following licensing and registration functions of the Council:
 - 3.1 Caravan sites and moveable dwellings/camping sites
 - 3.2 Hackney carriages and private hire vehicles, drivers and operators
 - 3.3 Sex shops and sex cinemas
 - 3.4 Performances of hypnotism
 - 3.5 Acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis
 - 3.6 Pleasure boats and vessels
 - 3.7 Market and street trading
 - 3.8 Premises for the preparation of food
 - 3.9 Scrap yards and motor salvage operators
 - 3.10 Dog breeding, pet shops, animal breeding, animal trainers and exhibitors, zoos and wild animals
 - 3.11 Employment of children

- 3.12 Charitable collections
- 3.13 Operation of loudspeakers
- 3.14 Storage of celluloid
- 3.15 Meat product premises and dairy establishments
- 3.16 Egg products, butchers and fish products
- 3.17 Auction and wholesale markets
- 3.18 Food business premises
- 3.19 Licensed premises
- 3.20 Gambling
- 3.21 Alcohol Disorder Zones
- 3.22 Public Place Orders.
- 4 With the exception that the power to resolve not to issue a casino licence is reserved to Full Council.
- 5 The functions of the Licensing Committee or Sub-Committee shall be determined by the full committee based on the delegations set out below.
- 6 These delegations to Sub-Committees shall be subject to the proviso that the Chair or Vice-Chair 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

- 7 All functions under the Licensing Act 2003 and the Gambling Act 2005 shall be determined by the Sub-Committee or Officers in line with the statutory guidance issued by the Home Office, 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

- 8 All functions relating to:
 - 8.1 licensing of hackney carriages and private hire vehicles
 - 8.2 licensing of sex establishments
 - 8.3 licensing of street collections
 - 8.4 licensing of house to house collections
 - 8.5 licensing of street trading
 - 8.6 licensing of scrap metal dealers

- 8.7 any other functions referred to by officers (with the exception of matters under the Licensing Act 2003/Gambling Act 2005) shall be determined by the General Licensing Sub-Committee or Officers other than the following functions which are reserved to the full Licensing Committee:
- 8.8 power to set fees in relation to hackney carriage and private hire drivers, vehicles and operators
- 8.9 power to set fees for sex establishments
- 8.10 power to designate streets as consent streets, licence streets or prohibited streets.
- 8.11 power to set fees in relation to street trading
- 8.12 power to approve policy in relation to the Scrap Metal Dealers Act 2013
- 8.13 power to set fees and charges in relation to scrap metal dealers licences.

Appointments Committee

Membership: 8 Councillors

Functions

- 1 The purpose of the Committee is to make or recommend senior appointments:
 - 1.1 with regard to the Head of Paid Service, Monitoring Officer and Chief Finance Officer (Designated Statutory Officers (the 'DSOs')):
 - 1.1.1 to undertake the recruitment and selection process in accordance with the Employment Procedure Rules
 - 1.1.2 make a recommendation to the Council to approve the proposed appointment before an offer of appointment is made to that person
 - 1.2 appoint the Statutory Directors, namely:
 - 1.2.1 The Director of Children's Services;
 - 1.2.2 Director of Adult Social Services
 - 1.2.3 Director of Public Health
 - 1.3 to appoint/the Executive Directors for Place, People and Corporate Services.
 - 1.4 Excluding national agreements, 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.

- 1.5 Appeals against action short of dismissal from the three Designated Statutory Officers.

Investigation and Disciplinary Committee (IDC)

Please refer to the IDC Handbook (link provided in Chapter 7, list of associated documents) for further information.

Membership: 5 Councillors

Councillors must have completed mandatory training.

A **quorum** for the meeting shall be **3 Councillors**.

Functions

- 1 Councillors 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 *Directors*, IDC meetings shall be convened by the Monitoring Officer (in consultation with the Chair of Corporate Policy Committee). Should the Monitoring Officer (MO) be unable to act, the Head of Paid Service or Deputy Monitoring Officer (DMO) can also convene the Committee. Subsequent meetings of a convened IDC Committee will be convened by the IDC Co-ordinator in conjunction with the Chair of the Committee.
- 2 The Monitoring Officer (or DMO) shall, in consultation with the Chair of the Corporate Policy Committee filter out and deal with allegations of misconduct which are clearly unfounded, trivial or can best be dealt with under some other procedure. The MO/DMO will also consider whether informal resolution is appropriate.
- 3 For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Councillors shall comprise the Committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter), until such time as the matter is completed. Should any Member become conflicted or indisposed over the course of the matter, any substitution shall be at the Chair's discretion in conjunction with the Committee's legal adviser.
- 4 All papers issued to the Committee by the IDC Co-ordinator must be returned to the Co-ordinator (legal representative) or IDC Clerk at the end of each IDC meeting.
- 5 If a matter passes the filter stage, the Committee will in conjunction with its legal adviser consider allegations/issues regarding disciplinary matters (as defined in The Local Authorities (Standing Orders) (England) Regulations 2001 as amended) relating to the DSOs.
- 6 The Committee will after taking advice from its legal adviser decide:

- 8.1 Whether no further formal action under this procedure is required,
 - 8.2 To appoint an Independent Investigator (“II”) to investigate the issue and to commission reports from an II;
 - 8.3 Whether it is appropriate to reach agreement with the DSO on a formal sanction (short of dismissal) without the need to appoint an II;
 - 8.4 Whether to suspend a DSO or to reconsider suspension and to review at a frequency to be determined by the Committee, any decisions taken to suspend;
 - 8.5 What action should be taken against a DSO following an investigation. This could include a hearing, taking no further action, informal resolution/other appropriate procedures, disciplinary action short of dismissal or proposed dismissal. The Committee shall have delegated authority to impose disciplinary action short of dismissal in these circumstances.
- 7 In the event that the Committee recommends dismissal then that recommendation shall be referred to the Independent Persons Panel prior to being referred to full Council for a determination in accordance with the IDC Handbook.
 - 8 With the exception of a decision to recommend to full Council that a DSO be dismissed, there shall be a right of appeal to the Appointments Committee against any decisions made by the Committee to take disciplinary action against a DSO.

Independent Persons Panel

Membership: At least two (preferably three) of the Independent Persons appointed by the Council under section 28(7) of the Localism Act 2011 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. The Monitoring Officer shall invite the Independent Persons, as necessary/appropriate.

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:

- an Independent Person who has been appointed by the authority and who is a local government elector in the Council’s area
- any other Independent Person who has been appointed by the authority
- an Independent Person who has been appointed by another authority or authorities.

Functions

- 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 purpose 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.
- 2 The advice of the Independent Persons Panel must be sought in accordance with the *Employment Procedure Rules* and IDC Handbook where the Investigation and Disciplinary Committee propose to recommend the dismissal of a DSO.
- 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 under the IDC process or (if not conflicted) by the Appointments Committee in respect of an appeal.
- 4 For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice and may meet concurrently with an IDC hearing.

Audit and Governance Committee

Membership: 9 Councillors (excluding the Leader and Deputy and Chairs of the service Committees) and **2 co-opted independent members**

The Chair and Vice Chair of the Audit and Governance Committee should not be appointed to service Committees.

Members may not review decisions as part of the Audit and Governance Committee that they have made as a member of another Committee.

Co-opted independent members are appointed for a four year period and may vote on advisory matters (pursuant to a Council resolution on 22 October 2015).

To ensure that the Committee remains focussed on its assurance role, all members of the Committee, and any designated substitute, must be appropriately trained.

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 Councillors not to make inappropriate use of information provided to the Committee for other purposes.

Functions

- 1 The Audit Committee is a key component of the Council's corporate governance. It provides:
 - i. an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards;
 - ii. independent review of the Council's governance, risk management, control frameworks and oversees the financial reporting and annual governance processes; and
 - iii. promotes high standards of ethical behaviour by developing, maintaining and monitoring Codes of Conduct for Councillors and co-opted Members (including other persons acting in a similar capacity).
- 2 The Committee receives reports and assurances from across the organisation. In doing so the Committee will consider the effectiveness of the arrangements described, identifying further information needed and/or making recommendations for improvements and additional action required.
- 3 It also oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.
- 4 The Committee will report to full Council on a regular basis on the Committee's performance and effectiveness.

Governance, risk and control

- 5 To consider the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
- 6 To review and approve the Annual Governance Statement and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control, including an agreed action plan for improvements where necessary.
- 7 To consider the effectiveness of the system of risk management arrangements by receiving regular reports on the adequacy and effectiveness of the Council's risk management and reporting arrangements and receive assurance that actions have been taken as necessary.

- 8 To review the Council's Risk Management Policy and Framework and recommend it for approval by Corporate Policy Committee.
- 9 To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
- 10 To monitor the counter-fraud strategy, actions and resources.
- 11 To review the governance and assurance arrangements for significant partnerships or collaborations.
- 12 To consider amendments to the Constitution and recommend proposals to Full Council for approval except where specifically delegated to the Monitoring Officer.

Internal Audit

- 13 To approve the internal audit charter.
- 14 To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- 15 To consider reports from the Head of Audit and Risk Management on internal audit's performance during the year, including
 - (a) updates on the delivery of the audit plan, including key findings, issues of concern and monitoring the actions taken in response to internal audit recommendations.
 - (b) reports on Internal Audit's effectiveness and compliance it's Quality Assurance and Improvement Programme, including conformance with the Public Sector Internal Audit Standards, and the results of the external assessment review of Internal Audit when due.
- 16 To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- 17 To make appropriate enquiries of both management and the Head of internal audit to determine if there are any inappropriate scope or resource limitations.
- 18 To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit. To approve and periodically review safeguards to limit such impairments.

- 19 Receive the annual report from the Head of Audit and Risk Management setting out internal activity during the year, and an opinion on the level of assurance as to the Council's arrangements for governance, risk management and internal control.
- 20 To consider summaries of specific internal audit reports as requested.
- 21 To receive reports outlining the action taken where the Head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.

External Audit

- 22 To oversee the process by which the Council's external auditor is appointed.
- 23 To consider specific reports as agreed with the external auditor.
- 24 To commission work from internal and external audit.
- 25 To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

Annual Statement of Accounts

- 26 To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- 27 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
- 28 Monitor management actions in response to issues raised by the external auditor

Related Functions

- 29 Subject to the requirements set out below, to consider findings of the Local Government Ombudsman, including reports resulting in a finding of maladministration against the Council, and to make recommendations as to actions that may be necessary or advisable in connection with the Ombudsman's findings.

(a) There are statutory obligations which will, in some circumstances, require reports to be taken to Council or a Committee.

(b) The Ombudsman operates protocols in relation to the timing of the publication of findings. The Council would have to give consideration to those protocols when determining how to manage the Audit and Governance Committee's agenda.

- 30 To oversee the operation of the Contract Procedure Rules and provide assurance in respect of procurement and significant partnerships or collaborations.

Standards Arrangements

- 31 The Committee is responsible for the Council's standards arrangements to:
- (a) promote high standards of ethical behaviour.
 - (b) develop, maintaining and update Codes of Conduct and protocols.
 - (c) Training
- 32 The Committee is responsible for monitoring and advising Council about the operation of its Code of Conduct for Councillors in the light of best practice and any changes in the law.
- 33 The Committee will approve the arrangements for dealing with allegations that a Councillor or a town/parish Councillor within the borough has failed to comply with the relevant Councillors' Code of Conduct.
- 34 To assist the Council with the appointment of Independent Persons as required by the Localism Act 2011 and any independent persons under other secondary legislation.
- 35 To determine any request for a dispensation under Section 33 of the Localism Act 2011, where not determined by the Monitoring Officer or to appeal against a determination by the Monitoring Officer.
- 36 To respond on behalf of the Council to national reviews and consultations on standards related issues.
- 37 To consider and make recommendations to Full Council on any other matter that may be referred to the Standards Committee relating to the conduct and training of Councillors.
- 38 To review, advise, monitor and report to Full Council on member training.
- 39 To recommend proposals to Full Council for changes to the constitution in respect of any governance or standards matters, except where specifically delegated to the Monitoring Officer

- 40 Council on 14th December 2017 approved a procedure to be followed when considering a complaint that an elected member of the Council or of a town or parish council within its area has failed to comply with the Council's Code of Conduct. The full procedure is available [here](#).

Hearing Sub-Committee

- 41 The Hearing Sub-Committee is appointed to consider complaints that a Councillor has breached the Code of Conduct under the Council's arrangements adopted under the Localism Act 2011. It has 3 Councillors drawn from the Audit and Governance Committee.
- 42 The standing Chair of the Hearing Sub Committee is the Chair of the Audit and Governance Committee; when convened for any individual item, the Chair should be of a different group to any subject member
- 43 An Independent Person is invited to attend all meetings of the Hearing Sub-committee and his/her views are sought and taken into consideration before the Hearing Sub-committee takes any decision on whether the Councillor'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.
- 44 The requirement for political proportionality under section 15 of the Local Government and Housing Act 1989 is waived in relation to the sub-committee.
- 45 Before a Councillor can attend a meeting and participate in the business of the meeting, the determination of an application or an appeal by any individual or body, the Councillor must attend a suitable training course dealing with the quasi-judicial nature of the role of the Sub-Committee.

Independent Remuneration Panel

Membership: 4 Members (the minimum is 3 Members)

Functions

- 1 To make recommendations to the Council:
 - 1.1 as to the amount of basic allowances that should be paid to Councillors
 - 1.2 about the responsibilities or duties which should lead to the payment of a special responsibility allowance and as to the amount of such allowance
 - 1.3 about the duties for which a travelling and subsistence allowance can be paid and as to the amount of such allowance
 - 1.4 as to the amount of the co-optees' allowance
 - 1.5 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

- 1.6 on whether any allowance should be backdated to the beginning of a financial year in the event of the scheme being amended
- 1.7 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
- 1.8 as to treating basic allowance and special responsibility allowance as amounts in respect of which such pensions are payable.

Cheshire East Statutory Health and Wellbeing Board (CEHWB)

Context

1. The full name of the Board shall be the Cheshire East Health and Wellbeing Board. (CEHWB)
2. The CEHWB was established in April 2013.
3. The Health and Social Care Act 2012 and subsequent regulations provide the statutory framework for Health and Wellbeing Boards (HWB).
4. For the avoidance of doubt, except where specifically disapplied by these Terms of Reference, the Council Procedure Rules (as set out in its Constitution) will apply.

Purpose

- 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 and keep up to date the Joint Strategic Needs Assessments (JSNAs) and Joint Health and Wellbeing Strategies (JHWSs), which is a duty of local authorities and clinical commissioning groups (CCGs).
- 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 (i.e. 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 - 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

5. To work with the Council and CCG effectively to ensure the delivery of the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy.
6. 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.
7. 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.
8. To champion the work of the CEHWB in their wider work and networks and in all individual community engagement activities.
9. 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.
10. 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 wider system implications.

Accountability

11. The CEHWB carries no formal delegated authority from any of the individual statutory bodies.
12. Core Members of the CEHWB have responsibility and accountability for their individual duties and their role on the CEHWB.
13. 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.
14. The Council's Core Members will ensure that they keep Policy Committee and wider Council advised of the work of the CEHWB.
15. The CEHWB may report and be accountable to Full Council and to the relevant Governing Body of the NHS Clinical Commissioning Group by ensuring access to meeting minutes and presenting papers as required.
16. The CEHWB will not exercise scrutiny duties around health or adult social care services directly. This will remain the role of the Cheshire East Scrutiny Committee. Decisions taken and work progressed by the CEHWB will be subject to scrutiny by the Scrutiny Committee.
17. 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.

Membership

18. The Core membership of the CEHWB will comprise the following:

Voting members:

- **Three councillors** from Cheshire East Council
- The Director of Adult Social Services
- The Director of Public Health
- A local Healthwatch representative
- Two representatives from the Cheshire Clinical Commissioning Group
- Two representatives from the Cheshire Integrated Care Partnership
- The Chair of the Cheshire East Place Partnership

Non-voting members:

- The Chief Executive of the Council
- The Director of Children's and Families

- A nominated representative of NHS England / NHS Improvement

The councillor membership of the CEHWB (three core voting members) will be determined by the Council.

19. 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.
20. 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.
21. 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.
22. 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.

Frequency of Meetings

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

Agenda and Notice of Meetings

25. 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.
26. 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 Chair’s ruling of whether the requested item is considered / tabled or not at the meeting will be recorded in the minutes of the meeting.

27. 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.

Annual General Meeting

28. The CEHWB shall elect the Chair and Vice Chair at each AGM, the appointment will be by majority vote of all Core voting Members present at the meeting.
29. The CEHWB will approve the representative nominations by the partner organisations as Core Members.

Quorum

30. Any full meeting of the CEHWB shall be quorate if there is representation of any **three of the following statutory members**: – the relevant NHS Cheshire CCG(s), Local Health Watch, a Councillor and an Officer of Cheshire East Council.
31. 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.

Procedure at Meetings

32. 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.
33. The Council's Committee Procedure Rules will apply in respect of formal meetings subject to the following:
34. The CEHWB will also hold development/informal sessions throughout the year where all members are expected to attend and partake as the agenda suggests.
35. Core Members are entitled to speak through the Chair. Associate Members are entitled to speak at the invitation of the Chair.
36. 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.

- 37. 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.
- 38. Whenever possible decisions will be reached by consensus or failing that a simple majority vote by those members entitled to vote.

Expenses

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

Conflicts of Interest

- 41. 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.
- 42. In the case of non-pecuniary interests Members may remain for all or part of the meeting, participate and vote at the meeting on the item in question.
- 43. In the case of pecuniary matters Members must leave the meeting during consideration of that item.

Conduct of Core Members at Meetings

- 44. CEHWB members will agree to adhere to the seven principles of Public Life outlined in the CEHWB Code of Conduct when carrying out their duties as a CEHWB member.

Review

- 45. The above terms of reference will be reviewed every two years at the CEHWB AGM.
- 46. Any amendments shall only be included by consensus or a simple majority vote, prior to referral to the Corporate Policy Committee and Council.

January 2017

Revised July 2019

Revised August 2020

Revised March 2021

Definitions**Exempt Information**

Which is information falling within any of the descriptions set out in Part I of Schedule 12A to the Local Government Act 1972 subject to the qualifications set out in Part II and the interpretation provisions set out in Part III of the Schedule in each case read as if references to “the authority” were references to “CEHWB” or any of the partner organisations.

Confidential Information

Information furnished to, partner organisations or the CEHWB by a government department upon terms (however expressed) which forbid the disclosure of the information to the public; and information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court.

Conflict of Interest

You have a Conflict of interest if the issue being discussed in the meeting affects you, your family or your close associates in the following ways;

- ☐ *The issue affects their well-being more than most other people who live in the area.*
- ☐ *The issue affect their finances or any regulatory functions and*
- ☐ *A reasonable member of the public with knowledge of the facts would believe it likely to harm or impair your ability to judge the public interest.*

Associate Members

Associate Member status is appropriate for those who are requested to chair sub groups of the CEHWB.

Health Services

Means services that are provided as part of the health service.

Health-Related Services *means services that may have an effect on the health of individuals but are not health services or social care services.*

Social Care Services

Means services that are provided in pursuance of the social services functions of local authorities (within the meaning of the Local Authority Social Services Act 1970)

CEHWB Member Code of Conduct**1. Selflessness**

Members of the Cheshire East Health and Wellbeing CEHWB should act solely in terms of the interest of and benefit to the public/patients of Cheshire East. They should not do so in order to gain financial or other benefits for themselves, their family or their friends

2. Integrity

Members of the Cheshire East Health and Wellbeing CEHWB should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their duties and responsibilities as a CEHWB member

3. Objectivity

In carrying out their duties and responsibilities members of the Cheshire East Health and Wellbeing CEHWB should make choices based on merit and informed by a sound evidence base

4. Accountability

Members of the Cheshire East Health and Wellbeing CEHWB are accountable for their decisions and actions to the public/patients of Cheshire East and must submit themselves to whatever scrutiny is appropriate

5. Openness

Members of the Cheshire East Health and Wellbeing CEHWB should be as transparent as possible about all the decisions and actions that they take as part of or on behalf of the CEHWB. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands

6. Honesty

Members of the Cheshire East Health and Wellbeing CEHWB have a duty to declare any private interests relating to their responsibilities and duties as CEHWB members and to take steps to resolve any conflicts arising in a way that protects the public interest and integrity of the Cheshire East Health and Wellbeing CEHWB

7. Leadership

Members of the Cheshire East Health and Wellbeing CEHWB should promote and support these principles by leadership and example

Health and Wellbeing Board Principles and Behaviours

The Cheshire East Health and Wellbeing Board Partners shall work together to achieve the objectives of the Cheshire East Health and Wellbeing Strategy and The Cheshire East Place Partnership Five Year Plan. The Board shall:

- (a) Collaborate and work together on an inclusive and supportive basis, with optimal use of their individual and collective strengths and capabilities;
- (b) Engage in discussion, direction setting and, where appropriate, collective agreement, on the basis that all the Partners will participate where agreed proposals affect the strategic direction of the Health and Wellbeing Board and/or of Services, and in establishing the direction, culture and tone of the work and meetings of the Board;

- (c) Act in the spirit of partnership in discussion, direction setting and, where appropriate, collective agreement making;
- (d) Always focus upon improvement to provide excellent Services and outcomes for the Cheshire east population;
- (e) Be accountable to each other through the Board by, where appropriate, taking on, managing and accounting to each other in respect of their financial and operational performance;
- (f) Communicate openly about major concerns, issues or opportunities relating to the Board;
- (g) Act in a way that is best for the delivery of activity to drive forward the Five Year Plan, and shall do so in a timely manner and respond accordingly to requests for support promptly;
- (h) Work with stakeholders effectively, following the principles of co- design and co-production.

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 Ensuring that service strategies and the resources and budgets required to deliver the service strategies are in place and overseeing the implementation of the service strategies.
 - 2.2 Ensuring that adequate risk management and audit processes are in place for each shared service.
 - 2.3 Overseeing changes and projects and changes to shared services.
 - 2.4 Report on the performance of the five service areas (Civil Contingencies and Emergency Planning, Farms Estate, Archaeology Planning Advisory and Cheshire Rural Touring Arts Network)
 - 2.5 Overseeing and developing ICT, TSC and Archives.

- 2.6 Agreeing the basis for apportioning cost between the two councils and the amount to be apportioned.
- 2.7 Resolving issues that have been referred to the joint Committee.
- 2.8 Reviewing the Shared Services Outturn and Performance Report, which will take a back wards look and a forward look, on an annual basis and by exception as appropriate, and initiating additional or remedial action as appropriate.
- 2.9 Agreeing business cases for proposed changes and overseeing the progress of the subsequent work.
- 2.10 Ensuring that there are robust plans for any disaggregation of services and that there is a smooth transition into the separate arrangements.

The following matters are reserved to the councils:

- 2.11 Approving the budget for the specified functions.
- 2.12 The delivery of service business plans via client and service manager

Constitution of the Joint Committee

- 3 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.
- 4 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.
- 5 Each Member of the Joint Committee shall comply with the Code of Conduct of their Council when acting as a Member of the Joint Committee.
- 6 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.
- 7 Each Council shall have three votes. These shall be exercised by the nominated Members 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.
- 8 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.

- 9 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.
- 10 Meetings of the Joint Committee shall be held at the offices of the Member appointed as the Chair.
- 11 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.
- 12 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

- 13 The Terms of Reference for the [Cheshire Police and Crime Panel](#) are available.

Cheshire Fire Authority

Constitution

- 14 The [Constitution for the Cheshire Fire Authority](#) can be accessed on its own website.

Chapter 2 – Part 5

Responsibility for Functions – Officer Delegations

*Scheme of Delegation***Introduction**

- 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."
- 2 This Scheme of Delegation is set out as follows:

Title	Contents
Introduction	Sets out what this Part of the Constitution (the "Scheme of Delegation") covers and relevant definitions
General Principles Relating to Officer Delegation	Sets out the general principles which apply to all decision making by officers
General Delegations to all Directors	Sets out the delegations which apply to all officers called " <i>Directors</i> "
Delegations to the Chief Executive/Head of Paid Service	Sets out the delegations which apply to this officer
Delegations to the Executive Director (People)	Sets out the delegations which apply to this officer
Delegations to the Executive Director (Place)	Sets out the delegations which apply to this officer
Delegations to the Executive Director (Corporate Services)	Sets out the delegations which apply to this officer
Delegations to the Chief Finance Officer	Sets out the delegations which apply to this officer
Delegations to the Monitoring Officer	Sets out the delegations which apply to this officer
Arrangements for Proper Officer functions	Sets out the legal requirements for "proper officers", what this

Title	Contents
	means and a link to the Proper Officer Register

- 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.
- 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.
- 5 In order to ensure the smooth functioning of the Council and the efficient delivery of services, Full Council and the Committees and Sub-Committees have delegated to officers all of the powers that they need to perform their roles.
- 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. These roles are explained below.
- 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 other senior roles as the [Corporate Leadership Team](#)
- 8 The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer are also called “Statutory Officers” (because every Council is required by statute – the law – to have these posts).
- 9 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.
- 10 See the [current organisational structure](#) of the Council, showing more detail about the roles and responsibilities of the *Directors* and the officers supporting them to deliver all the Council's services.

General Principles Relating to Officer Delegation

- 11 This scheme gives the power for the Directors and Statutory Officers to take decisions in relation to all the functions in their areas of responsibility except where:

- 11.1 a matter is prohibited by law from being delegated to an officer, and
- 11.2 a matter has been specifically excluded from delegation by this scheme, by a decision of the Council, a Committee or Sub-Committee.

Directors and Statutory Officers may not take decisions unless specifically provided for within the constitution or specifically delegated by a Committee or Sub-Committee.

- 12 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:
 - 12.1 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
 - 12.2 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](#).
- 13 All Local Schemes of Delegation (and any changes to them) must be agreed by the Executive Director (Corporate Services) and the Monitoring Officer.
- 14 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.
- 15 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.
- 16 Any power delegated or cascaded under this Scheme can be exercised by the relevant Director or Statutory Officer and in all cases by the Chief Executive personally.
- 17 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. Nominated Deputies are able to exercise all functions of the person delegating the functions.

- 18 Delegations relate to all provisions for the time being in force under any applicable legislation and cover functions of the Council and all powers and duties incidental to that legislation.
- 19 Any delegation must be exercised:
 - 19.1 In compliance with the Budget and Policy Framework, all the Council's Procedure Rules, the Pay Policy Statement approved annually and the Officer Code of Conduct
 - 19.2 In accordance with the decision-making requirements set out in the Constitution, including requirements for decision-records and access to information
 - 19.3 Having identified and managed appropriate strategic and operational risks within the officer's area of responsibility
 - 19.4 Within the approved budget and policy framework approved by the Council (or separate approval must be sought)
 - 19.5 Following any appropriate legislative, regulatory, consultation, equalities or procedural requirements that may be required.
- 20 An officer, in exercising delegated powers may consult the relevant Committee Chair 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.
- 21 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 Director 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, a committee or the Chief Executive decides to whom to allocate responsibility for the new legislation.
- 23 Directors may appoint another officer as their deputy and such deputy shall have all the powers of the Director as set out in this Constitution. A deputy may be appointed in relation to all the areas of service delegated to the Director 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 Director of any delegation set out in this Constitution.
- 24 If there is any dispute or lack of clarity as to which Director has power to make decisions on specific areas of service, the Chief Executive shall have power to determine where the delegation should be exercised.

General Delegations to all Directors

- 25 The following delegations shall apply to all Directors (and to any appointed deputies).

Urgent action

- 26 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:

- 26.1 shall be reported to the appropriate Committee
- 26.2 shall take account of advice of the Monitoring Officer and the Chief Finance Officer
- 26.3 shall be exercised in consultation with the Chair of the appropriate Committee.

Implementation of decisions

- 27 To take all necessary actions (including the letting of contracts, undertaking statutory processes and incurring expenditure) to implement decisions of Council a Committee or Sub-Committee, or an Officer.

General operational

- 28 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

- 29 To undertake and consider the outcome of statutory and non-statutory consultations on service provision.
- 30 To respond to Government Consultations and consultations from other bodies, in consultation with the relevant Committee Chair.
- 31 To undertake all steps required to complete Government Statistical Returns.

Finance

- 32 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.
- 33 To enter into contracts and incur expenditure.

- 34 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.
- 35 To submit applications for grant funding that align with the Council Budget and Policy Framework, in accordance with the approvals required under the Financial Procedure Rules.

Staffing

- 36 To deal with the full range of employment and staff management issues, below Director 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 *Employment Procedure Rules*.
- 37 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:
 - 37.1 involves the loss of more than one post not currently vacant
 - 37.2 involves re-grading of posts or the grading of new posts
 - 37.3 involves changes to existing National or Local Agreements and policies
 - 37.4 cannot be achieved within the delegated powers in respect of budgets.
- 38 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 council or enforcement authority.

Land and assets

- 39 To manage land, premises, vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture appliances and uniforms necessary for the provision of services.
- 40 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.
- 41 To make application for planning permission and any other necessary applications for other consents required for the development of land.

Legal authorisation and enforcement

- 42 To act as “duly authorised officers” (for the purposes of all relevant legislation) and to enforce/administer the requirements of all relevant

regulatory legislation which shall (for the avoidance of doubt) include (but not be limited to) taking the following action (and all actions reasonably necessary, expedient or ancillary in order to facilitate or enable the same):

42.1 Applying for warrants, carrying out investigations, inspections or surveys, entering land and premises, taking samples and seizing property

42.2 issuing (or declining to issue) licences, certificates or certified copies of documents, approvals, permissions, consents, notices, orders, directions or requisitions for information

- 43 With the approval of the Monitoring Officer, to authorise the institution, defence or participation in civil and criminal proceedings and quasi-proceedings (which for the avoidance of doubt shall include but not be limited to all court hearings, tribunal, inquiry and appeal processes), administer cautions and/or take any other action considered necessary to protect the interests of the Council.
- 44 To exercise the role of authorising officer and designated person under the Regulation of Investigatory Powers Act 2000. (The Monitoring Officer is excluded from this provision as he/she has the formal 'reviewer' role.)

Safeguarding children and vulnerable adults

- 45 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.

Delegations to the Chief Executive/Head of Paid Service

- 46 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.
- 47 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, to exercise all powers, duties and functions of the Council, including those delegated to other officers.
- 48 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.
- 49 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:
- 49.1 To be the Council's principal officer representative and to promote its good image and reputation
- 49.2 To lead and direct the strategic management of the Council

- 49.3 To appoint other officers as Proper Officers for the purposes of any specific Council service area or function
- 49.4 Unless another officer is appointed as Proper Officer, to act as Proper Officer for the Council for the purposes of all Council service areas and functions
- 49.5 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
- 49.6 To discharge emergency planning and civil protection functions;
- 49.7 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
- 49.8 To sign settlement agreements for employees/ex-employees, in consultation with the Chair of the Corporate Policy Committee
- 49.9 Subject to paragraph 49.6 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 Pay Policy Statement which is reserved to full Council or where an approval falls within the responsibilities of the Corporate Policy Committee or would be contrary to the employment policies of the Council
- 49.10 To make decisions affecting the remuneration of any existing post where the remuneration is (or could become) £100,000 p.a. or more in consultation with the Leader as Chair of the Corporate Policy Committee, provided the remuneration for the post remains within the Council approved Pay Policy Statement.
- 49.11 To undertake the communications, marketing and media functions of the Council with regard to policy and strategic direction (operational responsibility rests with the Executive Director (Corporate Services)).

Delegations to the Executive Director (People)

- 50 The Executive Director (People) and post-holders within the Directorate hold a number of statutory roles for the Council:
 - 50.1 The Director of Children's Services (required by Section 18 of the Children Act 2004)
 - 50.2 The Chief Education Officer (required by Section 532 of the Education Act 1996) and
 - 50.3 The Director of Adult Services (required by Section 6 of the Local Authority Social Services Act 1970).

- 51 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's Social Care

- Cared for Children and Care Leavers
- Children in Need and Child Protection
- Children's Safeguarding

Education and 14-19 Skills

- Education Infrastructure and Outcomes
- Education Participation and Pupil Support

Children's Prevention and Support

- Preventative Services
- Special Educational Needs and Disability

Children's development and partnerships

Adult Social Care and Health

- Adult Social Care Services
- Care4CE (internal care provision)
- Mental Health and Learning Disability Services
- Adult Safeguarding
- Social Work Support
- Deprivation of Liberty Safeguards

Public Health

- Public Health Intelligence
- Health Improvement
- Public Health Protection

Commissioning

- Integrated commissioning
- Children's commissioning

- Adults commissioning
- Contract management and quality
- Support and Finance

Delegations to the Executive Director (Place)

52 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.

Environment and Neighbourhood Services

- Strategic Planning and Planning Policy
- Neighbourhood Services
- Development Management
- Planning Enforcement
- Regulation and Protection
- Libraries
- Air quality
- Emergency Planning
- HS2 Schedule 17 Applications

Infrastructure and Highways

- Strategic Transport
- Parking Services
- Infrastructure
- Highways Asset Management
- Highways Contract Operations ManagementHS2

Growth and Enterprise

- Housing
- Economic Development
- Rural and Cultural Economy
- Tatton Park
- Estates

- Assets and Property Management
- Asset Disposals and Acquisitions
- Facilities Management

Client Commissioning (Alternative Service Delivery Vehicles / ESAR)

- Civicance Limited
- Transport Service Solutions
- ANSA
- Orbitas Bereavement Services Limited
- Everybody Sport and Recreation
- Tatton Park Enterprises Limited

Business Management

- Policy and Partnerships
- Programme Manager (Constellation)
- Business Support

Delegations to the Executive Director Corporate Services

- 53 The Executive Director Corporate Services 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.

Governance and Compliance

- Legal Services
- Governance and Democratic Services
- Audit and Risk
- Insurance

Finance and Customer Services

- Finance and Procurement

- Customer Services

Transformation

- Business Change
- Human Resources
- ICT/Information Services Intelligence
- Business Solutions
- Collaboration and Shared Services

Delegations to the Chief Finance Officer

54 The Chief Finance officer is:

- 54.1 The financial adviser to the Council, Committees and Officers
- 54.2 The Authority's 'responsible financial officer', and
- 54.3 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.

55 The Chief Finance officer shall have the following delegated powers and responsibilities:

- 55.1 To carry out the functions and responsibilities which are detailed in the Finance Procedure Rules.
- 55.2 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.
- 55.3 To take all action necessary to ensure the safeguarding of assets by maintaining and administering appropriate insurance and approving requests to postpone legal charges.
- 55.4 To take all action necessary to facilitate debt recovery and enforcement action including instituting prosecutions, making applications to courts and tribunals and authorising officer to appear on behalf of the Council.
- 55.5 To take all necessary action in respect of the Council's role in relation to the administration and operation of the Cheshire Pension Fund

- 55.6 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
- 55.7 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 Council and six District Councils.

Delegations to the Monitoring Officer

- 56 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:
 - 56.1 the lawfulness and fairness of the decision making of the Council
 - 56.2 the Council's compliance with its legal responsibilities and requirements, and
 - 56.3 matters relating to the conduct of Councillors (including Parish Councillors).
- 57 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.
- 58 The Monitoring Officer shall, where necessary, and in consultation with the Head of Paid Service and the Chief Finance officer, report any proposal, decision or omission considered to be unlawful or that amounts to maladministration to the Council as appropriate in accordance with Section 5 of the Local Government and Housing Act 1989.
- 59 The Monitoring Officer shall have the following delegated powers and responsibilities:
 - 59.1 To authorise the settlement of actual or potential uninsured claims, borehole claims or Local Government and Social Care Ombudsman cases across all functions of the Council up to £25,000 (which after settlement shall be reported to the relevant Committee).
 - 59.2 To authorise the settlement of actual or potential uninsured claims, borehole claims or Ombudsman cases across all functions of the Council in accordance with the Financial Procedure Rules.
 - 59.3 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).

- 59.4 To institute legal proceedings for any offences under any local Byelaws or Orders in force within the Council's area.
- 59.5 To lodge objections to any proposal affecting the Council's interests.
- 59.6 To determine applications for the display of the crest or logo of the Council.
- 59.7 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.
- 59.8 To make discretionary payments under Land Compensation Act 1973 on the recommendation of the District Valuer.
- 60 In accordance with the Council's approved policy to monitor the integrity of the operation of the Regulation of Investigatory Powers Act 2000 by:
 - 60.1 Ensuring compliance with all relevant legislation and with the Codes of Practice.
 - 60.2 Engagement with the Inspectors from the Investigative Powers Commissioners Office when they conduct their inspections, and, where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.
 - 60.3 Monitoring authorisations and conducting a quarterly review of applications, authorisations and refusals, and reviewing renewals and cancellations.
- 61 To make Orders for the Temporary Closure of Highways and Regulation of Traffic.
- 62 To attest the affixing of the Council's seal to all documents approved for sealing.
- 63 To authorise appropriate Officers to administer formal cautions in respect of criminal offences.
- 64 To determine whether a particular claim for payment under the *Councillors Allowances Scheme* is appropriate.
- 65 To authorise appropriately qualified employees or persons acting on behalf of the Council to appear in, and conduct legal proceedings in, any Court or Tribunal on behalf of the Authority.
- 66 To prove debts owed to the Authority in bankruptcy and liquidation proceedings.
- 67 In consultation with the Chair and Vice-Chair 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:

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

68 To determine applications for dispensations under Section 33 of the Localism Act 2011, in consultation with the Chair of the Audit and Governance Committee, as follows:

- 68.1 if it is considered that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- 68.2 if it is considered that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- 68.3 if it is considered that granting the dispensation is in the interests of persons living in the authority's area; or
- 68.4 if it is considered that it is otherwise appropriate to grant a dispensation.

Arrangements for Proper Officer functions

69 Many legislative provisions require the appointment of a "Proper Officer" to undertake formal responsibilities on behalf of the Council.

70 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:

- 70.1 such designation is given by the Council to any other officer, or
- 70.2 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.

71 The Proper Officer shall maintain a [Proper Officer Register](#) which shall record all Proper Officer appointments.

[to be included]



CHESHIRE EAST COUNCIL

CONSTITUTION

Chapter 3 Procedure Rules-Remember to delete when complete

Date	Version	Author	Summary of amendments made
15.03.21	1	J Barnes BB	Update
22.03.21	2	J Barnes BB	Update s151 to Chief Finance Officer; various minor amends
25.03.21	3	J Barnes BB	Incorporate feedback from DB & AT
8.04.21	4	J Barnes BB	Updated following receipt of councillor comments and Constitution Committee; removal of virtual meeting rules

EDITION: April 2021

Chapter 3

Procedure Rules

This part of the Constitution covers the following areas:

Part	Title	Contents
1	Rules of Procedure	<p>This part sets out the rules of procedure relating to meetings and decisions of the Council covering:</p> <ol style="list-style-type: none"> 1. Council Meetings 2. Committee and Sub-Committee Meetings 3. Scrutiny Procedure Rules 4. General Provisions <p>Appendix: Public Speaking</p>
2	Access to Information Procedure Rules	<p>This part sets out the rights to access documents and information of the Council and the obligations to publish and make information available.</p>
3	Budget and Policy Framework Procedure Rules	<p>This part sets out the rules providing the framework for managing the Council's financial affairs.</p>
4	Finance Procedure Rules (FPRs)	<p>This part sets out the rules relating to the financial operation of the Council, covering:</p> <ol style="list-style-type: none"> 1. Introduction 2. Financial Management 3. Financial Planning 4. Risk Management and Control of Resources 5. Financial Systems and Procedures 6. External Arrangements

Part	Title	Contents
5	Contract Procedure Rules (CPRs)	<p>This part sets out the rules covering the way in which the Council contracts with other organisations, covering:</p> <ol style="list-style-type: none"> 1. General Rules 2. Rules which apply to ALL contracts 3. Contracts below the Public Procurement Threshold 4. Contracts at or above the Public Procurement Threshold 5. Procedures for ALL Requests for Quotation and Invitations to Tender 6. Contracts and Post Procurement Requirements 7. Waiver and Breach
6	Employment Procedure Rules	<p>This part sets out the rules relating to the recruitment, appointment and dismissal of senior staff.</p>

Chapter 3 – Part 1

Rules of Procedure

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 An extraordinary meeting can be called by resolution of the Council or by the Mayor, or five Councillors can ask the Mayor, in writing, to call a special meeting. If the Mayor does not agree within 7 days, then those Councillors can call the meeting by giving written notice to the Monitoring Officer, provided the purpose of the meeting is a valid one.
- 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, Councillors and their constituents.
- 1.5 Before the start and at the end of each meeting, Councillors and Officers will stand whilst the Mayor and the Deputy Mayor enter and leave the room when the Mayor or Deputy is wearing his or her robes.

Mayor and Deputy Mayor of the Council

- 1.6 At its annual Mayor-making meeting, the Council will elect its Mayor and appoint its Deputy Mayor for the following year.
- 1.7 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.

Quorum

- 1.8 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 falls below 21, the Mayor will adjourn the meeting. Where the Mayor does not give a date and/or time to re-convene, all business not completed will be considered at the next scheduled meeting.

What the Council can decide

- 1.9 The Council will decide such matters as required by the law, and those matters set out in **Chapter 2** of this Constitution.

Council Agenda and Order of Business

- 1.10 The Council has adopted **Error! Reference source not found.** – these are for guidance only.

Agenda for Annual Council Meeting

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

Agenda for Ordinary Council Meetings

- Apologies for Absence
- Declarations of Interest
- Approval of Minutes of previous meeting
- Mayor's Announcements
- Leader's Announcements
- Public Questions
- Recommendations from Committees
- Notices of Motion
- Questions from Councillors

- 1.11 Business shall be dealt with in the order in which it is set out in the agenda unless the Mayor (or the Council) decides otherwise.

Urgent Business

- 1.12 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.

Confirmation of Minutes

- 1.13 Minutes of the last Council meeting must be confirmed at the next ordinary meeting of the Council where possible.
- 1.14 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.

Matters for Decision by the Council

- 1.15 When the item is reached on the agenda, the appropriate Chair of the relevant Committee will, where appropriate, move the recommendation or advice, or endorsement of a Committee decision. Another Councillor may second the motion.
- 1.16 The Chair cannot ask the Council to agree to withdraw a recommendation of a Committee unless new and relevant information has become available after the decision of the body concerned. The information must be disclosed to the Council.

Withdrawal of Motion

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

Motions Moved Without Notice

- 1.18 Motions and amendments which can be moved at a Council meeting without notice are:
- (a) Appointment of a Chair for the meeting.
 - (b) Motions relating to the accuracy of the minutes of the Council, a Committee or Sub-Committee.
 - (c) That an item of business specified in the summons should have precedence.
 - (d) Reference to a Committee or Sub-Committee.
 - (e) Appointment of or appointment to Committees, Sub-Committees occasioned by an item mentioned in the summons to the meeting.
 - (f) Receipt of Records of Decisions and Minutes of Committees and Sub-Committees
 - (g) Adoption of recommendations of Committees and Sub-Committees and any consequent resolutions.
 - (h) That leave is given to withdraw a motion.
 - (i) Receipt of reports of officers and any consequent resolutions.
 - (j) Extending the time limit for speeches.
 - (k) Amendment to motions.
 - (l) That the Council proceed to the next business.
 - (m) That the question be now put.
 - (n) That the debate be now adjourned.
 - (o) That the Council do now adjourn.
 - (p) Authorising the sealing of documents.
 - (q) Suspending Procedure Rules, in accordance with Procedure Rule 4.17.
 - (r) Motion under Section 100A(4) of the Local Government Act 1972 to exclude the press and public.
 - (s) That a Councillor named under Procedure Rules 4.6 and 4.7 should not be heard further or should leave the meeting.
 - (t) Giving consent of the Council where consent of the Council is required by these Procedure Rules.

Questions at Council meetings

- 1.19 A Councillor may ask the Mayor or the Chair of a Committee any question about a matter which the Council, or the Committee has powers, duties or responsibilities.
- 1.20 A Councillor 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.
- 1.21 All questions must be sent in writing to the Monitoring Officer at least 3 clear working days before the meeting.
- 1.22 There will be a maximum Councillor question time period of 30 minutes. A maximum period of 2 minutes will be allowed for each Councillor wishing to ask a question during Councillors' question time. The Mayor or person presiding will have discretion to vary this requirement where he/she considers it appropriate.
- 1.23 Those Councillors submitting more than one question in writing may indicate the priority of importance of each question.
- 1.24 Questions will be selected by the Mayor taking into account the time available.
- 1.25 Questions in writing will not be read out at Council meetings.
- 1.26 All Questions will be brief, clear and focussed.
- 1.27 Questions must relate to the functions of the Council and the area of Cheshire East. No questions will be allowed which, in the opinion of the Monitoring Officer are:
 - inappropriate, frivolous, derogatory, offensive, vexatious or otherwise improper;
 - related to a Council employment or staffing matter;
 - potentially defamatory; or
 - substantially the same as any question submitted to a meeting of Council during the preceding 6 months.
- 1.28 Questions will be asked and answered without discussion. In replying, the Councillor responding will use all reasonable endeavours to address the matters raised in the question. The Councillor responding may decline to answer any question or may: reply direct, reply by reference to a publication, or reply by written answer within 10 working days with a copy to all Councillors (except where the response contains exempt or confidential information), or refer the question to an appropriate Committee.
- 1.29 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.

- 1.30 Where a question relates to a matter that appears on the agenda for that meeting, the question shall be put and answered at the start of the consideration of that matter unless the Mayor considers otherwise.
- 1.31 There will be a maximum public question time period of 30 minutes. A maximum period of 2 minutes will be allowed for each person wishing to ask a question in public question time. The Mayor or person presiding will have discretion to vary this requirement where he/she considers it appropriate. Questions must be sent in writing to the Monitoring Officer at least 3 clear working days before the meeting. Rules 1.24 – 1.30 above will also apply to public question time.

Notices of Motion

- 1.32 A notice of motion must relate to matters for which the Council has responsibility or which affects its area.
- 1.33 Notice of every motion (other than a motion which 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 7 clear working days before the next meeting of the Council, to the Monitoring Officer or the Head of Governance and Democratic Services by whom it shall be dated, in the order in which it is received.
- 1.34 Councillors are permitted to submit Notices of Motion in email and electronic form.
- 1.35 The Monitoring Officer shall, if need be, give a ruling as to whether the Motion is relevant and acceptable.
- 1.36 A Motion which, in the opinion of the Monitoring Officer is:
- inappropriate, frivolous, derogatory, offensive, vexatious or otherwise improper;
 - related to a Council employment or staffing matter;
 - potentially defamatory; or
 - substantially the same as any motion submitted to a meeting of Council during the preceding 6 months

will be returned to the Councillor who submitted it along with an explanation in writing to the Councillor about why it will not be included on the agenda for the meeting.

Motions to be set out in Summons

- 1.37 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 Councillor giving the notice has intimated in writing, when giving it, that he/she proposed to move it at some later meeting or has withdrawn it. The motions will be listed in the papers according to the order in which they have been received.

Withdrawal of Motion which is before the Council

- 1.38 A Notice of Motion will be regarded as withdrawn if:
- (a) 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 Councillor who submitted the Notice, or
 - (b) at the Council meeting, oral notice to this effect is given by the Councillor who submitted the Notice, or
 - (c) the Notice of Motion is not moved and seconded at the meeting of Council.

Procedure at the Meeting

- 1.39 When a Motion has been moved and seconded the mover and seconder shall jointly be allowed a total period of 2 minutes in which to explain the purpose of the motion before it is dealt with. The Mayor may then decide that the motion 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.

Procedure after the Meeting

- 1.40 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:
- (a) arising from consideration of the motion, the Committee recommends to the Council a change to the Constitution, or
 - (b) there is some other legal or Constitutional requirement for the matter to be referred back to Council.
- 1.41 Unless the Chair 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 the proposer of the motion would be consulted before the body decided the matter.
- 1.42 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.

Rules of Debate

Motions and Amendments

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

Secunder's Speech

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

Only One Councillor to Stand at a Time

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

Content and Length of Speeches

- 1.46 A Councillor 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 Councillors when the Council is agreeing a budget, or where the Council, Committee or Sub-Committee otherwise agrees, no speech will exceed 3 minutes.
- 1.47 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 3 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 3 minute limitation might be permitted to operate.

When a Councillor may speak again

- 1.48 At a Council meeting a Councillor 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 1.53 (Right of Reply) or 1.55 (closure)
 - (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 1.54 (b) to (j), below when the procedure in those paragraphs shall be followed.

Amendments to Motions

- 1.49 An amendment must be relevant to the motion and shall be to:
- (a) leave out words
 - (b) leave out words and add others
 - (c) insert or add words
- but such amendment shall not have the effect of negating the motion before the Council.

Number of Amendments

- 1.50 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 Mayor 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.

Status of Amendments

- 1.51 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.

Alterations to Motions or Amendments

- 1.52 A Councillor 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. At least 24 hours' notice should be provided of any proposed amendment to the Monitoring Officer. In both cases, the consent of the Council is required. There should be no discussion on whether consent should or should not be given.

Right of Reply

- 1.53 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.

Motions which may be moved during debate

- 1.54 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, a Committee or Sub-Committee for consideration or reconsideration
 - (g) that the question be now put
 - (h) that a Councillor be not further heard
 - (i) by the Chair under paragraph 4.7, that a Councillor do leave the meeting
 - (j) a motion under Section 100A(4) of the Local Government Act 1972 to exclude the public.

Closure Motions

- 1.55 A Councillor 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.

Points of Order

- 1.56 A Councillor 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 Councillor 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.

Ruling of Chair on a Point of Order/Personal Explanation

- 1.57 The ruling of the Chair 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.

Respect for the Chair

- 1.58 At the Council meeting whenever the Mayor rises during a debate any Councillor then standing shall sit down and the Council shall be silent.

Rescission of Earlier Resolution

- 1.59 Subject to paragraph 1.60, no motion or amendment shall be moved at a meeting of the Council 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.
- 1.60 Such a motion may be moved if:
- 1.60.1 it is recommended by a Committee, or
 - 1.60.2 notice of such motion has been given under paragraph 1.33 and signed by at least 8 Councillors.

Voting

- 1.61 Voting will be by a show of hands.
- 1.62 When a Councillor asks for a recorded vote to be taken, and 8 other Councillors support the request, the vote will be recorded to show whether each Councillor voted for or against the motion or abstained.
- 1.63 A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.
- 1.64 Councillors 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.
- 1.65 A Councillor may require, after a vote is completed, that the Minutes of the meeting record how he/she voted or abstained.
- 1.66 A Councillor may, immediately after the item of business is voted upon, request that a lost motion or amendment be recorded in the minutes.
- 1.67 Where there are equal votes cast for a motion or amendment the Mayor or the person presiding shall have a second or casting vote.

Offices and Appointments

- 1.68 A vote will be held to elect or appoint the Mayor and Deputy Mayor of the Council, the Leader of the Council and Councillors to any office or position where more than one person is nominated.
- 1.69 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 (from the number of Councillors present).

Election of Chairs of Committees and Sub-Committees

- 1.70 The Chairs and Vice-Chairs 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 Chairs and Vice-Chairs shall be notified by the Council's Group Leaders or Group Whips in writing or by email to the Head of Democratic Services and Governance and shall thereafter be published on the Council's website. Such nominations shall be in accordance with the relevant numerical allocations made by Council in relation to the body in question.
- 1.71 A Councillor appointed as Chair or Vice-Chair must be a member of the relevant Committee or Sub-Committee.
- 1.72 Where a vacancy occurs in the office of Chair or Vice-Chair, the relevant Group Leader or Whip shall nominate a replacement.
- 1.73 Where both the Chair and Vice-Chair are absent from a meeting of the relevant body, a Chair will be appointed from those Councillors of the body present, provided the meeting is quorate.

- 1.74 A description of the [Role and Responsibilities of a Chair](#) of a meeting is available.

Length of Meeting

- 1.75 Meetings of the Council shall normally last up to 3 hours. An audible warning will be signalled after 2 hours and 50 minutes to advise Councillors of the need to conclude the business of the meeting.
- 1.76 Should there be unfinished business then a motion may be moved and seconded to extend the meeting by one hour to a maximum of 4 hours and the motion will be put to the meeting without debate.
- 1.77 In the event that the motion to extend the meeting is lost any remaining business shall then proceed in turn to be voted upon without debate.
- 1.78 The Mayor may in exceptional circumstances, where the nature of an item of business requires additional consideration, propose an adjournment to another time and place to consider that item of business. The motion will be put to the meeting without debate and if carried the remaining business shall then proceed in turn to be voted upon without debate.

Urgent Decisions Taken Outside of Meetings

Definition of an urgent decision

- 1.79 A decision will be urgent in the case of: civil emergency; natural or man-made disaster; matter of serious public health; matters regarding safeguarding of people; or where the Council is at risk of serious reputational damage; loss or claims; or any other matters where the Chief Executive or in his/her absence the Chief Finance Officer has declared that an urgent decision is required to protect the interests of the Council. 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

- 1.80 If a decision would normally be required to be made by full Council and it has to be decided before the next meeting of the Council, the decision may be made by the Chief Executive or in his/her absence the Deputy Chief Executive (or in their absence the Chief Executive's nominee) in consultation with Group Leaders and the Mayor (or in his/her absence the Deputy Mayor) subject to the following requirements being met:
- (a) 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;
 - (b) The decision is reported for information to the next available meeting of the Council;
 - (c) The provisions of legislation are complied with;
 - (d) Advice has been taken from the Chief Executive, the Council's Monitoring Officer and Chief Finance Officer;

- (e) All Councillors are notified of the decision taken by electronic means.

2. Committee and Sub-Committee Procedure Rules

- 2.1 The standing committees and sub-committees of the Council and their membership size are set out in **Chapter 2 Part 4** of the Constitution.

Co-option

- 2.2 A committee or sub-committee may co-opt any person as a non-voting member.
- 2.3 The Scrutiny Committee (or any sub-committee) may co-opt persons to advise and/or assist in the scrutiny of particular areas of the Committee's functions.

Appointment to Committees and Sub-Committees

- 2.4 Where a by-election takes place during the year, and following receipt of notice from a Political Group, the Council will decide upon the composition of Committees and Sub-Committees to reflect any change in political balance.

Substitution Arrangements

- 2.5 A Political Group may appoint a substitute Member to a Committee or Sub-committee. All members of a Political Group will be regarded as being reserve members, who may take the place of an appointed Councillor at a particular meeting of a committee or sub-committee, but see further below in respect of the need for appropriate training.
- 2.6 In respect of the Planning and Licensing Committees, each Political Group will, by notice to the Monitoring Officer, nominate appropriately trained Councillors to be reserve Members for those Committees. Such reserve Councillors may take the place of an appointed Councillor at a particular meeting of the Planning or Licensing Committee in question.
- 2.7 In addition to being appropriately trained, a substitute Councillor for a planning committee meeting must be a member of another planning committee or in the pool of planning substitutes.
- 2.8 Any reserve Councillor acting as substitute shall inform the Chair at the beginning of the meeting. The outgoing Councillor 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 Councillor shall become the representative on the Committee or Sub-Committee for the same period. At the end of the meeting, the outgoing Councillor shall resume his/her place on the Committee or Sub-Committee in question and the Councillor who had been appointed as substitute in his/her place shall revert to being a reserve member.

Notice of Meetings

- 2.9 The Monitoring Officer shall give notice of meetings and distribute agendas to all members of the Committee or Sub-Committee. Agendas will be made available to members by electronic means and a paper copy

can be supplied when requested from the Head of Democratic Services and Governance.

Urgent Decisions

- 2.10 An item of urgent business which has to be decided before the next meeting of a Committee or Sub-Committee can be determined as follows:
- 2.11 The Chief Executive or in his/her absence the Deputy Chief Executive (or in their absence their nominee) in consultation with the Chair and/or Vice-Chair of the relevant Committee or sub-committee has delegated authority to take any decision subject to the following requirements being met:
 - (a) The decision-maker is satisfied that the matter is urgent and cannot await the next meeting of the Committee or Council, or an urgently convened Committee or Council meeting;
 - (b) The decision is reported for information to the next available meeting of the Committee or Council;
 - (c) The provisions of legislation are complied with;
 - (d) Advice has been taken from the Chief Executive, Council's Monitoring Officer and Chief Finance Officer;
 - (e) All Councillors are notified of the decision taken by electronic means.

Changes to the Calendar of Meetings

- 2.12 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.
- 2.13 A meeting of a decision-making body scheduled in the Calendar of Meetings may be cancelled or changed by the Monitoring Officer following consultation with the Chair provided that, wherever possible, 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.
- 2.14 When it is necessary to arrange a special meeting, the Head of Democratic Services and Governance will consult the Chair and Spokespersons of the relevant Committee or Sub-Committee before any action is taken.

Quorum at Committees and Sub-Committees

- 2.15 Business cannot be transacted at meetings of Committees and Sub-Committees unless there is at least one third of the members of the body present, subject to a minimum of 3 where the total membership of any Committee or Sub-Committee comprises eight or fewer members. The quorum of one third of the membership will be rounded up where this cannot readily be divided by 3.
- 2.16 These arrangements may be varied because of a legal requirement or by the Council.

Minutes of Committees and Sub-Committees

- 2.17 The Minutes of a Committee or Sub-Committee must be confirmed at its next meeting where possible.
- 2.18 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.
- 2.19 Where no issues of accuracy are raised, or after any motion has been dealt with, the Chair shall sign the Minutes.
- 2.20 The Minutes of any Sub-Committee must be submitted to the next meeting of the parent Committee by the Sub-Committee Chair.
- 2.21 Councillors may ask a question or comment on any Minute. The Chair 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.
- 2.22 Where a Councillor 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.

Motions moved without Notice at Committees and Sub-Committees

- 2.23 [Error! Reference source not found.](#) The Council Procedure Rules set out those motions and amendments which can be moved without notice in rule 1.18.

Public Speaking and Questions

- 2.24 A total period of 15 minutes will be usually be allocated for members of the public to ask questions at Committee meetings.
- 2.25 Members of the public are required to give 3 clear working days' notice of their intention to make use of the questions facility.
- 2.26 Members of the public may ask questions on any matter relating to the agenda of the Committee, provided that the Chair retains the discretion to rule a question out of order and require the member of the public to cease speaking if the questioner mentions matters that are:
 - inappropriate, frivolous, derogatory, offensive, vexatious or otherwise improper;
 - related to a Council employment or staffing matter;
 - potentially defamatory; or
 - substantially the same as any question submitted to a meeting of Council during the preceding 6 months.
- 2.27 At meetings of Committees, members of the public will be allowed up to 2 minutes each to speak, subject to the Chair having discretion to vary this requirement where he/she considers it appropriate.
- 2.28 Further information is included within the [Appendix on Public Speaking](#).

Rules of Debate at Committees and Sub-Committees

- 2.29 Rules of debate shall be the same as for Council meetings.

Voting

- 2.30 Voting at Committee and Sub-Committee meetings will be by a show of hands.
- 2.31 When a Councillor asks for a recorded vote to be taken, and one other Councillor supports the request, the vote will be recorded to show whether each Councillor present voted for or against the motion or abstained.
- 2.32 A recorded vote will not be taken if the vote has already begun to be taken by a show of hands.
- 2.33 A Councillor may require, after a vote is completed, that the Minutes of the meeting record how he/she voted or that he/she abstained.
- 2.34 A Councillor may request that a lost motion or amendment be recorded in the minutes by requesting this immediately after the vote is taken.
- 2.35 Where there are equal votes cast for a motion or amendment, the person presiding at the meeting will be entitled to, and shall exercise, a second or casting vote. However, where there remains an equality of votes in respect of a motion, the motion will be lost.

Offices and Appointments

- 2.36 A vote will be held to elect or appoint Councillors to any office or position where more than one person is nominated.
- 2.37 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 of those present for one person.

Mover of a Motion at Council: Attendance at Committee and Sub-Committee

- 2.38 Where a question or motion has been referred under paragraph 1.28 or 1.43 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 within a period of up to 3 minutes.
- 2.39 The questioner or 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.

Requests by Councillors for Items of Business to be included on Agendas of a Committee or Sub-Committee***Agenda Items Submitted By Councillors***

- 2.40 This facility does not apply to special meetings of Committees and Sub-Committees.

- 2.41 A Councillor may, by notice given to the Monitoring Officer no later than 10 clear working days before the appropriate meeting, request that an item of business be included on the agenda of a Committee or Sub-Committee.
- 2.42 A Councillor 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.
- 2.43 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.
- 2.44 Items arising from such notices shall appear on the agenda at the end of the Part 1 or 2 business.
- 2.45 Sections 9J, 9JA or 9JB Local Government Act 2000 and Regulations enable a Councillor to request that an item of business is added to an agenda of the Scrutiny Committee provided it is not an excluded matter and is relevant to the functions of the Scrutiny Committee (principally flood risk management; health; and crime and disorder reduction).

Committee and Sub-Committee Agenda – Urgent Items of Business

- 2.46 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 5 clear working days before the meeting or, where the meeting is convened at short notice, from the time the meeting is convened.
- 2.47 The Chair 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 Chair's ruling and the reasons for urgency will be recorded in the Minutes of the meeting.

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

- 2.48 Notwithstanding their rights as a member of the public, a Councillor 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, subject to below;
 - when exempt or confidential business is transacted, the Councillor seeking to attend a meeting on the basis of the above sub-paragraph must have the prior agreement of the Monitoring Officer in consultation with the Chair of the Meeting on the basis that the Councillor has a "need to know" about the exempt or confidential business to be transacted.

- 2.49 For clarification, nothing in the paragraph above shall require a Councillor to obtain any prior agreement before attending the open session of any meeting of a Committee or Sub-Committee.
- 2.50 Where a Councillor has permission to attend a meeting that is not open to the public, he/she will be given a copy of the agenda and relevant papers upon arrival at the meeting.
- 2.51 The Councillor has no right to vote and may speak only with the consent of the Chair of the meeting.
- 2.52 At meetings of the Strategic Planning Board and Planning Committees, Councillors' speaking rights are subject to the protocol on public speaking entitled '[Public Speaking Rights at Strategic Planning Board and Planning Committees](#)'.

Respect for the Chair

- 2.53 In Committee or Sub-Committee meetings, whenever the Chair rises from his/her seat, Councillors should remain in their seats and the Committee or Sub-Committee shall be silent.

3. Scrutiny Committee Procedure Rules

Agenda for Scrutiny Committee

- 3.1. The Scrutiny Committee may hold enquiries in relation to matters within its Terms of Reference and may appoint specialists to assist in this process. They may visit sites, conduct public surveys, hold public meetings, commission research and undertake such other things they consider reasonable and necessary to inform their deliberations. They may call witnesses on any matter under consideration and may pay to any specialists and witnesses a reasonable fee and expenses for doing so within budgetary provision.

Reports from the Scrutiny Committee

- 3.2. The Council or a Committee (as appropriate) shall consider any report from the Scrutiny Committee at its next programmed meeting.

Councillors and Officers Giving Account

- 3.3. Where the Scrutiny Committee requires an officer to attend to answer questions or discuss issues, this will be agreed with the Chief Executive.
- 3.4. Where it is agreed that an officer should appear to answer questions, their evidence should, as far as possible, be confined to questions of fact and explanation relating to policies and decisions. Officers may explain:
- (a) what the policies are
 - (b) the justification and objectives of those policies as the Committee sees them
 - (c) the extent to which those objectives have been met, and
 - (d) how administrative factors may have affected both the choice of policy measures and the manner of their implementation.
- 3.5. Officers may be asked to explain and justify advice they have given prior to decisions being taken. They may also be asked to explain and justify decisions they have taken under delegated powers.
- 3.6. Officers should not be expected and should avoid being drawn into discussions of politically contentious matters and any officer input should be consistent with the requirements for political impartiality.
- 3.7. The requirements of the Councillor/Officer Protocol and the Officer Code of Conduct must be adhered to where an officer is attending a meeting of the Scrutiny Committee.
- 3.8. Where any Councillor or officer (with the Chief Executive's agreement) is required to attend the Scrutiny Committee under this provision, the Chair of that Committee will inform the Monitoring Officer, who will inform the Councillor or officer in writing, giving at least 10 clear working days' notice of the meeting. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be

given to the Committee will require the production of a report, then the Councillor or officer concerned will be given reasonable and sufficient notice to allow for its preparation.

- 3.9. Where, in exceptional circumstances, the Councillor or officer is unable to attend on the required date, then the Committee shall, in consultation with the Councillor or officer, arrange an alternative date for attendance.
- 3.10. As well as reviewing the documentation, in fulfilling its scrutiny role, it may require any Councillor or Officer, to attend before it to explain in relation to matters within their remit:
 - (a) any particular decision or series of decisions;
 - (b) the extent to which the actions taken implement Council policy; and/or
 - (c) performance of the function

and it is the duty of those persons to attend if so required.

Attendance by Others

- 3.11. The Scrutiny Committee may invite individuals other than Councillors and officers to address it, discuss issues of local concern and/or answer questions.

The Party Whip

- 3.12. It is generally accepted that the Party Whip should be suspended in respect of Scrutiny matters. However, when considering any matter in respect of which a Member of the Scrutiny Committee is subject to a formal party whip, the Councillor must declare the existence of the Whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the Minutes of the meeting.

Joint Scrutiny Protocol

- 3.13. The Council has approved a joint scrutiny protocol for Cheshire, Merseyside and Wirral to consider consultations by NHS bodies or service providers in connection with substantial developments or variations in service. Nominations to any joint scrutiny committee established under the protocol will be made by the Chair of the Scrutiny Committee.
- 3.14. Where the Scrutiny Committee conducts investigations (e.g. with a view to policy review), it may also ask people to attend to give evidence at its meetings, which are to be conducted in accordance with the following principles:
 - (a) The investigation is to be conducted fairly and all members of the Committee are to be given the opportunity to ask questions of attendees, and to contribute and speak

- (b) Those assisting the Committee by giving evidence are to be treated with respect and courtesy, and
 - (c) The investigation to be conducted so as to maximise the efficiency of the investigation or analysis.
- 3.15. Following any investigation or review, the Committee shall prepare a report, for submission to the appropriate Committee and/or Council as appropriate and shall, unless there are exceptional reasons, make its report and findings public.
- 3.16. There is no facility to allow questions by members of the public at meetings of the Scrutiny Committee. However, a period of 10 minutes will be provided at the beginning of such meetings to allow members of the public to make a statement on any matter that falls within the remit of the committee, subject to individual speakers being restricted to 3 minutes.

4. General Provisions***Records of Attendance***

- 4.1 Councillors attending a meeting of which they are a member must sign their name on the attendance sheet provided.

Disclosure of Confidential/Exempt Matters***Matters not open to the Public or Press***

- 4.2 No Councillor 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, a Committee or Sub-Committee.

Matters which may prejudice the interest of the Council

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

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

- 4.4 No Councillor shall, without the consent of the Chair 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
 - (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 4.2 or 4.3.

Prohibited Disclosure

- 4.5 The press and public shall be excluded during the consideration of any item of business which would be likely to disclose exempt or confidential information.

Disorderly Conduct***Motion to end Disorderly Conduct***

- 4.6 If at a meeting any Councillor, in the opinion of the person presiding, misconducts themselves in any way, the person presiding or any other

Councillor may move “That the Councillor be not further heard”. The motion, if seconded, shall be put and determined without discussion.

Persistent Misconduct

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

General Disturbance

- 4.8 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.

Disturbance by members of the Public

- 4.9 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.

Inspection of Documents***Supply of Agenda papers to Members of the body in question***

- 4.10 Members of Council, decision-making and other bodies will be provided with electronic copies of agenda papers, a written request may be made to the Head of Democratic Services and Governance for paper copies.

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

- 4.11 To help a Councillor 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, having considered the reasonableness of the request and the ‘need to know’.

Minutes of the decision making bodies – Open for Inspection

- 4.12 Minutes of meetings of the Council, Committees or Sub-Committees shall be open for inspection by any Councillor.

Provisions relating to Personnel Matters

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

Sealing of Documents***Authority***

- 4.14 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 an Officer 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.

Attestation

- 4.15 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.

Variation and Revocation of Procedure Rules

- 4.16 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.

Suspension of Procedure Rules***Motion Required***

- 4.17 Subject to paragraph 4.18 below, 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.

Notice of Motion

- 4.18 A motion to suspend Procedure Rules shall not be moved without notice (under paragraphs 1.18 to 1.34) unless there shall be present at least one-third of the members of the Council or the Committee or Sub-Committee respectively.

Referral of Decisions

- 4.19 When a decision is made by one of the six service Committees or by an officer with a specific delegated authority from the Committee (over and above delegations under this Constitution), the decision shall be published by electronic means and shall be available at the main offices of the Council normally by 5.00 pm on the second full working day following the day on which the decision was made.

- 4.20 Subject to paragraphs 4.21 and 4.24 below a decision taken and to which paragraph 4.19 above refers will not be implemented, until the expiry of 5 clear working days after the decision was made and recorded.
- 4.21 Unless the decision is urgent, 9 or more Councillors may submit a referral request, detailing the reasons for the referral, in writing, to the Monitoring Officer. Where the request is validated by the Monitoring Officer, the decision cannot be implemented until the procedures below have been followed.
- 4.22 The grounds for a valid referral, in the opinion of the Monitoring Officer, are as follows:
- (a) Decision is outside the Budget and Policy Framework
 - (b) Inadequate consultation relating to the decision
 - (c) Relevant information not considered
 - (d) Insufficient consideration of legal or financial advice
 - (e) Viable alternatives not considered
 - (f) Justification for the decision open to challenge on the basis of the evidence considered
- 4.23 The Monitoring Officer may discuss the request with the lead member signatory, the Chair of the relevant service Committee and the Mayor with a view to achieving an outcome to resolve the issue without the need for referral to Council.
- 4.24 Where a valid referral is received the decision shall stand referred to the next ordinary Council meeting for review. A representative of the referral signatories and the Chair of the relevant service Committee shall have the opportunity to address the meeting on the subject of the decision that has been referred. Council may either:
- (a) Uphold the original decision with or without modifications, in which case the decision has immediate effect; or
 - (b) Reject the decision and determine the matter itself.

- 4.25 Any decision may only be the subject of a referral once.

Interpretation of Procedure Rules

- 4.26 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.

Submission of Notices by Councillors – Electronic Means

- 4.27 A Councillor 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.

Disclosable Pecuniary Interests – Requirement to Withdraw from Meeting

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

Petitions

- 4.29 Petitions regarding matters affecting the area or the functions of the Council or relating to consultation exercises or pursuant to specific legislation may be accepted at the start of an Ordinary Council meeting or a Committee. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council unless the Extraordinary Council Meeting is convened to consider the subject matter of the petition.
- 4.30 Petitions must be 'signed' (in person or by name if electronic) by at least 5,000 petitioners and contain the name and contact details of the 'petition organiser'.
- 4.31 Petitions must relate to the functions of the Council and the area of Cheshire East. Petitions will not be accepted that are considered by the Monitoring Officer to be:
- inappropriate, frivolous, derogatory, offensive, vexatious or otherwise improper;
 - related to a Council employment or staffing matter;
 - potentially defamatory; or
 - substantially the same as any question submitted to a meeting of Council during the preceding 6 months.
- 4.32 Petitions will be referred to the relevant Committee with or without debate.
- 4.33 Further information on submitting a petition can be found on the Council's website

APPENDIX*Public Speaking and Questions*

- 1 There will be public questions at full Council for a total period of up to 30 minutes and the ability to ask questions regarding items of business at Committee meetings.
- 2 A total period of 15 minutes will be allocated for members of the public to ask questions at meetings of Committees and sub-committees. This does not apply to meetings of the Council's Planning and Licensing 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 At meetings of Council and Committees members of the public will be allowed up to 2 minutes each to speak, subject to the Mayor or Chair having discretion to vary this requirement where he/she considers it appropriate and the Mayor/Chair will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.
- 4 At Council members of the public may ask questions of the appropriate Chair of the committee or sub-committee which has responsibility for the matter in question.
- 5 Where a member of the public wishes to ask a question of the Chair of a committee or sub-committee, at least 3 clear working days' notice must be given in writing to the Head of Democratic Services and Governance, in order that an informed answer may be given.
- 6 Questions must relate to the business of the Council/Committee and the area of Cheshire East. No questions will be allowed which, in the opinion of the Monitoring Officer are:
 - inappropriate, frivolous, derogatory, offensive, vexatious or otherwise improper;
 - related to a Council employment or staffing matter;
 - potentially defamatory; or
 - substantially the same as any question submitted to a meeting of Council during the preceding 6 months.
- 7 The Councillor 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. Questions will be asked and answered without discussion.
- 8 In addition to the general provisions for public speaking set out in this Appendix, the following specific provisions apply to meetings of the [Public](#)

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

- 8.1 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.
- 8.2 No member of the public shall speak on a matter before the Chair has introduced the report. Members of the public may not participate in the debate or ask questions of officers or Councillors.
- 8.3 At the Chair's discretion, members of the Committee may, through the Chair, ask questions of a speaker for clarification but should not enter into a discussion with them.
- 8.4 Any member of the public wishing to address the Committee must give notice of their intention, in writing, to the Head of Democratic Services and Governance by 12 noon 3 clear working days before the meeting.
- 8.5 These provisions may be varied at the discretion of the Chair.

Chapter 3 – Part 2

Access to Information Procedure Rules

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

Scope

- 1.1 These rules cover all meetings of the Council and its Committees, Sub-Committees, Advisory Panels, (together called meetings) and decisions made by Officers.
 - 1.2 These rules also cover Councillors' rights of access to information.
 - 1.3 These rules do not cover public rights of access to information under the Freedom of Information Act 2000, and the Data Protection Act 2018. [Details of these rights are on our website](#) or can be obtained from the Council Offices, Westfields, Middlewich Road, Sandbach, CW11 1HZ.
- 2 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or in any Act.

Public Access to Meetings

- 3 Members of the public may attend all meetings subject only to the exceptions in these rules.

Notice of Meetings

- 4 The Council will give at least 5 clear working days' notice of any meeting by posting details of the meeting at Westfields, Middlewich Road, Sandbach, CW11 1HZ (the designated office) and on its website. The notice will specify the business proposed to be transacted at the meeting.
- 5 Councillors entitled to attend a meeting, will receive a summons giving five clear working days' notice to attend and specifying the business proposed to be transacted at the meeting. Except in the case of business required by law to be transacted at the Annual Meeting, or other business brought before the meeting as a matter of urgency in accordance with the Constitution, no business shall be transacted at a meeting other than that specified in the summons.

Public Access to Agenda and Reports before the Meeting

- 6 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least 5 clear working days before the meeting, except that where a meeting is convened at shorter notice, the copies of the agenda and reports shall be open to inspection from the time the meeting is convened.

- 7 Where an item is added to the agenda, and the report is open to the public, copies of any report for the meeting relating to the item, and the revised agenda shall be available for inspection from the time the item is added to the agenda.
- 8 Where copies of the agenda and reports open to the public are not made available for inspection in this way, an item of business will not be considered unless, by reason of special circumstances, which shall be specified in the minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

Public Access to Copies

- 9 The Council will supply copies of:
 - 9.1 any agenda and reports which are open to public inspection
 - 9.2 any further statements or particulars necessary to indicate the nature of the items in the agenda, and
 - 9.3 if the Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage, copying and any other costs.
- 10 The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public.

Public Access to Minutes etc. after the Meeting

- 11 The Council will make available for inspection copies of the following for six years after a meeting:
 - 12.1 the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information (as defined in paragraphs 9 and 10)
 - 12.2 a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record
 - 12.3 the agenda for the meeting, and
 - 12.4 reports relating to items when the meeting was open to the public.

Public Access to Background Papers

List of Background Papers

- 12 The author of a report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:
 - 13.1 disclose any facts or matters on which the report or an important part of the report is based; and

13.2 have been relied on to a material extent in preparing the report

but this does not include published works or those which disclose exempt or confidential information (as defined in paragraphs 20 to 25), nor does this include the advice of a political advisor, or any draft report or document.

13 Background papers will be published on the Website.

Public Inspection

14 A copy of each of the documents listed will be available for inspection at the same time as the report is available for public inspection.

15 The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

Exclusion of Public Access to Reports

16 The Proper Officer will exclude access by the public to reports which in his/her opinion contain confidential and exempt information (as defined below).

17 Such reports will be marked "Not for publication" together with "confidential information" or the exemption relied upon.

18 Where exclusion for exempt information is relied upon, any such report must contain the reasons why, as in all in the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Confidential Information – Requirement to Exclude Public Access

19 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

20 Confidential information means:

22.1 information given to the Council by a Government Department on terms which forbid its public disclosure, or

22.2 information the disclosure of which to the public is prohibited by or under another Act or by Court.

Exempt Information – Discretion to Exclude Public Access to Meetings

21 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed provided:

21.1 the meeting resolves so to exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies

- 21.2 that resolution states, by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (paragraph 24 below), the description of the exempt information giving rise to the exclusion of the public, and
- 21.3 that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 22 In these circumstances, public access to reports, background papers and minutes may also be excluded.
- 23 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.
- 24 Exempt information means information falling within the following categories (subject to any condition):

Category	Condition
1. Information relating to any individual.	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
2. Information which is likely to reveal the identity of an individual.	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information). "Financial or business affairs" includes contemplated, as well as past or current, activities	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information Information within paragraph 3 is not exempt if it must be registered under (a) the Companies Act 2006; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Co-operative and Community Benefit Societies Act 2014; (e) the Building Societies Act 1986; or (f) the Charities Act 2011.
4. Information relating to any consultations or negotiations, or contemplated consultations or	Information is exempt if and so long, as in all the circumstances of the case, the public

Category	Condition
negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority. “Labour relations matter” are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Unions and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute within the meaning of that Act or any dispute about any such matter	interest in maintaining the exemption outweighs the public interest in disclosing the information
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
6. Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
EXCEPT THAT Information falling within any of paragraphs 1 to 7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992.	
7A. Information which is subject to any obligation of confidentiality.	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
7B. Information which relates in any way to matters concerning national security.	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
7C. Information presented to a Panel or Sub-committee of the Audit and Governance	Information is exempt if and so long, as in all the circumstances of the case, the public

Category	Condition
Committee, set up to consider any matter regarding a failure to comply with a Code of Conduct.	interest in maintaining the exemption outweighs the public interest in disclosing the information
(Section 7C was created to allow complaints submitted under the Standards Committee (England) Regulations 2008 to be discussed in private. Although these Regulations have been repealed the subsequent changes to the Access to Information provisions remain in the constitution)	

Procedure at Panel or Sub-Committee of the Audit and Governance Committee

- 25 When a meeting of an Initial Assessment Panel is called this will be held in private. If a meeting of the Local Resolution Panel or a Hearing Sub-Committee of the Audit and Governance Committee is called it will normally meet in public unless exempt or confidential information would be disclosed.

The Forward Plan of Significant Decisions

Period of Forward Plan

- 26 Forward plans will be prepared to cover a minimum period of one calendar month (longer where this is possible) beginning with the first day of any month. They will contain outstanding matters from the previous forward plan.

Content of Forward Plan

- 27 The Forward Plan will contain matters which the Committee Chairs have reason to believe will be significant decisions to be taken by a Committee or Sub-Committee during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
- 27.1 the matter in respect of which a decision is to be made
 - 27.2 where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership
 - 27.3 the date on which, or the period within which, the decision will be taken
 - 27.4 the identity of the principal groups whom the decision taker proposes to consult before taking the decision
 - 27.5 the means by which any such consultation is proposed to be undertaken
 - 27.6 the steps any person might take who wishes to make representations to decision taker about the matter in respect of

which the decision is to be made, and the date by which those steps must be taken

- 27.7 a list of the documents submitted to the decision taker for consideration in relation to the matter, and
- 27.8 where the decision is to be taken in private the reasons for this.
- 28 Exempt information and confidential information and the advice of political advisers will not be included in a forward plan but the Forward Plan should contain particulars of the matter.
- 29 Public access to records of individual decision. As soon as reasonably practicable after any decision has been made by an officer, he/she will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. Significant decisions made by Officers will also be open to inspection. This does not require the disclosure of exempt or confidential information, or advice from a political adviser or assistant.

Councillor Access to Exempt or Confidential Documents

- 30 Members of a committee or decision-making body of the Council are automatically provided with, and entitled to receive, copies of confidential or exempt reports of that body.
- 31 In addition, the following categories of Councillor may receive copies of confidential or exempt reports with the agreement of the Monitoring Officer, where a need to know can be demonstrated:
 - 31.1 Group Leaders
 - 31.2 Local Ward Members for the Ward affected, in accordance with the [Ward Member Protocol](#)
 - 31.3 Scrutiny committee Chair and Vice-Chair if relevant
 - 31.4 Councillors visiting the meeting in question (with the agreement of the Monitoring Officer) who would receive the papers upon arrival

Audio Recording of Meetings and Publication

- 32 All decision-making meetings of the Council and Committees shall be audio recorded except where the public and press have by resolution been excluded from the meeting. Informal non-decision-making bodies such as working groups are excluded from this requirement. The audio recordings of meetings shall be published on the Council's website.

Reporting of Meetings by the Public and Press

- 33 Any member of the public or press attending a public meeting of the Council may now record the proceedings and report them to others. 'Reporting' means filming, photographing, making an audio recording or some other such method of recording proceedings and then reporting or providing a commentary on those proceedings, orally or in writing. A

person attending the meeting may use any appropriate communication method, including the Internet, to publish or share the recorded material. This would include the use of social media.

- 34 Any person wishing to record a public meeting is not required to give the local authority prior notice although they are encouraged to do so in order that reasonable facilities can be provided.
- 35 No one is entitled to record or report the proceedings of a meeting if the meeting has moved into Part 2 to consider confidential or exempt business. In such circumstances, the public and press would, as now, be required to leave the meeting and to deactivate and/or remove any recording or communications equipment.
- 36 Any person recording or reporting a meeting may not use flash photography or intrusive lighting, or move around the room, or ask any of the participants at the meeting to repeat something they have said. They may not cause excessive noise when installing or moving equipment. They may not give an oral commentary during the meeting. All of these activities would serve to disrupt proceedings and anyone acting in a disruptive manner may be excluded from the meeting.
- 37 Any person recording or reporting a meeting may not film any children or vulnerable adults present at the meeting, or any member of the public who objects to being filmed.
- 38 Anyone wishing to record or report on meetings should be warned at the outset that the law of defamation will apply, as well as the law relating to public order offences. They should also be reminded that freedom of speech should be exercised with personal and social responsibility, showing respect and tolerance towards the views of others. The Chair or person presiding at the meeting would be expected to give this advice with the support of officers.

Chapter 3 – Part 3**Budget and Policy Framework Procedure Rules**

- 1 The Council is responsible for the adoption of its Budget and Policy Framework.
- 2 The Corporate Policy Committee and the Finance Sub-Committee have responsibility for proposing to Council a budget and policies that will form part of the Budget and Policy Framework.
- 3 Committees and Sub-Committees have responsibility for making decisions within that Budget and Policy Framework. Departures will need to be agreed by Council unless they are within the virement rules set out below including appropriate agreement where functions overlap.

Process for Developing the Framework and Budget

- 4 The process by which the Budget and Policy Framework shall be developed is:
 - 4.1 The Corporate Policy Committee will consider proposals regarding the review or adoption of any plan or strategy forming part of the Policy Framework and make recommendations to full Council.
 - 4.2 Following consultation with the administration the Chief Finance Officer will prepare a draft budget. The Finance Sub-Committee will propose the parameters within which variations to the Medium Term Financial Strategy (MTFS) can be made. Parameters will ensure compliance with the requirement to have a balanced budget taking in to account the likely plans and strategies set out in the Policy Framework.
 - 4.3 The Corporate Policy Committee will make proposals to Council to vary the budget within the MTFS according to the parameters set by the Finance Sub-Committee.
 - 4.4 The Finance Sub-Committee will decide upon the length of consultation for the MTFS (usually this will not be less than four weeks).
 - 4.5 The Service Committees shall be asked to give their views as part of that consultation.
 - 4.6 At the end of the consultation period, the Corporate Policy Committee will draw up firm proposals having regard to the responses received from the consultation.
 - 4.7 The Corporate Policy Committee will submit those firm proposals to the Council together with a report that will set out the comments made by consultees and, in particular the Corporate Policy Committee's response to views expressed in any consultation process.

- 4.8 Once Corporate Policy Committee has approved the firm proposals they will be referred to the full Council for decision.
- 4.9 In reaching a decision, the Council may adopt the Corporate Policy Committee's proposals, or propose amendments to them.
- 4.10 If it accepts the recommendations without amendment, the Council may make a decision, which has immediate effect.
- 4.11 Proposed amendments to the Budget must be submitted to the Chief Finance Officer at least 3 clear working days before the Council meeting and must enable the Budget to balance.
- 4.12 The Council may approve a decision which does not accord with the recommendation of the Corporate Policy Committee.
- 4.13 The decision shall then be published and implemented immediately.

Decisions Outside the Budget or Policy Framework

- 5 Where a Committee wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by full Council, then that decision may only be taken by the Council, unless it is urgent or falls within virement or supplementary estimate rules.
- 6 Advice shall be taken first from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget. If the advice of either of those Officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred to the Council for decision, unless the decision is urgent, in which case the provisions below shall apply.

Urgent Decisions Outside the Budget or Policy Framework

- 7 In exceptional circumstances and if the decision is a matter of urgency a decision may be taken by a Committee or Officer if:
 - 7.1 it is not practical to convene a quorate meeting of the full Council, and
 - 7.2 the Chair and Vice Chair of the Corporate Policy Committee agrees that the decision is urgent.
- 8 In the absence of the Chair or Vice Chair of the Corporate Policy Committee the consent of the Chair or Vice-Chair of the Finance Sub-Committee, or, in the absence of any or all of them, the Mayor, will be sufficient.
- 9 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency. The reasons why it was not practical to convene a quorate meeting of full Council and the consent of the Chair and Vice Chair of the Corporate Policy Committee (or

others) to the decision being taken as a matter of urgency must be noted on the record of the decision.

Policy Framework – In-year Changes

- 10 Changes (including modifications, revisions, variations, withdrawal or revocation) to Policy Framework plans or strategies must ordinarily be approved by the Council. However, the Council may, at the time when the plan or strategy is approved, authorise a Committee, Sub-Committee or an Officer, to make changes, including changes that will:
 - 10.1 result in the closure or discontinuing of a service, in whole or in part to meet a budgetary constraint, or
 - 10.2 ensure compliance with the law, ministerial direction or Government guidance, or
 - 10.3 determine matters where the existing policy document is silent on the matter under consideration.

The Policy Framework

- 11 The Council's Policy Framework comprises:
 - 11.1 The Corporate Plan
 - 11.2 The Children and Young People's Plan
 - 11.3 Crime and Disorder Reduction Strategy
 - 11.4 Local Transport Plan
 - 11.5 Local Development Plan and Development Plan Framework documents
 - 11.6 Youth Justice Plan
 - 11.7 Licensing Authority Policy Statement
 - 11.8 Gambling Statement of Principles
 - 11.9 Equality and Diversity Strategy
 - 11.10 Environment Strategy 2020-24
 - 11.11 Annual Pay Policy Statement
- 12 The process by which the documents forming part of the Local Plan and Development Plan documents shall be developed and approved is set out in legislation.
- 13 Where a new plan or strategy is required to be produced as part of the Policy Framework, either by Council of its own volition, or following a recommendation to Council by a Committee, then the Committee or the Corporate Policy Committee shall develop the new plan or strategy.

Financial Limits

- 14 This section of the Budget and Policy Framework Rules is a table setting out the financial limits that apply in various parts of this Constitution. The purpose of this table is to assist readers in identifying relevant financial limits and their location in the Constitution.

Page	Reference	Area	Financial Limit
	Chapter 2, Part 4	Corporate Policy Committee	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.
	Chapter 2, Part 4	Corporate Policy Committee	To make decisions in relation to proposed severance packages with a value of £95,000 or more as appropriate (excluding accrued holiday pay and pay in lieu of notice)
	Chapter 2, Part 6	Delegations to Chief Executive / Head of Paid Service	To make decisions affecting the remuneration of any existing post that is or could become £100,000 p.a. or more, in consultation with the Leader and Chair of the Corporate Policy Committee, provided the post falls within the framework contained in the Council's Pay Policy Statement
	Chapter 2 Part 6	Delegations to the Monitoring Officer	To authorise the settlement of actual or potential uninsured claims, claims, litigation or Ombudsman cases across all functions of the Council <ul style="list-style-type: none"> • up to £100,000; or • above £100,000 and below £500,000 in consultation with the Finance Sub-Committee Chair and the Executive Director (Corporate Services) (subject to being reported to the relevant Committee after settlement).
	Chapter 3, Part 4	Urgent Decisions	For the purposes of this urgency provision, no financial limit shall be placed on the decision-making powers of the Chief Executive
	Chapter 3, Part 4, Section 4	Asset Disposal / Asset write Offs	The Chief Finance Officer may authorise: <ul style="list-style-type: none"> • the write off of losses; or • disposals, of obsolete or surplus equipment, materials, vehicles or stores up to a value of £25,000. Where the sum exceeds £25,000 but is less than or equal to £100,000 this shall be carried out in consultation with the Finance Sub-Committee Chair. Write offs over £100,000 will be the responsibility of the Finance Sub-Committee or Corporate Policy Committee.

Page	Reference	Area	Financial Limit
	Chapter 3, Part 4, Section 4	Salaries and Wages	The Chief Executive or Executive Director (Corporate Services) may approve severance up to £95,000, excluding accrued holiday pay and pay in lieu of notice. Corporate Policy Committee will determine cases above this threshold or a waiver will be sought from full Council and central Government
	Chapter 3, Part 4, Section 5	Ordering and Paying for Work, Goods and Services	Where a requisition for the purchase of goods or services exceeds £25,000 in value, Contract Procedure Rules Part 5 Section 3 applies
	Chapter 3, Part 4, Annex	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 Public Procurement Threshold
	Chapter 3, Part 5, Section 2	Electronic Tendering	All tendering above the relevant Public Procurement Threshold (and for Contracts which are below those thresholds but higher than £25,000 in value) must be undertaken via an electronic tendering method and shall use the e-tendering Portal accessible through the CPU.
	Chapter 3, Part 5, Section 2	Contracts Register	The Contracts Register shall be controlled by the CPU and the Commissioning Officer must ensure that all Contracts above £10,000 in value are recorded.
	Chapter 3, Part 5, Section 3	Competition Requirements	Up to £10,000 – 3 quotes are advisable but not mandatory (local firms being preferable where appropriate)
	Chapter 3, Part 5, Section 3	Competition Requirements	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
	Chapter 3, Part 5, Section 3	Competition Requirements	Between £25,000 and the applicable Public Procurement Threshold – A minimum of three quotations shall be sought via the E-tendering Portal, and/or Find a Contract Service together with advice from the CPU or Legal Services on the appropriate form of Contract
	Chapter 3, Part 5, Section 5	Opening Bids	Bids above £1,000,000 will be verified by Legal Services
	Chapter 3, Part 5, Section 5	Opening Bids	Bids from the Public Procurement 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

Page	Reference	Area	Financial Limit
	Chapter 3, Part 5, Section 5	Opening Bids	Bids between £25,000 and the Public Procurement Threshold will be verified by a Procurement Officer that has not been involved in the procurement process in question
	Chapter 3, Part 5, Section 5	Opening Bids	Bids between £10,000 and £25,000 will be opened in accordance with any guidance issued by CPU from time to time
	Chapter 3, Part 5, Section 6	Signed Contracts	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
	Chapter 3, Part 5, Section 6	Contract Sealing	A Contract must be executed under seal by Legal Services where it exceeds £1,000,000 in value
	Chapter 4, Part 1	Gifts and Hospitality	You must within 28 days of receipt, notify the Monitoring Officer in writing of any single gift, benefit or hospitality with a value of £50 or more that you have been offered or accepted as a Councillor from any person or body other than the Authority and a cumulative total from the same source of £100 in 12 months
	Chapter 4, Part 1	Disclosable Pecuniary Interests and Personal Interests	For the purposes of this Code, a relevant person is any person or body in whom such persons have a beneficial interest and a class of securities exceeding the nominal value of £25,000 or one hundredth of the total issued share capital of that body
	Chapter 4, Part 1	Dispensations: Securities	The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body
	Chapter 4, Part 2	Gifts and Hospitality	Small insignificant gifts of a value of less than £50, such as pens, diaries, calendars, mouse mats or mugs, may be accepted and modest hospitality

Virement (the transfer of funds between budgets)

- 15 The Council has set virement limits within which decision-makers can exercise discretion in approving or otherwise financial transfers within the Budget. The limits are set out in the table below.
- 16 Decision-makers are able to vire across budget heads between Committees, provided there is compliance with the financial limits in the table below and the Finance Procedure Rules and agreement. It is not permitted to vire funds from any ring-fenced budget.

- 17 Any dispute or disagreement between Committees regarding proposed virement shall be resolved by the Corporate Policy Committee.
- 18 Virement between budget heads (excluding reserves / contingencies)

Virement Amount	Approval Level
Up to and including £100,000	Head of Service
In excess of £100,000 up to and including £500,000	Chief Finance Officer in consultation with the Relevant Member(s) of CLT
In excess of £500,00 up to and including: <ul style="list-style-type: none"> £1,000,000 revenue; or £5,000,000 capital 	Relevant Member(s) of CLT and Chief Finance Officer in consultation with Chair of the relevant Committee and the Chair of Finance Sub-Committee
Over <ul style="list-style-type: none"> £1,000,000 revenue; or £5,000,000 capital (where virement is within budget and policy framework)	Committee And Finance Sub-Committee

Virement from Reserves or Contingencies

Council may approve the allocation of earmarked reserves or contingencies within the Budget Control Total of a Committee.

Supplementary Estimate Amount	From Earmarked Reserves or Contingencies
Up to and including £250,000	Chief Finance Officer
In excess of £250,000 up to and including £500,000	Chief Finance Officer in consultation with the Relevant Member of CLT
In excess of £500,000 up to and including £1,000,000	Committee And Finance Sub-Committee
Over £1,000,000	Council with recommendation from Finance Sub-Committee

Supplementary Estimates

- 19 Where services wish to undertake an activity not originally identified in the budget or incur additional revenue expenditure on an existing activity where this is fully funded (for example through additional specific grant allocations or developer contributions), approval must be sought for a supplementary estimate in accordance with the tables below. The Chief Finance Officer must be consulted in all cases.

Supplementary Estimates Externally funded other than from Additional Grants

Supplementary Estimate Amount	Approval Level
Up to and including £250,000	Relevant Member of CLT
In excess of £250,000 up to and including £500,000	Relevant Member of CLT in consultation with the Chair of the relevant Committee, Chair of Finance Sub-Committee and Chief Finance Officer
In excess of £500,000 up to and including £1,000,000	Committee And Finance Sub-Committee
Over £1,000,000	Council with recommendation from Finance Sub-Committee

Funded from Additional Grants

Directors may make applications for grants, without commitment, in consultation with the Chief Finance Officer –

Approval level	Amount of grant to be received
Officers	Up to and including £100,000
Relevant Member of CLT in consultation with Chair of the relevant Committee and Chair of Finance Sub-Committee	Between £100,000 and £500,000
Committee	£500k and up to £1m If grant application or receipt commits expenditure outside of the Control Totals then a Virement or Other Supplementary Estimate will also be required.
Council	£1m and above

- 20 Grants that require spending within restricted timescales may require the use of urgency powers to approve spending in line with the conditions of the grant.
- 21 Any dispute or disagreement between Committees regarding scope of authority, budgets or other matters shall be resolved by the Corporate Policy Committee.

Chapter 3 – Part 4

Finance Procedure Rules (FPRs)

1. Introduction

- 1.1. The Finance and Contract Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every Councillor and Officer and anyone acting on its behalf, including School Governors operating under local delegation arrangements. All decision makers need to ensure that they are not only empowered under the Constitution to make a decision, but that they are also authorised under these Rules to incur the financial consequences of every decision that they make.
- 1.2. The Rules identify the financial responsibilities of the full Council, Committees, and Officers. A written record shall be kept of all decisions taken under these Rules that are taken using delegated powers.
- 1.3. The Chief Finance Officer is responsible for maintaining a continuous review of the Finance and Contract Procedure Rules and submitting any additions or changes necessary to the full Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the Finance and Contract Procedure Rules to Audit and Governance Committee.
- 1.4. The Corporate Leadership Team is responsible for ensuring that all staff are aware of the existence and content of the Council's Finance and Contract Procedure Rules and other internal regulatory documents and that they comply with them, as required by the Council's Code of Conduct for Employees and this Constitution. Failure to comply with the Code of Conduct may result in disciplinary action.
- 1.5. The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Finance and Contract Procedure Rules that Councillors, Officers and others acting on behalf of the Council are required to follow.
- 1.6. Councillors have a fiduciary duty to local taxpayers to spend money wisely and to balance the interests of those who will pay against the interests of those who will benefit from the expenditure.
- 1.7. The Rules are not intended to cover every eventuality, but the spirit of the Rules must always be followed. Where there is any uncertainty in matters of interpretation, advice should be sought from the Director of Finance & Customer Services before decisions or actions are taken.

2. Financial Management**Why is this important?**

- 2.1 Financial Management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget.

Committees

- 2.2 Committees are responsible for discharging the Council's functions within the Budget and Policy Framework provided by Council. The Budget will be aligned with Committee and Head of Service responsibilities as far as possible.

Audit and Governance Committee

- 2.3 The Audit and Governance Committee has a right of access to all the information necessary to effectively discharge its responsibilities and may consult directly with internal and external auditors.
- 2.4 The Committee is responsible for a range of matters, including:
- 2.4.1 overseeing the Council's role and responsibilities in respect of Corporate Governance and Audit
 - 2.4.2 supporting the Council's audit function, both internal and external
 - 2.4.3 approving any Council Statement of Accounts as may be required by the relevant Account and Audit Regulations
 - 2.4.4 reviewing and approving the Annual Governance Statement
 - 2.4.5 ensuring the Council's Risk Management arrangements are operating effectively
 - 2.4.6 ensuring the Council has in place appropriate policies and mechanisms to safeguard resources
 - 2.4.7 promoting and maintaining high standards of probity and ethical behaviour.

The Chief Finance Officer (Section 151 Officer)

- 2.5 The Chief Finance Officer is the Council's 'responsible financial officer' under the Accounts and Audit Regulations. He or she is responsible for the proper administration of the Council's affairs as specified in, and undertaking the duties required by Section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Local Government Act 2003 and all other relevant legislation.
- 2.6 The Chief Finance Officer is responsible generally, for discharging, on behalf of Cheshire East Council, the responsibilities set out in the

CIPFA Statement on the Role of the Chief Financial Officer in Local Government, including:

- 2.6.1 in conjunction with the other Corporate Leadership Team, the proper administration of the Council's financial affairs
- 2.6.2 setting and monitoring compliance with financial management codes and standards
- 2.6.3 advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- 2.6.4 providing financial information
- 2.6.5 preparing the revenue budget and capital programme
- 2.6.6 treasury management including borrowing and investment.
- 2.6.7 reporting on the robustness of estimates and adequacy of reserve within the medium term financial strategy
- 2.7 Section 114 of the Local Government Finance Act 1988 includes a requirement for the Chief Finance Officer to report to the full Council and the external auditor if the Council or one of its decision-makers:
 - 2.7.1 has made, or is about to make, a decision which involves incurring unlawful expenditure
 - 2.7.2 has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council
 - 2.7.3 is about to make an unlawful entry in the Council's accounts.
- 2.8 Section 114 of the 1988 Act also requires:
 - 2.8.1 the Chief Finance Officer to nominate a properly qualified Member of staff to deputise should he or she be unable to perform the duties under section 114 personally. The designated deputy for this purpose is the Head of Financial Management.
 - 2.8.2 the Authority to provide the Chief Finance Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

Money Laundering Reporting Officer

- 2.9 The Chief Finance Officer is appointed as the Council's Money Laundering Reporting Officer and will maintain and advise on Anti-Money Laundering procedures.
- 2.10 The Chief Finance Officer is responsible for notifying the Serious Organised Crime Agency of any suspected cases of money laundering committed within the accounts of the Council as soon as

possible and fulfil other duties as defined by legislation or regulation related to the post. The Chair of the Finance Sub-Committee will be kept informed of any such notifications and of any issues arising from them.

Corporate Leadership Team

- 2.11 Corporate Leadership Team members are responsible for financial management within their directorates and spending within the limits of the budgetary framework set by Council. They shall manage the development of budget policy options with a detailed assessment of financial implications within the budget process and resource framework agreed by the Council.

Schemes of Financial Delegation

- 2.12 Corporate Leadership Team members will establish, operate and keep under review Local Schemes of Financial Delegation, in consultation with the Chief Finance Officer, to ensure that:
- 2.12.1 the day to day financial management of services within their directorate is carried out in a secure, efficient and effective manner, and in accordance with the Finance Procedure Rules and associated relevant guidance.
 - 2.12.2 expenditure is contained within the service's overall approved budget and that individual budget heads are not overspent, by monitoring the budget and taking appropriate and timely corrective action where significant variances are forecast and if necessary, seeking specific in year approval for the transfer of resources between budgets
 - 2.12.3 regular reports in an approved format are made to Committees on projected expenditure against budget and performance against service outcome targets set out in the business plan
 - 2.12.4 prior approval is sought at the appropriate level for new proposals that create financial commitments in future years, change existing policies, initiate new policies or materially extend or reduce the Council's services
 - 2.12.5 resources are only used for the purposes for which they were intended
 - 2.12.6 compliance with the scheme of virement set out above
 - 2.12.7 risks are appropriately assessed, reviewed and managed
 - 2.12.8 all members of staff are fully trained, aware of and comply with the requirements of Financial Procedure Rules, including the Contract Procedure Rules
 - 2.12.9 all allegations of suspected fraud, corruption and financial irregularity are promptly reported to the Chief Finance Officer

and Monitoring Officer and that any local investigations are undertaken thoroughly, consistently and impartially.

- 2.13 The financial limits specified in the Scheme of Financial Delegation will be used to control access to financial systems and on-line transaction approvals.

Managing Expenditure

- 2.14 Budget holders are expected to manage within the budgets provided by full Council. Committee and Sub-Committees are responsible for monitoring financial control and making decisions as required by these rules.
- 2.15 Virement rules allow the transfer of funds between budgets.
- 2.16 Supplementary estimates may be requested from increase budgets.

Treatment of Year End Balances

- 2.17 The Finance Sub-Committee is responsible for agreeing procedures for carrying forward under and overspendings on budget headings.
- 2.18 Overspends or underspends in relation to the approved revenue budget may occur for a variety of reasons. With regard to General Fund budgets, there is no 'as of right' carry forward of underspends from one financial year to another except where this is provided for by a binding partnership agreement or other legal agreement with a third party. Decisions on carry forward of overspending or underspending will be made in the context of the financial position of the council as a whole and not any one particular service area.
- 2.19 Any revenue underspending at the year-end may be carried forward, subject to the agreement of the Chief Finance Officer in consultation with the Chair of the Finance Sub-Committee. All carry forward proposals must be supported by an appropriate Business Case demonstrating that the underspend was planned and that the resources carried forward will be earmarked for a specific and appropriate purpose. The Corporate Leadership Team should include provisional indications of likely carry forward requests in their reports on the three-quarter review of performance. Before approval is sought for a carry forward, the Corporate Leadership Team should ensure that there are no unfunded overspends within their directorate. It is extremely unlikely that proposed carry forwards for a service will be approved if there are unfunded overspends elsewhere within the directorate.
- 2.20 Capital block provisions are allocations within which the value of approved schemes must be contained. Any uncommitted sum at the year-end may be carried forward, subject to agreement of the Chief Finance Officer. Any uncommitted sum which is not justified will be returned to Council balances. Equally, any overspending will be carried forward as the first call on the following year's provision.

Accounting Policies, Records and Returns

- 2.21 The Chief Finance Officer is responsible for control and assurance and therefore determines appropriate accounting policies and procedures; exercising oversight of financial and accounting records and systems; and preparing and publishing reports containing statements on the overall finances of the Council, including the annual statement of accounts.
- 2.22 Financial statements must present fairly the financial position of the Council and its expenditure and income.
- 2.23 All accounts and accounting records will be compiled by the Chief Finance Officer or under his/her direction. The form and content of records maintained in other directorates will be approved by the Chief Finance Officer along with reconciliation procedures.

The Annual Statement of Accounts

- 2.24 The Chief Finance Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Council Accounting in the United Kingdom* (CIPFA/LASAAC) and signing them in accordance with the Accounts and Audit Regulations 2015. Oversight of the accounts is a responsibility of the Audit and Governance Committee.

3. Financial Planning

- 3.1 Full Council is responsible for agreeing the Council's Budget and Policy Framework. In terms of financial planning, the key elements are:

- 3.1.1 The **Medium Term Financial Strategy** sets out:

- what the Council wants to achieve in the short and medium term
- how services will change in the light of priorities, performance, resources, workforce planning needs and consideration of risks
- investment required to deliver change
- how much services will cost in overall terms and to service users
- how much Council Tax will be levied.

- 3.1.2 The **Budget** is the financial expression of the Council's Corporate Plans. It sets out the allocation of resources to Committees, services and projects, the level of contingency funding, the Council Tax base and Council Tax rate, borrowing limits and capital financing requirements

- 3.1.3 The **Capital Strategy** – Capital expenditure involves acquiring or

enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs

- 3.1.4 The **Treasury Management Strategy** –sets out the arrangements for the management of the Council's borrowing, lending, cash flows and investments.
- 3.1.5 The **Corporate Plan** sets out the Council's medium-term vision, values and aspirations.
- 3.1.6 The **Investment Strategy** – which sets out the arrangements and financial limits of the Councils non-Capital and non-Treasury investments
- 3.1.7 The **Reserves Strategy** – which sets out the Council's approach to the maintenance and use of the Council's useable reserves.
- 3.1.8 **Specific Service Plans and Strategies** which have a financial implication.

Strategic Planning Framework

- 3.2 Each year the Council produces a Medium Term Financial Strategy, including an approved Budget, Capital Strategy, Treasury Management Strategy, Investment Strategy and Reserves Strategy detailing the financial and service scenario over a three or four year planning horizon (the **Medium Term Financial Strategy** (MTFS)) and the policy and expenditure changes required to respond to this scenario.
- 3.3 The Chief Finance Officer will advise the Council on the financial environment, financial policies (including the appropriate levels of reserves and contingencies, prudential borrowing and treasury management) and the policy and expenditure options to assist in the determination of its Budget. The Chief Finance Officer then has authority to implement decisions within those strategies on borrowing, reserves and investment without any financial limit.
- 3.4 The Finance Sub-Committee, advised by the Chief Finance Officer, Corporate Leadership Team and Heads of Service, will develop a budget package including financing options, policy and expenditure options and a capital programme. The final Budget policies and Council Tax will be determined by Council.

Budgeting

- 3.5 The general format of the budget will be determined by the Chief Finance Officer. The draft budget will include allocation to Committees, different services and projects, proposed taxation levels and contingency funds.

- 3.6 The Chief Finance Officer is responsible for reporting to full Council on the robustness of estimates contained within the budget and the adequacy of reserves allowed for in the budget proposals. The Chief Finance Officer shall determine the level of financial reserves that are prudent for the authority within the Reserves Strategy.
- 3.7 The Council shall not approve amendments to either revenue or capital budgets without first having considered the advice of the Chief Finance Officer on the financial implications arising.

Monitoring and Control

- 3.8 The Chief Finance Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations at a corporate level and report to the Committees on the overall position on a regular basis.
- 3.9 It is the responsibility of Corporate Leadership Team to control income and expenditure within their area and to monitor performance, taking account of financial information and guidance provided by the Chief Finance Officer. They must report on variances within their own areas. They must also take any action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any potential overspending or under-achievement of income budgets in a timely manner.
- 3.10 The Chief Finance Officer, with the support of the Corporate Leadership Team, is responsible for establishing an appropriate framework of budgetary management and control which:
 - 3.10.1 Ensures that:
 - budget management is exercised within annual cash limits unless the full Council agrees otherwise
 - timely information on receipts and payments is made available, which is sufficiently detailed to enable officers to fulfil their budgetary responsibilities
 - expenditure is committed only against an approved budget head
 - all officers responsible for committing expenditure comply with relevant guidance and Finance and Contract Procedure Rules
 - each cost centre has a single named manager, determined by the relevant Head of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure

- significant variances from approved budgets are investigated and reported by budget managers regularly.
- 3.10.2 Reports to Committees and full Council, with the relevant Director or Head of Service, where they are unable to balance expenditure and resources within existing approved budgets under their control
 - 3.10.3 Reports on the Council's projected income and expenditure compared with the budget on a regular basis.
 - 3.10.4 Ensures that Schemes of Financial Delegation are maintained for all functions within their area of responsibility
 - 3.10.5 Ensures that Best Value and best consideration is obtained.
 - 3.10.6 A Business Case must be prepared for all revenue proposals with a significant financial impact, risk profile or policy change. The template, in a form agreed by the Director of Finance & Customer Services, must include an assessment of the Service consequences, risk and impact on users, and include any differential impact on particular groups or localities.

Capital Approvals

- 3.11 Capital approvals are the total cost of each provision or scheme rather than the anticipated expenditure in each year.
- 3.12 A Business Case must be prepared for all capital proposals before approval is sought for inclusion in the Capital Programme. The Business Case will be in a format to support decision making, and must identify whole life costs, for revenue and capital. The amount of detail will be proportionate to the value and level of risk. Where there is a greater risk further detail in the Business Case may also be required.

Capital Monitoring and Amendments to the Capital Programme

- 3.13 Any 'in year' approval sought to vary the financial values or implications of a capital scheme, must be supported by an update to the Business Case.
- 3.14 Once the Capital Programme has been approved, project owners must ensure that the scheme is appropriately managed to achieve appropriate Time, Quality and Cost measures in accordance with the business case. This could be supported by production of a more detailed Business Case outlining how the Project or Programme will achieve the associated benefits.
- 3.15 Project owners must provide regular reporting (at least quarterly) of progress of their schemes. Where project performance or outcomes are at risk of significantly varying from the business case the project owner

is responsible for taking appropriate mitigating action including the need to seek appropriate approvals as required. All reporting and monitoring activity should be evidenced and recorded in a way that can be accessed to support auditing of project activity. Guidance should be sought from the Chief Financial Officer if required.

- 3.16 Major recurring programmes of capital expenditure will require a detailed report to be submitted to the relevant Service Committee covering all the schemes within each programme of works and will include total projected cost, expenditure profile and the full financial implications, both capital and revenue. This will include, but not be limited to, the programmes for Schools & Corporate Landlord Planned Maintenance, ICT Investment and the Local Transport Plan.
- 3.17 The Capital Programme will distinguish between committed expenditure from schemes already approved, recurring programmes and new proposals, both medium and longer term.
- 3.18 Where budget provision is included for feasibility work and option development in the capital programme and subsequently the scheme does not progress the expenditure incurred will be treated as abortive costs and charged to revenue.
- 3.19 Wherever possible, expenditure in respect of Highways improvements funded by developers and Rechargeable works should be included in the Capital Programme. Where this is not possible Heads of Service may approve capital expenditure in respect of:
 - 3.19.1 highway improvements fully funded by developers under Section 278 of the Highways Act 1980, provided that a formal agreement has been completed with the developer
 - 3.19.2 other rechargeable reinstatement work
 - 3.19.3 urgent work to repair, replace or reinstate vehicles, buildings or equipment, where the work is to be fully funded from insurance monies.
- 3.20 In addition, Heads of Service may authorise essential design work required in advance of the start of the financial year on capital schemes which are in the programme approved by Council in February.
- 3.21 Council will approve the re-profiling of spend on approved capital schemes across financial years and carry forward of slippage/accelerated spend into future financial years as part of the budget process in February.

Capital Receipts

- 3.22 The Chief Finance Officer must be informed of all proposed capital receipts including sales of land and buildings so that the effect on financial and property management can be assessed.
- 3.23 On the advice of the Chief Finance Officer, the Council will determine

how capital receipts will be applied when setting the budget.

Leasing and Rental Agreements

- 3.24 Leasing or renting agreements must not be entered into unless the service has established that they do not constitute a charge against the Council's prudential borrowing limits. Advice must be obtained from the Chief Finance Officer on general leasing arrangements and approval must be obtained for lease agreements.
- 3.25 Leases relating to land or property also require the approval of the Chief Finance Officer. Only the Monitoring Officer or his/her authorised deputies, or persons specifically authorised by the Service Scheme of Financial Delegation, may sign such agreements.

Reporting

- 3.26 Officers are responsible for preparing regular reports on overall financial and non-financial performance and progress against service plan targets. The Corporate Leadership Team is responsible for setting appropriate timelines and the format of such reporting. This includes the onward reporting to Committees and Council as necessary to support informed decision making and governance. These reports must include specific reference to the implementation of policy changes and new developments agreed as part of the budget setting process and other specific requirements as notified in the reporting guidance.
- 3.27 These reports must include specific reference to the implementation of policy changes and new developments agreed as part of the budget setting process and other specific requirements as notified in the reporting guidance. Capital Project Managers will report periodically to their relevant Committee Chair on the progress and forecast of all capital expenditure and income against the approved programme.
- 3.28 These regular reports are also to include specific reference to Service performance against the expected non-financial outcomes in the form of key performance targets and progress against key activities. Officers are expected to achieve value for money in the delivery of services and the reports should demonstrate how this has been achieved together with an analysis of how key policy and expenditure proposals have been implemented.
- 3.29 The key reporting stages are:
 - 3.29.1 Approval of service plans, including resource requirements and indicators of performance
 - 3.29.2 Approval of Business Cases to vary the Medium Term Financial Strategy
 - 3.29.3 Quarterly reviews of performance, including revenue and capital expenditure and income
 - 3.29.4 Final outturn reports for both revenue and capital

expenditure and income, including post-implementation reviews, on major capital schemes completed during the year.

- 3.29.5 Summary quarterly reviews and outturn position statements of both capital and revenue expenditure and income will also be reported to Council through its relevant subordinate bodies.
- 3.30 In addition, the reports will be specifically required to give details in respect of the following:
 - 3.30.1 Potential overspends and proposed remedial action, including any impact on balances and future year's budgets which may need to be factored in to future financial scenario planning
 - 3.30.2 Amendments to approved budgets (virements, supplementary capital estimates etc.) where Councillor approval is required.

4. Risk Management and Control of Resources

Why is this important?

- 4.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

Risk Management and Insurance

- 4.2 The Director of Governance & Compliance is responsible for advising Council on an appropriate risk management policy statement and strategy, including risk appetite/tolerance levels, and for reviewing the effectiveness of risk management including appropriate levels of insurance.
- 4.3 The Director of Governance & Compliance is responsible for preparing the Council's risk management policy statement and for promoting it throughout the Council.
- 4.4 The Audit and Governance Committee will provide Councillor oversight and review the arrangements periodically ensuring the Council's risks are managed effectively and that strategic decisions are informed by and influence the Corporate Risk Register.

Insurance

- 4.5 The Director of Governance & Compliance will maintain and administer the Council's insurances. The Director of Governance & Compliance is responsible for authorising the settlement or repudiation of insurance claims and associated costs acting on advice from the Council's

solicitors, insurers, and claims handlers.

- 4.6 The Corporate Leadership Team and Heads of Service are responsible for informing the Director of Governance & Compliance immediately of:
 - 4.6.1 any insurance claims received
 - 4.6.2 any events which may result in an insurance claim against the Council
 - 4.6.3 the terms of any indemnity which the Council is required to give prior to entering into any contracts etc.
 - 4.6.4 any new risks which might require to be insured, together with any changed circumstances affecting existing risks. Consideration should be given to new projects, new ways of working, changes in legislation requiring new ways of delivery etc., where the insurance impact is often overlooked.
- 4.7 No new insurances may be taken out without prior consultation with the Director of Governance & Compliance.
- 4.8 The Corporate Leadership Team must ensure that there is co-operation with the Insurance Team in providing the correct documentation and that the correct retention of documents is observed.
- 4.9 Service budgets will be charged with the cost of legal penalties or losses incurred by the Council as a result of any failure to comply with the requirements of the Civil Procedure Rules and these Finance and Contract Procedure Rules relating to claims.

Risk Management

- 4.10 The Council's approach to Risk Management is that it should be embedded throughout the organisation at both a strategic and an operational level, through integration into existing systems and processes.
- 4.11 The Corporate Leadership Team is responsible for ensuring the [Risk Management Framework](#) is implemented and that the full risk management cycle operates within their Services.
- 4.12 The full cycle consists of:
 - 4.12.1 identification of risks, both negative and positive, in relation to the objectives of the Council.
 - 4.12.2 evaluation of risks scored for likelihood and impact, both gross (before any controls) and net (with existing controls)
 - 4.12.3 treatment of the risk either by: avoidance, mitigation, transfer or to consciously accept the risk.
 - 4.12.4 actions and risks monitored and reviewed on a regular basis.
 - 4.12.5 the Council's Risk Register will be maintained and co-

ordinated by the Head of Audit and Risk.

- 4.13 There are two levels to the Risk Register:
- 4.13.1 **Strategic** – those risks that impact on the organisation's overall objectives either because of their frequency of occurrence or the significance of the impact.
 - 4.13.2 **Service** – those risks that impact on the service objectives. There should be a movement of risks both upwards and downwards throughout the levels and treatment addressed at the most appropriate level of the organisation.
- 4.14 Heads of Service are responsible for ensuring risk management is carried out at both an operational and strategic level in accordance with the agreed guidance and procedures.
- 4.15 Service strategic risk assessments will be carried out annually to inform the service plan. These risk assessments will form the basis of the Service element of the Council's risk register.
- 4.16 Heads of Service will take account of, and address, corporate risks where appropriate and inform the Head of Audit and Risk of any service risks that should be considered significant enough to raise to the corporate level.
- 4.17 Service risk registers, and associated actions, will be monitored and reviewed on a regular basis (at least quarterly) as part of the performance management process.
- 4.18 The Strategic Risk Register will be reported to the Corporate Leadership Team and to the Audit and Governance Committee in accordance with the budget reporting cycle.

Business Continuity

- 4.19 The Civil Contingencies Act 2004 places a statutory requirement for Local Authorities to maintain plans for the continuation of services in the event of an emergency, so far as is reasonably practicable. Services are expected to have arrangements in place to ensure the effective identification, evaluation and management of business critical services. Further guidance is available on the intranet and from the Head of Audit and Risk.

Internal Controls

- 4.20 The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

- 4.21 It is the responsibility of Corporate Leadership Team to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve best value, that is continuous improvement, economy, efficiency and effectiveness, and for achieving their financial performance targets.
- 4.22 The Council must, on an annual basis, produce an Annual Governance Statement. This statement must provide a description of the system of internal control within the Council, a description of any work undertaken to assess the effectiveness of the internal control framework, and any significant internal control weaknesses.

Audit Requirements

Internal Audit

- 4.23 The Accounts and Audit Regulations 2015 require the Council to have a sound system of internal control which facilitates the effective exercise of its functions; the achievement of its aims and objectives; ensures that the financial and operational management of the authority is effective; and includes effective arrangements for risk management.
- 4.24 To contribute to the production of the Annual Governance Statement, the Head of Audit and Risk, is responsible for planning and delivering a programme of independent review of the Council's activities, the scope of the programme being based on the Council's objectives and an assessment of the risk which may affect the achievement of these objectives.
- 4.25 The Head of Audit and Risk will present an annual report to the Audit and Governance Committee, summarising the audit plans for the coming year and a commentary on audit activity which is completed or in progress, with a mid-year report setting out progress against the annual audit plan. In addition, any matters of material importance in relation to audit matters are also reported to the Audit and Governance Committee.
- 4.26 Audit staff have, in accordance with the Accounts and Audit Regulations, (with strict accountability for confidentiality and safeguarding records and information), full, free and unrestricted access to any and all of the Council's premises, personnel, assets, records and third party fund transactions pertinent to carrying out any engagement, including those of the Council's alternative service delivery vehicles. These rights of access should be documented in the management agreement.
- 4.27 With regards to organisations participating in partnering arrangements, Internal Audit staff shall have such access to the premises, personnel assets and records of the partner as is necessary for the purposes of the partnering arrangement, as detailed in section 6 below. Partners will be required to grant reasonable access when requested and details of such access should be agreed with the partner and set down in the

Partnering Agreement. Where the right of access has not been specified in existing arrangements then appropriate discussions with partners should take place.

External Audit

- 4.28 The Local Audit and Accountability Act 2014 established new arrangements for the audit and accountability of relevant authorities. Under these new arrangements the Council has opted for its external auditors to be appointed by the Public Sector Audit Appointments Limited (PSAA), an independent company established by the LGA for this purpose.
- 4.29 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

Preventing Fraud and Corruption

- 4.30 The Executive Director (Corporate Services) is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.
- 4.31 The Council has an approved Anti-Fraud and Corruption Policy which places responsibility for preventing fraudulent activity with all Members, Managers and individual members of staff. Any matters which involve, or are thought to involve, any fraud or other significant irregularity involving Council assets or those of a third party fund, must be notified immediately to the Head of Audit and Risk, in conjunction with other officers detailed in the Council's Anti-Fraud and Corruption Strategy.
- 4.32 In line with the Anti-Fraud and Corruption Strategy the Monitoring Officer will, in consultation with the appropriate Corporate Leadership Team member and Head of Audit and Risk, decide whether any matter under investigation should be recommended for referral to the Police or the appropriate enforcement agency. The Council's External Auditor also has powers to independently investigate fraud and corruption.

Assets

- 4.33 In the context of these Rules, Assets include buildings, land and infrastructure; furniture; equipment; plant; stores and "intellectual property" such as computer software, data and information of all kinds.
- 4.34 Corporate Leadership Team, Directors and Heads of Service are responsible for the care, control and proper and economical use of all assets used in connection with the operation and delivery of their Services. Proper records should be maintained for these assets, together with appropriate arrangements for their management and security. Information Assets should be recognised in line with the Council's guidance and recorded in the Information Asset Register.
- 4.35 Heads of Service are responsible for ensuring that assets are used only

for official purposes and that all appropriate rights, licenses and insurances are obtained.

- 4.36 Heads of Service are responsible for ensuring that all computer software used is properly licensed.
- 4.37 The Head of Estates is responsible for maintaining and regular reporting of an Asset Management Strategy.

Property

- 4.38 The Council's Asset Management Strategy sets out the vision, core values and objectives that form the context for the preparation of the Corporate Asset Management Plan and Service Asset Management Plans.
- 4.39 The Council has adopted a Corporate Landlord approach to the ownership and management of its property assets. This means that the ownership of property assets and the responsibility for their management and maintenance is transferred from service directorates to the Corporate Landlord, which is a centralised corporate function.
- 4.40 In this way the Corporate Landlord approach:
 - 4.40.1 enables the Council to utilise its assets to deliver better, more efficient services to our communities.
 - 4.40.2 unlocks the value of assets, seeks efficiencies through joint arrangements with our public sector partners and maximises private sector investment.
 - 4.40.3 ensures the provision of a consistent, corporate and strategic approach to the management of the Council's property portfolio, consolidating resources, eliminating duplication, improving efficiency, procurement and the establishment of corporate property standards
 - 4.40.4 supports the delivery of the Council's Corporate Plan.
- 4.41 The Corporate Landlord's responsibility extends to the acquisition, development and disposal of land and property. This means that the Corporate Landlord is responsible for asset review, feasibility and options appraisal across all services.
- 4.42 The Chief Finance Officer and the Executive Director Place must be consulted on all proposed acquisitions and disposals of land and property.
- 4.43 Separate rules apply to specific processes, such as the use of capital receipts from property sales to pay for new schemes, and guidance should be sought from the Chief Finance Officer and the Executive Director Place where this arises.
- 4.44 Acquisition and disposal of land and property and other assets over £2 million is the responsibility of the Finance Sub-Committee; and below

£2m is a member of the Corporate Leadership Team in consultation with the Chief Finance Officer and the Executive Director Place.

Inventories

- 4.45 Heads of Service must ensure that proper arrangements are made to maintain inventories of all valuable and transportable items, including vehicles, furniture, computer and other equipment (including software), visual aids, expensive tools and sports equipment.
- 4.46 The inventory must be updated for all acquisitions and disposals and checked at least annually. Items acquired under leasing arrangements must be separately identified for disclosure in the published final accounts.

Stocks

- 4.47 Stock is defined as consumable items constantly required and held by a Service in order to fulfil its functions. Heads of Service are responsible for the control of stocks. They must ensure that stocks are appropriately secured and recorded, do not exceed reasonable requirements and that all significant stock is accounted for in the year end accounts. Stocks should be checked at least once a year, more frequently in the case of expensive items.

Cash

- 4.48 Cash held on any Council premises should be held securely and should not exceed any sums for which the Council is insured. If retention of cash on site is unavoidable in exceptional circumstances, the Head of Service is responsible for making appropriate security arrangements. All cash should be banked as quickly as possible.

Asset Disposal/Write-off

- 4.49 The Chief Finance Officer may authorise the write off of losses up to £25,000, or disposals, of obsolete or surplus equipment, materials, vehicles or stores up to a disposal value of £25,000. Where the value exceeds £25,000, but is less than or equal to £100,000 this should be done in consultation with the Finance Sub-Committee Chair. Write offs over £100,000 will be the responsibility of the Finance Sub-Committee or Corporate Policy Committee.
- 4.50 Any write off which arises as a result of theft or fraud must be notified to the Head of Audit and Risk immediately.

Treasury Management

- 4.51 The Council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.
- 4.52 The full Council is responsible for approving the Treasury Management

policy. The Chief Finance Officer has delegated responsibility for implementing and monitoring the approved policy and practice (without financial limit).

- 4.53 All money in the hands of the Council is controlled by the Chief Finance Officer.
- 4.54 The Chief Finance Officer is responsible for reporting to the Finance Sub-Committee or Corporate Policy Committee periodically in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprise an annual report on Treasury Management for presentation by 30 September of the succeeding financial year.

Investments and Borrowings

- 4.55 It is the responsibility of the Chief Finance Officer to:
 - 4.55.1 ensure that all investments of money are made in the name of the Council or in the name of approved nominees.
 - 4.55.2 ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in safe custody
 - 4.55.3 effect all borrowings in the name of the Council.
 - 4.55.4 act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council.

Trust Funds and Funds Held for Third Parties

- 4.56 It is the responsibility of the Chief Finance Officer to:
 - 4.56.1 arrange for all trust funds to be held, wherever possible, in the name of the Council (e.g. 'Cheshire East Borough Council on behalf of.....'). All officers acting as trustees by virtue of their official position shall deposit securities, etc. relating to the trust with the Chief Finance Officer unless any deed otherwise provides.
 - 4.56.2 arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Chief Finance Officer, and to maintain written records of all transactions.
 - 4.56.3 ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

Staffing

Salaries and Wages

- 4.57 The Corporate Leadership Team and Heads of Service are responsible,

in consultation with the Head of Human Resources, for providing accurate and appropriate information and instructions to the Transactional Service Centre to enable the calculation and prompt payment of salaries, expenses and pensions, including details of appointments, promotions, re-gradings, resignations, dismissals, retirements and absences from duty. Human Resources will advise the Transactional Service Centre of relevant changes in respect of employee pensions. The Transactional Service Centre manager will make arrangements for payment to the appropriate bodies, of all statutory, including taxation, and other payroll deductions.

- 4.58 Time sheets and other pay documents which are used to generate payment of salaries, wages or other employee-related expenses must be on official forms or via authorised electronic inputs. Heads of Service are responsible for ensuring that they are certified by an authorised officer and that they are submitted to the Transactional Service Centre in accordance with the specified timetable. This includes on-line input entered locally. The names and specimen signatures of authorised officers must be secured by the Corporate Leadership Team and Heads of Service and included in the service Scheme of Financial Delegation notified to the Chief Finance Officer.
- 4.59 The Head of Human Resources will implement national and local pay agreements as soon as possible after their notification from the appropriate body. Arrangements for funding such awards will be determined each year as part of the budgetary process.

Early Retirement/Severance

- 4.60 Where Heads of Service wish to bring forward proposals under the Council's policies on severance and early retirement, they must be accompanied by a full cost and affordability assessment, in a form agreed by the Chief Executive, the Chief Finance Officer and the Head of Human Resources. The Chair of the Corporate Policy Committee shall be consulted for proposals relating to SM1 and above.
- 4.61 The Chief Executive or Executive Director (Corporate Services) in consultation with the Chair of the Corporate Policy Committee must approve all requests up to £95,000 (excluding pay in lieu of notice and accrued holiday pay). All such requests in excess of £95,000 must be approved by the Corporate Policy Committee or a waiver sought from full Council and central Government.
- 4.62 Heads of Service will generally be required to meet the costs of severance and early retirement from within their approved budget, subject to phasing over an agreed period.

Travelling and Subsistence

- 4.63 Heads of Service are responsible for instructing the Head of Human Resources and for providing appropriate and accurate information to enable the prompt and accurate payment of travelling, subsistence and other expenses to authorised employees in accordance with the terms

of employment agreed by the Council.

- 4.64 Heads of Service are responsible for ensuring that Council employees who use their cars for official business are properly insured to indemnify the Council against any loss and for ensuring that payments are only made in respect of journeys which are necessary and actually undertaken. Heads of Service should ensure that the most environmentally friendly and economically available means of transport is used, including pool cars, hire cars and car sharing.
- 4.65 All claims for reimbursement must be made using appropriate official claim forms, always using electronic processing where available.
- 4.66 Further guidance is available via the Centranet.

Third Party Funds

- 4.67 A third party fund is defined as any fund financed other than by the Council, controlled wholly or partly by a member of the Council's staff in connection with the clients, establishments or activities of the Council such as School Funds, Amenity Funds or Criminal Injuries Compensation Payments for children in care.
- 4.68 Officers maintaining Third Party Funds are responsible for informing the Head of Audit and Risk of their nature and purpose.
- 4.69 Money or goods belonging to the Third Party Fund must be kept completely separate from other money or goods belonging to the Council. Similarly, completely separate records must be kept of the money or goods involved.
- 4.70 An independent auditor must be appointed who has suitable qualities though not necessarily professionally qualified, to audit the Third Party Fund on an annual basis. The Head of Audit and Risk will advise on such appointments. Annual Statements of Account and Audit Certificates must be formally presented to a Management Committee or other appropriate governing body.
- 4.71 The Corporate Leadership Team is responsible for ensuring that any Third Party Funds controlled by Council staff are:
 - 4.71.1 formally declared to the Head of Audit and Risk as part of a register kept by the Service/Service;
 - 4.71.2 maintained separately and correctly in accordance with these Finance Procedure Rules; and
 - 4.71.3 subject to the same standards of stewardship and probity as Council funds.
- 4.72 The Returning Officer will be responsible for maintaining complete and accurate records and for reconciliation with regard to elections accounts.

Retention of Records

- 4.73 The Council, in common with other public and private organisations, has certain statutory obligations it has to meet for the retention of its records. It also has to fulfil the requirements of HM Revenue and Customs, other legislative requirements and the external auditors in respect of its financial records.
- 4.74 The majority of financial records must be kept for 6 years from the end of the tax year to which they relate. Some records, however, may need to be kept for longer periods e.g. if required to defend future insurance claims. It is possible others can be destroyed within shorter periods. Guidance on the appropriate retention period is given in the Council's Retention Policy and its Information Asset Register.
- 4.75 All records held should have an appropriate retention period assigned to them, which meet the statutory obligations to retain financial records, but also takes into account legislative requirements such as the Limitation Act, GDPR, Data Protection Act; Freedom of Information requirements; and the business needs of the Service.

5. Financial Systems and Procedures

Why is this important?

- 5.1 Sound systems and procedures are essential to an effective framework of accountability and control.

Income and Expenditure

- 5.2 The Council will approve the terms under which banking services, including overdraft facilities, are provided.

Banking Arrangements

- 5.3 All bank accounts must be titled impersonally in the name of Cheshire East Borough Council.
- 5.4 Subject to any directions given by the Council, all arrangements with the Council's bankers must be made solely through the Chief Finance Officer. No bank accounts may be opened or arrangements made with any other bank except by agreement with the Chief Finance Officer.
- 5.5 Bank transfers must be authorised by the Chief Finance Officer, or those officers authorised to sign through the agreed Scheme of Financial Delegation or in accordance with the Treasury Management Practice Statements.
- 5.6 Cheques drawn must bear the mechanically impressed signature of the Chief Finance Officer or be signed by the Chief Finance Officer or other officer authorised to sign through the agreed Scheme of Financial Delegation.

Income**Generating Income**

- 5.7 The Chief Finance Officer is responsible for developing and maintaining standards, procedures, systems and reports to facilitate the effective and efficient identification, collection, receipting, banking and recovery of income due to the Council in accordance with current relevant UK legislation.
- 5.8 The Corporate Leadership Team is responsible for ensuring that the appropriate legal authority for all income generating activities has been identified and for maintaining an Income and Charging Strategy in a format specified by the Chief Finance Officer.

Charging for Income

- 5.9 Heads of Service shall determine the level of fees or charges payable in respect of any chargeable goods or services supplied, work undertaken or the loan or use of plant, equipment or machinery.
- 5.10 Charges must be reviewed annually by the Corporate Leadership Team in the light of all relevant information, to the service area, including consideration of appropriate inflation factors.

Collection of Income

- 5.11 The Council operates a Sundry Debt Collection policy to secure invoiced sundry debt income for the provision of services. All debt owing to the Council must be collected promptly, effectively, efficiently and economically, while ensuring fair treatment of those that owe money, including consideration of any financial difficulties.
- 5.12 Council officers must comply with guidelines issued by the Chief Finance Officer for the safe and efficient collection and recording of all money due to the Council.
- 5.13 The Corporate Leadership Team is responsible for ensuring that accounts for income due to the Council, including grant claims, reimbursements and third party contributions, are raised immediately and accurately in a form approved by the Chief Finance Officer. These must include VAT where appropriate.
- 5.14 The cost of collection should be taken into account when raising accounts. The Corporate Leadership Team must ensure that the method of collection is the most cost effective relative to the value of the transaction.
- 5.15 Payment shall be collected before the service or goods are provided unless explicitly agreed or stated otherwise in the fees and charges register.
- 5.16 The Corporate Leadership Team is responsible for ensuring that all income received is receipted, where required, recorded correctly

against the appropriate budgets, and in the case of cash and cheques, banked with the minimum of delay. The frequency of banking should follow guidelines provided by the Chief Finance Officer and should avoid incurring disproportionate banking charges on relatively low value transactions, taking into account local security arrangements.

- 5.17 The Corporate Leadership Team is responsible for monitoring income collection and ensuring appropriate recovery action is taken. A summary of the position on the level of outstanding debt and collection issues should be included in quarterly financial updates and the final outturn report. Full provision for income still outstanding six months after the due date should be made in Service accounts. This should not however preclude pursuit of the debt.
- 5.18 The Chief Finance Officer will monitor compliance with paragraphs 15 and 16 and may, in circumstances where avoidable adverse cash flow has resulted, determine an appropriate interest charge against Service budgets.
- 5.19 Credit notes must be authorised by appropriate officers nominated in the local Scheme of Financial Delegation.
- 5.20 Any receipts, tickets or other documents used as receipts should be in a format agreed by the Chief Finance Officer. All controlled stationery issued to a Head of Service must be recorded in a register, which is held by a single officer within each Service.

Bad Debts

- 5.21 The Council has a Corporate Debt Policy with the guiding principle that customers have a responsibility to pay amounts that have been properly assessed as being due. The Council is committed to using the most appropriate and effective recovery methods available to it. In certain circumstances and for justifiable reasons it will be necessary to classify some debts as irrecoverable and to recommend that they be written off, however this does not preclude pursuit of the debt.
- 5.22 Directors will critically review outstanding debts on a regular basis, in conjunction with the Chief Finance Officer, and take prompt action to write off debts no longer deemed to be recoverable. Directors will recommend to the Chief Finance Officer all debts to be written off.

Approval level	Amount
Chief Finance Officer	Up to and including £5,000
Chief Finance Officer in consultation with the Monitoring Officer	Over £5,000

- 5.23 The Corporate Leadership Team is responsible for ensuring that an adequate provision for bad debt is made in the Council's accounts at year end and that contributions to this provision are included in budgetary projections and outturn reports.

- 5.24 A record must be maintained for all debts written off. The appropriate accounting adjustments must be made following approval to write-off a debt.

Ordering and Paying for Work, Goods and Services

General Principles

- 5.25 The Corporate Leadership Team and Heads of Service are responsible for providing all appropriate information and instructions to Transactional Services to allow for prompt and accurate payment for goods and services provided and for the analysis of expenditure.
- 5.26 Except for purchases by Visa purchase card, all purchases must be supported by an official requisition and purchase order unless previously agreed with the Procurement Manager. All purchases must have regard to these Finance Procedure Rules.
- 5.27 All requisition and purchase orders must be authorised in accordance with the approved budget and the limits below to ensure that funds are available to pay for the purchase.

Tier	Level	Procurement £	Accounts Receivable invoices £	Credit Note £
0	Chief Executive	1bn	1bn	1bn
1	Deputy Chief Executive/Executive Director/Chief Finance Officer	20m	20m	20m
2	Director	10m	10m	10m
3	Head of Service	2.5m	2.5m	2.5m
4	Service Manager	500,000	500,000	500,000
5	Budget Manager	100,000	100,000	100,000
6	Budget Forecaster	25,000	50,000	25,000
7	Cost Centre	5,000	-	1,000
8	Team Leader	-	-	-
9	Supervisor	-	-	-

- 5.28 Where a requisition for the purchase of goods or services exceeds £10,000 in value, the Contract Procedure Rules apply.
- 5.29 All official purchase orders must include, as a minimum, the order number, the price agreed with the supplier, description of the goods or services to be provided, the delivery address, the address where invoices must be received and a link to the standard terms and conditions for the goods and services to be provided.
- 5.30 Heads of Service must ensure that there is adequate separation of duties in the raising and authorisation of requisitions, authorising of purchase orders, receipt of goods and authorisation of payments to

creditors.

- 5.31 Heads of Service must ensure robust processes to continually maintain computer records and accesses, and Schemes of Financial Delegation so that electronic workflows associated with core financial systems are not compromised.
- 5.32 All purchasing activity must be carried out in accordance with the Council's Procurement Strategy and Contract Procedure Rules and advice issued about efficient and effective use of the Council's core financial and e-procurement systems and processes. Such processes will include the deployment of VISA purchase cards.
- 5.33 Approval of the Procurement Manager must be sought in advance of entering into any supply agreement with a commercial creditor who has not been set up on the Council's core financial system.
- 5.34 Heads of Service must consult the Chief Finance Officer on appropriate arrangements for purchases of goods and services which cannot be accommodated within standard ordering and payment processes.

Payment of Invoices

- 5.35 All invoices must be sent directly by the creditor to the address stated on the official purchase order to enable prompt payment.
- 5.36 All invoices, as a minimum, must include the official purchase order number, the description of the goods or services provided, the quantity delivered, the delivery address, the date of the invoices and/ or date of delivery of the goods or services, the address and VAT registration number of the supplier and the price and VAT at the prevailing rate.
- 5.37 Invoices received without a valid purchase order number will be returned to the creditor as unauthorised for payment.
- 5.38 The Council's standard payment terms are 30 days from receipt of a correct invoice by BACS (Bankers Automated Clearing System). Alternative terms may not be negotiated or agreed with suppliers without the explicit approval of the Procurement Manager. Heads of Service are responsible for notifying suppliers of these terms and for ensuring that they are observed by all those involved in the purchasing and payment processing.
- 5.39 Payment will only be made for goods and services which have been formally receipted in accordance with receipting procedures set out by the Chief Finance Officer.
- 5.40 All purchasing activity must be carried out in accordance with the Council's Procurement Strategy and Contract Procedure Rules and any advice or guidance that may be issued from time to time by the Procurement Manager regarding the efficient and effective use of the Council's core financial and e-procurement systems and processes. Invoices received for payment must comply with the Council's best practice processes.

Non-invoice Payments

- 5.41 Where Heads of Service wish to initiate a payment to a third party without a supporting invoice, an official request for payment must be submitted in a form approved by the Procurement Manager.
- 5.42 Any such requests must be authorised by an officer designated with an appropriate approval limit in the relevant service Scheme of Financial Delegation. They are responsible for ensuring that all payment details provided are accurate and that supporting records and documentation are available to substantiate the payment, including an official VAT receipt to allow for the reclaim of any VAT element.
- 5.43 Appropriately authorised requests for payment will be processed and paid by BACS.
- 5.44 Non-invoice payments should be requested on an exceptional basis only. Where payments of this type need to be made on regular basis Heads of Service must consider, in conjunction with the Procurement Manager, other alternative options which may be more appropriate. For the full list of exceptional payment types check the guidance available via the Centranet>Tasks and Tools>Buying Products and Services> Procurement>Payment Methods.
- 5.45 Payments or reimbursements in respect of salaries and wages, travelling expenses or other employment allowances must be processed through the Payroll system and not treated as a non-invoice payment.

Purchase Cards

- 5.46 Purchase Cards are an effective method of payment for goods and services of low value and for one off purchases. Heads of Service are responsible for the appropriate deployment and management of VISA purchase cards within their service in accordance with the financial scheme of delegation.
- 5.47 Further guidance is available via the Centranet.

Imprest Accounts

- 5.48 Wherever possible, purchase cards will be used for low value transactions and where there are no mandated procurement contracts in place. However, in the limited circumstances when purchase cards cannot be used, the Chief Finance Officer may provide bank imprest (petty cash) accounts to meet minor expenditure on behalf of the Council.
- 5.49 Heads of Service are responsible for ensuring that where local arrangements are in place:
 - 5.49.1 Local Schemes of Financial Delegation set out clearly the responsibilities and approval limits of individual officers in respect of these arrangements; and that these are reviewed

and updated regularly

- 5.49.2 They are operated in accordance with guidance issued and that appropriate management supervision and compliance monitoring is undertaken
- 5.49.3 Adequate records are maintained to allow for the verification and reconciliation of all payments made to the Council's general ledger and bank accounts, and to allow for the proper treatment of VAT
- 5.49.4 Arrangements are being operated for legitimate Council business only.
- 5.50 Local arrangements may not be used in any circumstances to circumvent either the Council's Corporate Procurement Strategy and Contract Procedure Rules or agreed approval and authorisation procedures, nor must they be used for any payments in respect of salaries and wages, travelling or other employment expenses, or payments for work carried out under the Construction Industry Tax Deduction Scheme.

Payment to Members

- 5.51 The Executive Director (Corporate Services) is responsible for paying all allowances to Members.
- 5.52 The Executive Director (Corporate Services) will make payments to any Councillors entitled to claim allowances on receipt of the proper form, completed and certified in accordance with the approved scheme for allowances.

Taxation

- 5.53 It is the responsibility of the Chief Finance Officer, in conjunction with Transactional Services to:
 - 5.53.1 complete all Inland Revenue returns regarding PAYE
 - 5.53.2 complete a monthly return of VAT inputs and outputs to HM Revenue and Customs
 - 5.53.3 provide details to HM Revenue and Customs regarding the construction industry tax deduction scheme
 - 5.53.4 maintain up-to-date guidance for Council employees on taxation issues.
- 5.54 It is the responsibility of Corporate Leadership Team to:
 - 5.54.1 ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue and Customs regulations
 - 5.54.2 ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction

industry tax deduction requirements

- 5.54.3 ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency
- 5.54.4 follow the guidance on taxation issued by the Chief Finance Officer.

Trading Accounts and Business Units

- 5.55 As a general rule, separate trading accounts are required when services are provided to either internal or external clients, on a basis other than a straightforward recharge of full cost. It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts and business units.
- 5.56 It is the responsibility of Heads of Service to:
 - 5.56.1 consult with the Chief Finance Officer and Monitoring Officer where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of the main contract with the Council. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty
 - 5.56.2 observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited, and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts
 - 5.56.3 ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units
 - 5.56.4 ensure that each business unit prepares an annual business plan.

Alternative Service Delivery Vehicles

- 5.57 The Council has moved to a commissioning model and the creation of a series of Alternative Service Delivery Vehicles (ASDVs) forms an essential part of this strategy.
- 5.58 A framework has been developed to enable the Council to set up a series of new delivery vehicles in a way which enables the risks to be managed thoroughly and effectively. The aim of the framework is to ensure that all vehicles are given the best chance of succeeding, whilst safeguarding the interests of local tax payers. The framework document is available on the Cheshire East website.

- 5.59 The wholly owned companies currently operate within the Financial Procedure Rules of Cheshire East Council and it is within the responsibility of the companies to determine if this approach is to be continued.

6. External Arrangements

Why is this important?

- 6.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders.

Partnerships and Jointly Funded Projects

- 6.2 The Council is involved in a wide range of different 'Partnership' arrangements involving joint/external funding. The main reasons for this are:
- 6.2.1 the ability to provide new and better ways of delivering services.
 - 6.2.2 the ability to access new resources
 - 6.2.3 the desire to find new ways to share risk
 - 6.2.4 the ability to forge new relationships.
- 6.3 The Corporate Policy Committee will agree periodically a policy in respect of joint/external funding, which will establish the general framework within which proposals and bids should be developed. Any financial impact falling on the Council through such an arrangement should be met through existing budgetary resources without any overspending resulting from the Council's involvement.
- 6.4 Any partnership arrangement which involves the creation of, or participation in, separate legal entities such as joint ventures, trusts or limited companies requires the prior agreement of the Chief Finance Officer and the Monitoring Officer. Officers should also consider the need for a business case and compliance with the Project Gateway Process. Corporate Policy Committee approval will also be required where any agreement requires the Council to act as guarantor for a third party or accountable body. The creation of any new ASDVs will be in accordance with the ASDV Framework.

Definitions

- 6.5 A 'partnership' can be as straightforward as a contractual arrangement. Alternatively partnerships can be entered into under the Partnerships Act 1890 or the Limited Liability Partnerships Act 2000 where the arrangement is formed with a view to profit. Any partnership under the Acts is heavily regulated as to the liabilities of partners. The majority of the 'partnerships' entered into by the Council are where the Council agrees to work with one or more external agencies to deliver common

aims and objectives. These partner agencies could potentially be from a government department, any public, private, community or voluntary sector body or related party.

- 6.6 The Rules set out in this section deal with the approach to Partnerships. Further guidance can be provided by the Chief Finance Officer and the Monitoring Officer.

Public/Public Partnerships

- 6.7 Public/public collaborations may not need to go through any specific process. However, it may be that the Public Contracts Regulations 2015 do apply and a call for partners should be advertised in accordance with the Contract Procedure Rules. Further advice should be sought from the CPU or Legal Services.
- 6.8 It is important to recognise that the Council can have a different role, outlined below, depending on the exact nature of the Partnership.

Contributing Partner

- 6.9 Where the Council is contributing funding or other resources, to a wider partnership involving a partner or group of partners and where the 'Accountable Body' role is undertaken by another partner.

Lead Authority or Lead Partner

- 6.10 Where the Council leads on behalf of the Partnership or consortium and is responsible for the wider management of the Partnership and may take on liabilities that it is intended will be shared.

Accountable Body

- 6.11 The Council may, in certain circumstances, need to act as the 'Accountable Body'; even when the Council will not directly incur expenditure on behalf of the Partnership. The role assumes the responsibility for 'looking after another party's monies' and will require the putting in place of appropriate and robust financial accounting and monitoring systems with the aim of safeguarding resources and minimising any risks and potential liabilities falling to the Council.

Public/Private Partnerships

- 6.12 Defined as involvement with a private sector organisation or commercial enterprise, excluding those where a formal contract has been agreed when the Contract Procedure Rules will apply. Those contracts known as 'Partnering Contracts' and those funded by Private Finance Initiatives (PFIs) are not covered by this rule and fall under the Contract Procedure Rules.

Key Controls

- 6.13 The key controls to be considered before the funding of partnerships or other joint projects is agreed consist of:
- 6.13.1 ensuring that the key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood.
 - 6.13.2 ensuring that funds are acquired only to meet the priorities, aims and objectives approved by the Council, and to add value to the services provided to the local community.
 - 6.13.3 ensuring any finance (including any match funding), staffing, legal and audit requirements are given due consideration prior to entering into long term arrangements and that revenue budgets reflect these requirements.
- 6.14 These arrangements should be documented in the form of a Business Case in the format prescribed by the Director of Finance & Customer Services and be subject to the same Project Gateway process as all other Council proposals.

Responsibilities of Officers

- 6.15 Heads of Service are responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts and that appropriate standards of probity, stewardship and best value are secured. This will include ensuring that all appropriate claims and returns are promptly and accurately submitted.
- 6.16 The Corporate Leadership Team is responsible for developing a policy framework for partnership working and joint funding, identifying key principles to ensure probity and value for money and obtaining the appropriate Councillor approval. This should identify any potential future partnerships and a risk assessment of the potential impact on services and budgets that may arise.

Heads of Service

- 6.17 Before entering into any Partnership agreement involving joint funding, Heads of Service must consult the Monitoring Officer and the Chief Finance Officer, who will advise on the appropriate form of agreement or contract taking into account the nature and scale of the proposed arrangement and the extent of the legal and financial commitment involved. As a measure of good practice and as a minimum requirement, Heads of Service need to consider and apply all the following points, which are not exhaustive, to the agreement:
- 6.17.1 The overall purpose and objectives of the arrangement, including appropriate performance standards and output measures
 - 6.17.2 The constitutional and representational arrangements

including procedures for decision making and the extent to which powers and financial authority are to be delegated to individual officers

- 6.17.3 The period of the agreement, exit strategies, notice and termination arrangements including redundancy costs and other potential liabilities on termination
- 6.17.4 Roles and responsibilities of the various parties including arrangements for banking, taxation and VAT matters, employment contracts, insurances and ownership of assets
- 6.17.5 Auditing and reporting requirements and the applicability of these Finance Procedure Rules, other Council Regulations and Codes of Conduct
- 6.17.6 Financial and non-financial contributions to be made by the respective parties and, where the arrangement is to extend beyond one year, the method for calculating and collecting payments in future years
- 6.17.7 The named contact officer or project manager who will be responsible (within specified limits) for the Council's rights and obligations under the terms of the agreement and accountable for overall outcomes
- 6.17.8 A clear exit strategy, for example, in terms of any residual ongoing costs
- 6.17.9 Default procedures to be applied where the terms of the agreement are broken
- 6.17.10 Arrangements for Internal Audit staff to have sufficient access to partner's premises, assets and records as is necessary for the purposes of the partnership:
 - As a measure of best practice, all partnership agreements should be subject to a complete review at least every four years.
 - Add to partnership section of contracts register held by the CPU.

Approval Routes

- 6.18 The Council's gross contributions to Partnerships may include capital and revenue expenditure, cash flow costs, support in kind (including staff time) and the cost of preparing and submitting bids. It is particularly important to identify support in kind, both to ensure that all such costs are recovered, where grant conditions allow, and to enable service and corporate managers to plan effectively. Capital funding must also meet the specific capital appraisal requirements as set out in Section 3 of these Rules.

- 6.19 Following the officer consultation process and prior to entering into any agreement, approval, based on the Council's gross contribution over the life of the partnership* should be sought by the relevant Head of Service

** For the purpose of this paragraph the assumption is that a lifespan of no more than 4 years should be the norm, consistent with the Council's financial planning cycle.*

- 6.20 The approval of partnership proposals will be subject to the same financial limits as other contractual arrangements.

Additional Funding Allocations or Policy Variations

- 6.21 Partnerships often attract additional funding over and above their original levels of funding. If additional funding is made available which will result in the aggregate value remaining within the original approval limit then no further approval is required. Conversely if the additional funding increases the aggregate value to more than the original approval limit, then further approval is required in line with the routes identified above. Where the additional funding constitutes a variation from the policy originally agreed by the Committee, then further approval from the Committee is required.
- 6.22 If the contribution is to come from Council sources it will constitute a virement and Section 3 applies. Where the additional funding comes from an external source then approval for a fully funded supplementary estimate is required and Section 3 applies.

Bidding for Grant Funding

- 6.23 Directors are authorised, as set out in the Officer Scheme of Delegations, to submit applications for grant funding that align with Council priorities and initiatives in consultation with the relevant Chair, where there will be no net increase in Council expenditure. In the event that an application is successful, the decision making process for approval of the application, including acceptance of any conditions, will follow that set out in section 2 of these Financial Procedure Rules.

Reporting Requirements

- 6.24 Where the Council participates in any partnership or external funding arrangement either as a contributor or as an Accountable Body, an annual report must be presented to the appropriate Committee, outlining how sums have been used and the key outcomes and achievements. The report should also review the affordability and continued relevance of the arrangement to Service policies and objectives and seek appropriate Business Plan approval.
- 6.25 Notwithstanding any statutory reporting requirement, the Head of Service will be required to provide, regular reports on progress and outcomes, financial and non-financial, for each significant partnership to

the relevant Committee. Partnership projects should comply with the same regular reporting processes as other Council projects.

Support to Other Organisations

- 6.26 The Corporate Policy Committee will on a periodic basis, agree a policy setting down the approach to be taken to the allocation of grants, donations and other contributions to outside bodies.
- 6.27 Grants, donations and contributions will be paid by the Council in accordance with the policies determined under paragraph 6.26 above, subject to there being adequate provision in service budgets and the appropriate approvals being sought.

Approval level	Amount
Officers	Up to and including £50,000 (where grant is within approved grant policy and fully funded)
Relevant Corporate Leadership Team member in consultation with the Chair of the relevant Committee and Chair of Finance Sub-Committee	Between £50,000 and £100,000 (where grant is within approved grant policy and fully funded)
Committee	All Grants of £100,000 or more. All grants which do not fall within existing approved grant policy require Corporate Policy Committee approval.

- 6.28 The **Grant Funding Protocol** sets out further guidance on grant funding, consideration of state aid implications, the process for allocation and any conditions that should apply to any grant funding.
- 6.29 The rules in this section and the Grant Funding Protocol shall not apply to grant funding arrangements relating to Capital Funding for School Places applied for by the Council on behalf of Academies, Foundation, Voluntary Aided and Free schools as these arrangements are delegated in the Constitution to the Director of Children's Services in accordance with the Council's educational functions under the Education Acts.

Chapter 3 – Part 5

Contract Procedure Rules

1. General Rules

Why is this important?

These Contract Procedure Rules are intended to promote good purchasing practice, public accountability and deter corruption. Officers responsible for purchasing must comply with them. They lay down **minimum requirements** and a more thorough procedure may be appropriate for a particular contract. (For example, if a Rule would normally require that Quotes be obtained, it might be appropriate in particular circumstances to seek additional Quotations in writing or Tender submissions). Following the rules promotes probity, integrity and impartiality and is the best defence against allegations of fraud or corruption. Failure to follow the rules could result in disciplinary action.

Brexit impact

Many of the laws and practices within this Constitution, such as the UK public procurement regime, derive from EU laws, and are therefore impacted by Brexit.

As of 31 January 2020, the UK is no longer an EU Member State and its relationship with the EU is governed by the Withdrawal Agreement, which came into effect on 1 February 2020 and provided for a transition period until 31 December 2020.

The UK continues to be bound by the Public Contracts Regulations 2015 and the Concession Contracts Regulations 2016. Whilst they are based on EU Law the rules are unlikely to change significantly in the short term and most likely only to accommodate World Trade Organisation or other Trade Rules.

If at any time these rules differ from the law in force then the law must be followed as it will override any conflicting provision in these rules.

This Constitution and these Contract Procedure Rules will be kept under review during the implementation period and updated accordingly. For further guidance, please contact the Monitoring Officer.

Key considerations for Officers engaged in purchasing works, goods and services include:

- Follow the rules if you purchase goods or services or order building work;
- Take legal, financial and procurement advice;
- Declare any personal financial interest in a contract.
Corruption is a criminal offence;

- Check whether there is an existing Corporate Contract, Government Procurement Service framework, e.g. North West purchasing consortium, framework, procurement partnership or other purchasing arrangement you can make use of **before** undergoing a competitive process;
- Consider the social, economic and environmental wellbeing of the area and how this can be strengthened by delivering your needs locally (social value);
- Normally allow at least four weeks for submission of bids;
- Keep bids confidential;
- Complete a written contract or purchase order before the supply or works begin;
- Identify a contract manager with responsibility for ensuring the contract delivers as intended;
- Keep written records of dealings with suppliers;
- Report as required periodically on performance of the supplier; and
- Assess each contract afterwards to see how well it met the purchasing need and Best Value requirements.

Words in **bold** are defined in the [Glossary](#).

Thresholds

Throughout these rules there are references to Public Procurement Thresholds and these are set out in the table below:

	Supply, Services¹ and Design Contracts	Works & Concession Contracts²	Social and Other Specific Services³
Other public sector Contracting authorities	£189,330 (€214,000)	£4,733,252 (€5,350,000)	£663,540 (€750,000)

¹ With the exception of the following services which have different thresholds or are exempt:

- Social and other specific services (subject to the light touch regime) Article 74
- Subsidised services contracts specified under Article 13
- Research and development services under Article 14 (specified CPV codes are exempt).

² Except for subsidised works contracts specified under Article 13.

³ As per Article 74. Services are listed in Annex XIV.

2. Contract Procedure Rules which apply to ALL Contracts

Basic Principles

Introduction

- 2.1 Officers responsible for the procurement or commissioning of any goods, services, works or Concessions must comply with these Rules.
- 2.2 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
- 2.3 All references to Contract(s) in the Rules below also include, Framework Agreements, Dynamic Purchasing Systems and Concessions unless otherwise instructed.
- 2.4 All Contracts, procurement documentation, and procurement processes shall be consistent with the Council's Procurement Guides (available on Centranet), Procurement Strategy, Procurement legislation and these Rules.

Scope

- 2.5 The Rules apply to all Contracts procured on the Council's behalf.
- 2.6 For the avoidance of doubt, these Rules shall NOT apply to any of the following:
 - 2.6.1 The sale, leasing or purchase of land or immovable property, or any interest in land, provided the Council does not specify or control how the land is to be developed;
 - 2.6.2 Any contract of employment;
 - 2.6.3 Loans and treasury management decisions;
 - 2.6.4 The issue, purchase or sale of securities or other financial instruments (refer to Finance Procedure Rules).
- 2.7 The competition and procedure elements of these rules 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:
 - 2.7.1 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)
 - 2.7.2 Public-public co-operation, where the arrangement establishes or implements a collaboration between the Council and one or more contracting authorities with 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;

- 2.7.3 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).
- 2.7.4 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.

Legal Compliance

- 2.8 All procurement procedures and Contracts shall comply with these Rules and all legal requirements and no Officer, or Councillors shall seek to avoid them.
- 2.9 The only exception is where a valid waiver is granted under Section 7 of these Rules.
- 2.10 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.

Applicable Principles

- 2.11 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.

Contracts where the Council acts as agent

- 2.12 Where the Council acts as the agent for any of its wholly or partly owned companies or another council or public body or other company or organisation (Principal), these Rules shall apply unless the Principal in question instructs otherwise. Where the Council's wholly or partly owned companies act as agent for the Council, then these Rules shall

apply.

Calculating the financial value of a procurement

- 2.13 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:
- 2.13.1 The total amount payable (net of VAT) for the lifetime of the Contract being procured including any proposed options or renewal periods
 - 2.13.2 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 Public Procurement Threshold for goods, services or works
 - 2.13.3 The aggregate of 48 months' supply
 - 2.13.4 In the case of joint purchasing arrangements, the value shall be the aggregate of both/all parties' requirements that are the subject of the procurement.
- 2.14 No Officer or Councillor may seek to subdivide procurements, requisitions or individual spend amounts in order to avoid the application of these Rules or Public Procurement Legislation.

Sustainable Development

- 2.15 The Council endeavours to consider how it can help achieve sustainable development through its work by ensuring that there are good working conditions for our suppliers' employees, the products and services procured are sustainable and that socio-economic issues, such as equality and poverty, are addressed.

Social Value

- 2.16 Before starting a procurement process, the Public Services (Social Value) Act 2012 requires the authority to consider:
- 2.16.1 How what is proposed to be procured might improve the economic, social and environmental well-being of the area; and
 - 2.16.2 How, in conducting the process of procurement, the authority might act with a view to securing that improvement.

The above matters should influence the commissioning strategy and how local businesses can be supported relevant to what is proposed to be commissioned or procured.

- 2.17 Social value considerations (including any consultation) should be proportionate to the scale and nature of the Contract
- 2.18 Officers must have regard to the Council's Social Value Policy available at [Cheshire East Council social value policy](#).

Officer and Councillor Responsibilities

Powers / Authority

- 2.19 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. No Councillor may instruct Officers to act in a way that is inconsistent with these Rules.

Adequate Budget Provision

- 2.20 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.

Corporate Contracts

- 2.21 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.
- 2.22 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, the Corporate Contract must be used unless better value for money can be clearly evidenced by another method.

Performance Bond or Parent Company Guarantee

- 2.23 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:
- 2.23.1 Potential risk to the Council in the absence of a bond or parent company guarantee
 - 2.23.2 Known technical difficulties associated with the project
 - 2.23.3 The financial status of the provider(s)
 - 2.23.4 Whether it is relevant and proportionate to the Contract
 - 2.23.5 The period of the contract, and
 - 2.23.6 Any costs associated with the provision of the bond.

Conflicts of Interest

- 2.24 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. Conflicts also arise where there may have been involvement at an earlier stage or where someone has (or is perceived to have) already made up their mind on a course of action before a decision will be considered and made.
- 2.25 All Council Officers and Members (and third parties engaged on the Council's behalf) must take appropriate measures to effectively prevent, identify and seek to remedy conflicts of interests. Any conflict of interest must be declared in accordance with the Officer Code of Conduct, the Member Code of Conduct, and the Seven Principles of Public Life set out in those Codes.

Collaborative ArrangementsFramework Agreements

- 2.26 Paragraphs 3.1 to 3.10 and paragraphs 4.1 to 4.4 will not apply where the requirements in question are to be procured by using a Framework Agreement which itself has been procured through compliance with these Rules or from a Central Purchasing Body or other Public Body.
- 2.27 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 named in the OJEU/other notice for the Framework Agreement (either specifically or within a group of regional authorities) and therefore able to utilise that Framework Agreement.
- 2.28 The Procurement Officer must ensure that requirements are procured in accordance with the terms of the Framework Agreement (and where applicable Public Procurement Legislation).

Joint or Partnering Arrangements

- 2.29 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.
- 2.30 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 e.g. a Collaboration or 'Partnership Agreement', etc.) depending on the nature of the arrangements.
- 2.31 Under any such agreement, where the Council is responsible for procuring anything, these Rules shall apply, regardless of who shall enter into the resultant contract.
- 2.32 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.

- 2.33 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.

E-Procurement

Electronic Tendering

- 2.34 All tendering above the relevant Public Procurement Threshold (and for Contracts which are below the Public Procurement Thresholds but higher than £25,000 in value) must be undertaken via an electronic tendering method and shall use the e-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.

Records

Contracts Register

- 2.35 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. Copies of the contracts will be provided to Legal Services for retention.

Expenditure approval process

Pre-Contract requirements

- 2.36 All Officers requiring to commit expenditure in order to acquire goods, services or works on behalf of the Council must:
- 2.36.1 Obtain the prior approval of the relevant decision maker who has authority to give such approval under the constitution. This approval is subject to having sufficient budgetary provision and being included in the Council's capital programme or revenue budget.
 - 2.36.2 Complete a business case and risk log for all expenditure over £250k which is approved by the Commissioning and Procurement Board.
 - 2.36.3 Ensure that supplies of a similar type are procured together

where it is practicable and cost effective to do so

- 2.36.4 consider the Social Value implications
- 2.36.5 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
- 2.36.6 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)
- 2.36.7 make sure that the Forward Plan and publicity requirements have been followed where appropriate.
- 2.36.8 Give regard to Best Value and the Public Sector Equality Duty and ensure that consultations with the public have been carried out as required.

Community Right to Challenge

- 2.37 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.
- 2.38 When the Council accepts an EOI it must run a procurement exercise and award any Contract following these Rules.

3. Contracts below the Public Procurement Threshold

Competition Requirements

Advertising and Procedure

- 3.1 Where the estimated cost of any requirements to be ordered on behalf of the Council is less than the applicable Public Procurement Threshold then proposals shall be invited as outlined below:
 - 3.1.1 Up to £10,000 – 3 quotes are advisable but not mandatory (local firms being preferable where appropriate)
 - 3.1.2 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
 - 3.1.3 Between £25,000 and the applicable Public Procurement Threshold – A minimum of three quotations shall be sought via the E-tendering Portal, and/or Find a Contract Service together with advice from the CPU or Legal Services on the appropriate form of Contract
- 3.2 Where compliance with 3.1.3 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.

- 3.3 The requirement in 3.1.3 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.
- 3.4 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 there is available budget provision.

Award Criteria

- 3.5 Below Public Procurement 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 where appropriate.
- 3.6 The Award Criteria and their relative importance must be set out in the competition Request for Quotation documents.

Best and Final Offer (BAFO)

- 3.7 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).
- 3.8 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.
- 3.9 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.

4. Contracts At or Above the Public Procurement Threshold

Competition Requirements

Advertising and procedure

- 4.1 Advertisement of Contracts over the Public Procurement Threshold shall be advertised additionally on the Government's Find a Contract Service.

Award Criteria

- 4.2 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.
- 4.3 The Award Criteria and weightings must be set out in the Invitation to Tender.

Forms of procurement

- 4.4 The Public Procurement Legislation sets out the procedures which can be used to procure Contracts at or exceeding the Public Procurement Thresholds. These include:
 - 4.4.1 Open Procedure
 - 4.4.2 Restricted Procedure
 - 4.4.3 Competitive Procedure with Negotiation
 - 4.4.4 Competitive Dialogue
 - 4.4.5 Innovation Partnerships
 - 4.4.6 Call Off from a Framework Agreement
 - 4.4.7 E-auction
- 4.5 Other procedures are possible for Contracts for Light Touch Regime Services (as defined in Public Procurement Legislation) and for Concessions Contracts.
- 4.6 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.
- 4.7 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.
- 4.8 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.

5. Procedures for ALL Requests for Quotation and Invitations to Tender

Application and Documentation

Application

- 5.1 This Part 5 applies to all Contracts over £25,000 in value (including those at or above the relevant Public Procurement Threshold).
- 5.2 Procurement procedures for Contracts below £25,000 will follow any guidance issued by CPU and will be assessed on their risk.

Documentation

- 5.3 All Requests for Quotations (RFQs) and Invitations to Tender (ITTs) shall include the following:
 - 5.3.1 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 (unless there are exceptional circumstances)
 - 5.3.2 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
 - 5.3.3 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
 - 5.3.4 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
 - 5.3.5 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
 - 5.3.6 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)
 - 5.3.7 Notification that amendments must not be made to the contract documents by the Bidder (unless appropriate for the procurement procedure)
 - 5.3.8 Notification to the bidder that the Council is not bound to accept any or all tenders.

- 5.4 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.
- 5.5 An electronic contracts register will be maintained by the CPU and copies of Contracts are to be provided to Legal Services for retention.

Closing Date for Receipt of Bids

- 5.6 Bids received after the fixed date and appointed time, shall NOT be opened or considered, unless there are exceptional circumstances as agreed by the Procurement Manager, who will consult with Legal Services where appropriate.
- 5.7 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 documents.

Method of Opening Bids

- 5.8 In respect of Bids received electronically, ONLY a Verifying Officer as designated within the E-tendering Portal will have permission to open the Bids:
 - 5.8.1 Bids above £1,000,000 will be verified by Legal Services
 - 5.8.2 Bids from the Public Procurement 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
 - 5.8.3 Bids between £25,000 and the Public Procurement Threshold will be verified by a Procurement Officer that has not been involved in the procurement process in question
 - 5.8.4 Bids between £10,000 and £25,000 will be opened in accordance with any guidance issued by CPU from time to time.

Evaluation of Bids

Evaluation and Award

- 5.9 Bids shall be evaluated and awarded on the basis of the value for money they offer to the Council.
- 5.10 For Bids over the Public Procurement Threshold this must be in line with:
 - 5.10.1 MEAT (Most Economically Advantageous Tender) 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

- 5.10.2 Bids shall be evaluated and awarded in accordance with Award Criteria and weightings determined, and documented in an Evaluation Matrix,
- 5.10.3 The relevant Public Procurement Legislation should be considered in determining what shall be included in the evaluation of cost.

Evaluation Panel

- 5.11 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.
- 5.12 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. The Monitoring Officer and the Chief Finance Officer should be involved in any procurement exceeding £1M in value. Councillors shall not be involved in any Evaluation Panel.

Evaluation Matrix

- 5.13 The Evaluation Matrix will consist of defined evaluation criteria and weightings.
- 5.14 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.
- 5.15 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.

Moderation

- 5.16 The Evaluation Panel will discuss their individual scores and must reach agreement on a consensus panel score and justifying comments.
- 5.17 Any consensus scores and applicable justifying comments must be recorded in the Evaluation Matrix for the procurement process.
- 5.18 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 by all personnel and relate solely to the relevant Award Criteria.

Clarification

- 5.19 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 – negotiation is not permitted. 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.

- 5.20 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.
- 5.21 All clarification questions and returns must be noted and any amended scores which result from clarification are to be updated in the Evaluation Matrix.
- 5.22 For above Public Procurement Threshold procurements, post Bid negotiation will not be acceptable unless permitted within the procedure available within Public Procurement Legislation.
- 5.23 For Contracts below the Public Procurement Thresholds in value, a best and final offer (BAFO) stage may be used.

Acceptance of Bids

- 5.24 Bids may be accepted by the relevant Executive Director provided that all of the following apply:
 - 5.24.1 the Bid complies with the requirements, conditions and criteria set down in any OJEU/other notice and in the RFQ/ITT including any applicable selection criteria and Award Criteria
 - 5.24.2 the Bid proposed to be accepted is the most economically advantageous tender (or, where appropriate for Contracts below the Public Procurement Threshold, is the lowest priced Bid)
 - 5.24.3 where a Bid for a Contract above the Public Procurement 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
 - 5.24.4 Council or Committee approval has been given to spend the resources, if required.

Debrief – Intention and Award

- 5.25 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.
- 5.26 For Bids above Public Procurement 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.

Errors in Tender

- 5.27 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:
- 5.27.1 The Procurement Manager should be consulted (who should consult Legal Services as necessary)
 - 5.27.2 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.
- 5.28 Clarification surrounding such errors shall be sought in writing via the E-tendering Portal.
- 5.29 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.

6. Contracts and Post Procurement Requirements**Conditions of Contract**

- 6.1 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 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.

Signed Contracts

- 6.2 Subject to paragraph 6.3 below, 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.

Contract Sealing

- 6.3 A Contract must be executed under seal by Legal Services where any of the following apply to the Contract:
- 6.3.1 It exceeds £1,000,000 in value
 - 6.3.2 Where the Contract is such that Legal Services consider that an extended limitation period of at least 12 years would be of value
 - 6.3.3 Where it is required by statute or an external funding body that it is executed under seal
 - 6.3.4 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

- 6.3.5 Where it is a construction-related or works Contract and it is required to be sealed in accordance with guidance issued by CPU.

Authorisation of Payments

- 6.4 Payments under the contract shall be approved by an authorised Officer in accordance with the local Scheme of Delegation.

Modification to Contracts

- 6.5 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.

Payments before Completion of Formal Contract

- 6.6 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.
- 6.7 Staged payments are permitted. Any such payments should only be made upon receipt of the desired requirements for that stage / milestone. Should the desired 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.
- 6.8 Advance payments are generally not permitted and the only exceptions without further approvals being required, shall be for:
- 6.8.1 software licences
 - 6.8.2 hardware and / or software support and / or maintenance
 - 6.8.3 warranties
 - 6.8.4 deposits
 - 6.8.5 leases / hires.
- 6.9 If any other reason arises for an advance payment to be made, approval must be sought from the relevant Executive Director and the Monitoring Officer in advance.

Monitoring of Contracts

- 6.10 All Contracts should be monitored throughout the period of the Contract, and the performance of providers should be reviewed regularly,

including:

- 6.10.1 how savings might be achieved within the contract period
 - 6.10.2 compliance with the specification and contract
 - 6.10.3 performance
 - 6.10.4 any social value and best value requirements
 - 6.10.5 levels of insurance
 - 6.10.6 user satisfaction, and
 - 6.10.7 risk management.
- 6.11 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.

Contract Extensions

- 6.12 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.
- 6.13 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.
- 6.14 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.
- 6.15 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 Public Procurement Threshold Contracts, the relevant OJEU Notices:
- 6.15.1 it is not possible to extend a Contract, after it has expired. Any such requests will be viewed as new Contracts and the relevant provisions with these Rules must be followed.
 - 6.15.2 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 paragraph 6.6 must be followed.

7. Waiver and Breach

Waiver

Waiver Process

- 1.1 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
 - £10,000 - £25,000 – the Procurement Manager
 - Above £25,000 – the Chief Finance Officer and the Monitoring Officer
- 1.2 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:
 - 1.2.1 Advice and guidance must be sought from the Procurement Manager prior to submission of the waiver form to the Chief Finance Officer and Monitoring Officer. If approval is granted, it is still required that an appropriate contract be entered into prior to any requirements being provided by the provider.
 - 1.2.2 The waiver of these Rules and the reason(s) for waiver shall be clearly recorded and reported to the Commissioning and Procurement Board.
 - 1.2.3 All notices of waiver reported to the Procurement Board shall be published retrospectively for information on the next Audit and Governance Committee agenda.
- 1.3 Exemptions from the above requirements may be agreed for instances of:
 - 1.3.1 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.
 - 1.3.2 Significant reputational risk or where such an exemption is required to ensure continuity or to safeguard the Councils interests.
 - 1.3.3 Where there is genuinely only one approved supplier, such as for works of art, copy right material, or unique technology,

where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the procurement.

- 1.3.4 The selection of a supplier whose usage is a condition of a Grant funding approval.
- 1.3.5 The selection of a supplier on the instruction of a third party, providing the whole of the funding is met by the third party.
- 1.4 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 Chief Finance Officer and Monitoring Officer and the relevant Executive Director following the incident.

Breach

- 1.5 No Officer or Councillor may seek to actively avoid the application of these Rules.
- 1.6 Officers and Councillors must be aware that any non-adherence with these Rules may be a breach of the Officer Code of Conduct / Councillor Code of Conduct and could result in disciplinary action.
- 1.7 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.

Reporting and Investigating Breaches

- 1.8 Any breach of, or non-adherence to, these Rules must, on discovery, be reported immediately to the Chief Finance Officer and the Monitoring Officer. The relevant Director or his/her designated representative shall complete the waiver process (detailed at paragraphs 7.1 to 7.3 above) outlining the reasons for the non-adherence and the steps taken to prevent a re-occurrence.
- 1.9 The relevant Director or his/her designated representative will be required to submit the form for sign off by the Chief Finance Officer and the Monitoring Officer.
- 1.10 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 the Commissioning and Procurement Board shall be published retrospectively for information on the next Audit and Governance Committee agenda.
- 1.11 The Chief Finance Officer and Monitoring Officer 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 Director and the Chief Executive.

- 1.12 The Audit and Governance Committee shall be entitled to review these Procedure Rules and how they have been applied in practice and decide whether to recommend changes to Full Council for approval.

Chapter 3 – Part 6

Employment Procedure Rules

General

- 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.
- 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.
- 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.
- 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.
- 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.

Recruitment and Appointment of Staff

- 6 Any candidate for any designation or appointment with the Council who knows that he/she is related to, or a close personal friend of, a Councillor or senior officer of the Council shall, when making an application, disclose, in writing, that relationship to the Head of 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.
- 7 Every Councillor and employee shall disclose to the Head of 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.
- 8 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.

- 9 Persons shall be deemed to be related to a councillor 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.
- 10 In the case of a dispute under paragraph 9 above about the status of a relationship in relation to an appointment, the Head of HR will rule and such ruling will be applied.
- 11 The Head of 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.

Responsibility of the Corporate Policy Committee

- 12 In addition to these rules, the responsibilities of the Corporate Policy Committee are set out in the Committee's Terms of Reference under the "Responsibilities for Functions" Section of this Constitution.
- 13 Subject to the provisions of these Rules, the Committee is responsible for hearing and determining appeals as set out in the Corporate Policy 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 (particularly discipline of the Statutory Officers).

Appointment of Head of the Paid Service

- 14 The appointment of Head of the Paid Service is subject to specific requirements as set out below.
- 15 Where the Council proposes to appoint to the Head of the Paid Service, the Corporate Policy Committee will oversee the arrangements for filling the vacancy.
- 16 The Corporate Policy Committee shall:
 - 16.1 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
 - 16.2 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
 - 16.3 make arrangements for a copy of the statement mentioned above to be sent to any person on request
 - 16.4 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.

- 17 Following the interview of candidates, the Committee will come to a view as to the most suitable person to recommend for the position.
- 18 The Committee must advise the Head of HR of:
 - 18.1 the name of the person in question
 - 18.2 any other particulars which the Committee consider are relevant to the appointment.
- 19 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.
- 20 Where following the interviews the Committee is of the view that there is no suitable candidate, it will re-advertise the post.
- 21 Where the Council does not approve the recommendation of the Committee, it shall indicate how it wishes to proceed.

Other Chief Officers and Deputy Chief Officers

- 22 The offer of appointment for:
 - 22.1. a statutory chief officer within the meaning of section 2(6) of the 1989 Act
 - 22.2 a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act or
 - 22.3 a deputy chief officer within the meaning of section 2(8) of the 1989 Act

must not be made by the appointor until the appointor has notified the Head of HR 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 and such terms fall within the Council's approved Pay Policy Statement.

Dismissal of Head of Paid Service, Monitoring Officer and Chief Finance Officer

- 23 Dismissal of the Designated Statutory Officers of the Council (the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer) (the 'DSOs') will be dealt with in accordance with the Investigation and Disciplinary Committee Terms of Reference above in **Chapter 2 – Part 4 – Committees**, together with the detailed guidance provided in the IDC Handbook which is included on the list of associated documents in **Chapter 7**. The requirements of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) and the Model Disciplinary Procedure and Guidance as set out in the JNC Conditions of Service Handbook will be followed in this regard.

- 24 Notice of dismissal shall not be given before such dismissal has been approved by full Council.

Political Assistants

- 25 Where the Council decides to appoint political assistants it must do so in accordance with the requirements of the Local Government and Housing Act 1989 which

- (a) prohibits the making of an appointment to any post allocated to a political group until the authority have allocated a post to each of the groups which qualify for one;
- (b) prohibits the allocation of a post to a political group which does not qualify for one; and
- (c) prohibits the allocation of more than one post to any one political group.

- 26 The posts shall be filled from time to time in accordance with the wishes of a political group to which the post has been allocated.
- 27 The terms on which any person is appointed to or holds any appointment must be such as to secure that the annual rate of remuneration for the post is less than the amount specified by legislation and that the appointment terminates at or before the end of the day in the appropriate year on which the authority holds the annual meeting.

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CHESHIRE EAST COUNCIL CONSTITUTION

Remember to delete when complete

Date	Version	Author	Summary of amendments made
15.03.21	1	J Barnes BB	Update
22.03.21	2	J Barnes BB	Update s151 to CFO; check Glossary words/expressions are in the Constitution and update
23.03.21	3	D Brown CEC	
8.04.21	4	J Barnes BB	Updated following receipt of councillor comments and Constitution Committee

EDITION: April 2021

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Chapter 4

Codes and Protocols

This part of the Constitution covers the following areas:

Part	Title	Contents
1	Councillor Code of Conduct	<p>This part sets out the ways in which Councillors must conduct themselves. It covers such things as:</p> <ul style="list-style-type: none"> • General obligations • Registering and declaring interests • Pre-determination and bias
2	Officer Code of Conduct	<p>This part sets the ways in which all employees of the Council must conduct themselves. It covers such things as:</p> <ul style="list-style-type: none"> • The Values of the Council • The Council's Core Principles • The Council's Core Standards • Additional standards relevant to particular groups of employees • Guidance on compliance with the Code • Associated forms and referral points
3	Councillor / Officer Protocol	<p>This Protocol is to guide Councillors and Officers in their relations with one another in such a way as to ensure the smooth running of the Council.</p>
4	Planning Code of Conduct	<p>An additional Code of Conduct for Councillors on Planning matters</p>
5	Whistleblowing Policy	<p>Although not a formal part of the Council's Constitution, it is considered useful to provide a link to the Whistleblowing Policy in this document.</p>

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Chapter 4 – Part 1

Councillor Code of Conduct

- 1 Cheshire East Council has adopted this Code of Conduct to promote and maintain high standards of conduct and underpin public confidence in the authority and its Councillors and co-opted Members (referred to collectively in this Code as “Members”).
- 2 The Code has been adopted under the Localism Act 2011 and is based on the following core principles of public life:
 - 2.1 Selflessness
 - 2.2 Integrity
 - 2.3 Objectivity
 - 2.4 Accountability
 - 2.5 Openness
 - 2.6 Honesty
 - 2.7 Leadership
- 3 The Code sets out general obligations about the standards of conduct expected of Members and co-opted Members of the authority, together with provisions about registering and declaring interests.

General obligations

- 4 Whenever you are acting as a Member or co-opted Member of this authority you must act in accordance with the following obligations:

Selflessness

- 4.1 You must act solely in the public interest and must never use or attempt to use your position improperly to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, friends or close associates.

Integrity

- 4.2 You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

Objectivity

- 4.3 When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
- 4.4 You should remain objective, listen to the interests of all parties appropriately and impartially and take all relevant information, including advice from the authority's officers, into consideration.
- 4.5 You should exercise independent judgement. Although you may take account of the views of others (including a political group), you should reach your own conclusions on the issues before you and act in accordance with those conclusions.

Accountability

- 4.6 You are accountable to the public for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office, including appropriate scrutiny by local residents.

Openness

- 4.7 You must be open and transparent where possible about your decisions and actions and the decisions and actions of your authority. You should be prepared to give reasons for those decisions and actions.

Honesty

- 4.8 You must declare any personal, pecuniary and non-pecuniary interests that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests as set out in Part 2 below.
- 4.9 You must only use or authorise the use of the authority's resources in accordance with the authority's requirements. You must, when using or authorising the use of such resources, ensure that they are used for proper purposes only. Resources must not be used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity in force from time to time.

Leadership

- 4.10 You must promote and support high standards of conduct when serving as a Member of the authority, by leadership and example, championing the interests of the community.
- 4.11 You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

Respect for Others

- 4.12 You must treat others with courtesy. You should engage with colleagues and staff in a manner that underpins mutual respect and courtesy, essential to good local government.
- 4.13 You must not:
- (i) do anything which may cause your authority to breach any equality laws
 - (ii) compromise or attempt to compromise the impartiality of anyone who works for, or on behalf of, the authority
 - (iii) bully¹ any person, including other Councillors, officers of the authority or members of the public
 - (iv) intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct.

Information

- 4.14 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except² where:
- (i) you have the written consent of a person authorised to give it
 - (ii) you are required by law to do so
 - (iii) the disclosure is made to a professional third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person, or
 - (iv) the disclosure is reasonable, in the public interest; and made in good faith and in compliance with the reasonable requirements of the authority.

¹ "Bullying" may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour and includes "cyber bullying". It may happen once or be part of a pattern of behaviour. It can be contrasted with the legitimate challenges a member may make in challenging policy or scrutinising performance. You may challenge others as to why they hold their views but must take care to raise issues in the appropriate forum and in an appropriate way. Ideas and policies may be robustly criticised but individuals should not be subject to unreasonable or excessive personal attack.

² It is your responsibility to ensure that any judgement you make in relying on any exception will stand up to rigorous objective scrutiny. In the case of any doubt advice should be sought from the Monitoring Officer or an independent qualified legal advisor.

- 4.15 You must not prevent another person from gaining access to information to which that person is entitled by law.

Gifts and Hospitality

- 4.16 You must within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a Member from any person or body other than the Authority. The Monitoring Officer will place your notification on a public register of gifts and hospitality which will be made available on the Council's website.

Registering and Declaring Interests

Registering and Declaring Interests – General Requirements

- 5 You must, within 28 days of:
- 5.1 the adoption of this Code
 - 5.2 taking office as a Member
 - 5.3 becoming aware of any new interest not already registered
 - 5.4 becoming aware of any change to any interest already registered
- notify the monitoring officer in writing of any disclosable pecuniary interest, or other type of interest as defined by this Code.
- 6 If you become aware of any such interest not already registered (or the subject of pending notification) during the course of any meeting of the authority at which you are in attendance then you must disclose the interest to the meeting, take the action required by the Code depending on the nature of the interest and notify the Monitoring Officer of the interest in accordance with the provisions of this Code.

Sensitive Interests

- 7 A 'sensitive interest' is described in the Localism Act 2011 as an interest the nature of which is such that the Member and the authority's Monitoring Officer consider that disclosure of the details of the interest could lead to the Member or a person connected with the Member being subject to violence or intimidation.
- 8 Where you consider that you have a sensitive interest, and the Monitoring Officer agrees, that part of the register recording that interest will not be published or made available for public inspection. A declaration of interests must still be made at a meeting where relevant, but the sensitive information need not be disclosed.

Disclosable Pecuniary Interests

- 9 A [disclosable pecuniary interest is defined by statute](#) and is subject to change from time to time.

- 10 Unless dispensation has been granted, if you are present at any meeting of the authority and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting, you must leave the meeting while any discussion or voting on that matter takes place. You may not participate in any discussion of the matter at the meeting and you may not participate in any vote taken on the matter at the meeting.
- 11 You must not discharge or participate in the discharge of any function related to any matter in which you have a disclosable pecuniary interest.
- 12 Failure to comply with these requirements of the Code may amount to a criminal offence.

Other Interests – Personal Interests

- 13 In addition to disclosable pecuniary interests referred to above, you must also declare personal interests.
- 14 You have a personal interest in any business of the authority where the business of the authority relates to or is likely to affect any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority.
- 15 You will also have a personal interest in any business of the authority where the business of the authority relates to or is likely to affect any body exercising functions of a public nature, which is directed to charitable purposes or whose principle purposes includes influencing public opinion or policy where you are a member of that body or in a position of general control or management.
- 16 The Audit and Governance Committee may, from time to time, prescribe certain bodies the membership of which amounts to a personal interest.
- 17 You will also have a personal interest in any business of the authority where a decision in relation to that business might reasonably be regarded as affecting your wellbeing or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of other Council tax payers, ratepayers, or inhabitants of the electoral division or ward, as the case may be, affected by the decision.
- 18 For the purposes of this Code, a relevant person is:
 - 18.1 a member of your family or any person with whom you have a close association, or
 - 18.2 any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors, or
 - 18.3 any person or body in whom such persons have a beneficial interest and a class of securities exceeding the nominal value of £25,000 or one hundredth of the total issued share capital of that body.

- 19 Unless your personal interest also amounts to a prejudicial interest, a disclosable pecuniary interest or pre-determination, you may remain in the meeting and take part in the debate and vote.

Other Interests – Prejudicial Interests

- 20 You will have a prejudicial interest if you have a personal interest in any business of the authority and where that personal interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business:
- 1.1 affects your financial position or the financial position of a relevant person or body described in paragraph 14 or 15 above, or
 - 1.2 relates to the determination of any approval, consent, licence, permission or registration in relation to you or any relevant person or body described in paragraph 14 or 15 above.
- 21 Where you have a prejudicial interest, you may not participate in any discussion of the matter at the meeting or in any vote taken on the matter at the meeting. You are also required to leave the room where the meeting is taking place during the discussion and vote. However you may attend the meeting and make representations, answer questions or give evidence provided that the public are also allowed to attend the meeting for the same purpose and you leave the meeting immediately after having done so.

Pre-Determination and Bias

- 22 Separately from considerations as to personal, prejudicial or disclosable pecuniary interests, Councillors must be mindful of falling foul of the general obligations of this code by taking part in decisions where they are biased or have pre-determined the matter in question.
- 23 Simply put, a Councillor will be biased or will have pre-determined a matter if they have approached a matter with a closed mind. That is to say, if they have made up their mind on which way they will decide a matter before all of the relevant considerations are presented and debated in the appropriate decision-making forum.
- 24 Previous actions or statements of a Councillor will not be taken by themselves as proof of predetermination. A Councillor may be predisposed to a certain point of view, however notwithstanding any predisposition, Councillors need to be careful to ensure they approach and, insofar as is possible, are seen to approach decisions with an open mind.
- 25 Particular scenarios to be mindful of are where a Councillor, in some other role, is seen to be a promoter or advocate for a proposal which later comes before them for decision. A risk arises when there has been significant personal involvement in preparing or advocating the proposal such that a Councillor may become or may be perceived by the public as being no longer able to approach the decision with an open mind.

- 26 If you feel that you have pre-determined a matter you should say so. You should not speak or vote on the proposal. You may, however, make representations on the proposal if a member of the public also has the right to do so. You are not legally obliged to withdraw from the meeting for the remainder of the debate and vote but in most circumstances doing so will counter any suggestion that you influenced the remaining Councillors by your continued presence. If you do not withdraw, as a minimum you must withdraw to the public area of the meeting room for the whole of the consideration of the matter, whether or not you are also exercising your right to speak.
- 27 If in any doubt you should seek advice from the Monitoring Officer.

Further Information

- 28 The Monitoring Officer, in consultation with the Chair of the Audit and Governance Committee, will publicise from time to time arrangements for [dealing with complaints made against Councillors](#) that their conduct has breached the requirements of this code. The Monitoring Officer will publicise from time to time a Monitoring Officer Protocol reflecting current trends in Councillor Conduct matters in order to provide guidance on how emerging or common issues will be approached.

Dispensations

- 29 The Audit and Governance Committee may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a prejudicial or disclosable pecuniary interest.
- 30 The following dispensations have been granted to all Councillors up to 28 September 2024:
- (a) Any allowance, payment or indemnity given to Councillors;
 - (b) Any Ceremonial Honours given to Councillors;
 - (c) Statutory sick pay under Part X1 of the Social Security Contributions and Benefits Act 1992 where they were in receipt of or entitled to receive such pay;
 - (d) Setting the Council Tax or a precept under the Local Government Finance Act 1992 (or any subsequent legislation);
 - (e) Setting a Local Council Tax Reduction Scheme or Local scheme for the payment of business rates (Including eligibility for rebates and reductions) for the purposes of the Local Government Finance Act 2012 (or any subsequent legislation);
 - (f) School Meals or School Transport or Travelling expenses where the Councillor is a parent/guardian of a child in full time education or a parent governor (unless the matter relates specifically to the school the child attends);

- (g) To the extent that it may amount to a prejudicial or disclosable pecuniary interest, any allowance or other remuneration received from the Council in respect of Council duties or directorships of Council owned ASDVs; and
- (h) To allow Councillors to take part and vote on Community Governance Review matters in which they have disclosable pecuniary and prejudicial interests.

Extract from the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

- The following categories are Disclosable Pecuniary Interests
- “M” denotes the relevant Elected Councillor
- The regulations apply if the disclosable pecuniary interest is yours, your spouse’s or civil partner’s or is the pecuniary interest of somebody with whom you are living as a husband or wife or as if you were civil partners

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a Member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(1).

Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	<p>Any beneficial interest in land which is within the area of the relevant authority.</p>
Licences	<p>Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.</p>
Corporate tenancies	<p>Any tenancy where (to M's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

Chapter 4 – Part 2

Officer Code of Conduct

1. [Core Principles](#)
2. [Core Standards](#)
3. [3. Code of Conduct](#) Standards – Guidance
4. [Associated Forms and Referral Points](#)
5. [Code of Conduct – Matrix of Regulations and Standards Relevant to Specific Directorates](#)
6. [Cheshire East Core Values “FIRST Framework”](#)

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1. Core Principles

- 1.1 The following core principles underpin the concept of public service and apply to all employees of the Council regardless of the nature of the job they do:

SELFLESSNESS

Employees should take decisions solely in the terms of the public interest. They should not do so nor use their position in order to gain financial or other material benefits for themselves, their family or their friends.

INTEGRITY

Employees should not place themselves under any financial or other obligations to outside individuals or organisations that might influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts or recommending individuals for rewards and benefits, employees should make decisions on merit.

ACCOUNTABILITY

Employees are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Employees should be as open as possible about all decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

HONESTY

Employees have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

RESPECT FOR OTHERS

Employees must treat other people with respect and not discriminate unlawfully or unfairly against any person. They must treat Councillors and other co-opted Members of the authority professionally.

TRUST

Employees must, at all times, act in accordance with the trust that the public is entitled to place on them. Employees must use any public money or service users' money entrusted to or handled by them, in a responsible and lawful manner and not make personal use of the Council resources unless properly authorised to do so.

LEADERSHIP

Employees should promote and support these principles by leadership and example.

- 1.2 The Code of Conduct principles operate within the overall framework of the Core Values. Our Values for Cheshire East are depicted by the acronym FIRST (explained further in Section 6 of this document).

2. Core Standards

- 2.1 Our residents and customers, the general public, are entitled to expect the highest Standards of Conduct from us. The aim of this Code is to tell you about the standards which are expected and to help you avoid any misunderstanding or criticism.

- **Gifts and Hospitality**
- **Sponsorship**
- **Use of Financial Resources**
- **Use of Council Facilities**
- **Intellectual Property**
- **Political Neutrality**
- **Other Employment and External Activities**
- **Financial and Non-Financial Interests**
- **Relationships**
- **Appointments and Other Employment Matters**
- **Tendering and Contracts**
- **Private Use of Firms Dealing With The Council**
- **Disclosure of Information**

- **Compliance with the Code and Confidential Reporting**

- 2.2 You should also be aware of and abide by Service specific Standards or Regulations, especially when working with vulnerable adults and children or working in a school. The rules within the Standards of Conduct, for staff in Community Services, for example, if you are offered a gift, are much stricter than those included in this standard Code of Conduct.
- 2.3 Please liaise with your Manager who should refer you to the appropriate Standards. At the end of the Code of Conduct Guidance notes, you will also find a matrix to help sign post you to other relevant Standards.

3. Code of Conduct Standards – Guidance

Gifts and Hospitality

- 3.1 If we accept gifts from people who are or may be dealing with the Council, the Council and its employees could be open to criticism. If you are declining hospitality please do so courteously and explain that the Council's rules do not allow you to accept.
- 3.2 You must refuse offers of hospitality where suggestions of improper influence is possible. Employees must be sensitive to the timing of any decisions being made between the Council and third party.
- 3.3 You should only accept hospitality where it is on a scale appropriate to the circumstances, and where it is apparent that no cause could reasonably arise for adverse criticism about the acceptance of the hospitality. Hospitality is usually acceptable when the invitation is corporate not personal.
- 3.4 Whatever gift/hospitality is provided to you, other than hospitality of nominal value only such as drink or small items of stationery, you should report the circumstances and the type of hospitality to your Head of Service. Small insignificant gifts of a value of less than £50, such as pens, diaries, calendars, mouse mats or mugs, may be accepted. However, in the case of those working in social care, no gift, however little the value, should be accepted in any circumstances.
- 3.5 It is a serious criminal offence to corruptly receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

! If you are presented with a gift or offer of hospitality you must seek authorisation in advance, where possible, from your Head of Service, who will record every request on the relevant form. (Consider the decision checklist in section 4 of the Guidance Notes)

- 3.6 All employees are required to complete an annual declaration of interest return, even if this is to confirm that they have nothing to declare, and then to report issues as and when they occur.

Sponsorship – Giving and Receiving

- 3.7 If an organisation wants to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic rules about accepting gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 3.8 If the Council sponsors an event or service, you or anyone connected with you may not benefit from the sponsorship. Similarly, if the Council, gives financial support in the community, please ensure that impartial advice is given and that you have no conflict of interest.

! You must inform your Head of Service of any personal interest you may have and complete a declaration of interest form.

Use of Financial Resources

- 3.9 You must ensure that you use public funds entrusted to you in a responsible and lawful manner. Please try to ensure value for money to the local community and to avoid the risk of legal challenge to the Council.

! Employees must follow Standing Orders, Financial Regulations and operating procedures and advise management where they consider changes can be made to increase value for money.

Use of Council Facilities

- 3.10 At work you have access to facilities which include office equipment, computers, stores, transport etc. These facilities are provided purely for work and you must not use them for your own purposes.
- 3.11 There are certain minor exceptions to these rules - the use of telephones, fax machines and photocopiers on an incidental basis in line with our policies.

Telephones

- 3.12 Ideally, private telephone calls should not be made or received. In practice, you may need to make or receive essential calls but these should be kept to a minimum and costs reimbursed to the Council, unless it is an emergency.

Fax machines and photocopiers

- 3.13 If necessary, personal fax messages may be despatched to locations within Great Britain. Photocopies of personal documents (up to a

maximum of 10 copies at any one time) may be taken and costs reimbursed to the Council.

! Costs must be reimbursed to the relevant person using the Council's reimbursement process.

Intellectual Property

- 3.14 Intellectual property means creative products, for example inventions, designs, trademarks, patents, creative writings, programmes and drawings (referred to in short as 'inventions'). It will normally be the case that the ownership of all 'inventions' and the copyright of all written material created during work for the Council, belong to the Council.

! This is a complex area, further guidance must always be sought from Legal Services in any particular case.

Political Neutrality

- 3.15 Employees work for the Council as a whole. You must therefore work for all the Councillors and not just those of any controlling group or particular political party.
- 3.16 You must follow every lawful policy of the authority and must not allow your own personal or political opinions to interfere with your work.
- 3.17 Certain employees hold politically restricted posts (PoRPs). If your job is politically restricted, you will be notified. You are disqualified from membership of any council, other than a parish or community Council, from being an MP or canvassing on behalf of candidates.

! Employees who are politically restricted must observe the restrictions imposed. A register of PoRPs is maintained by HR.

Other Employment and External Activities

- 3.18 As a general rule you must not undertake any type of private work which conflicts with the Council's interests or prevents you from fulfilling the terms of your employment contract.
- 3.19 If you are above NJC Grade 7 or equivalent, you must obtain the consent of your Head of Service before you do private work.
- 3.20 Whether or not you need to obtain consent before doing private work, you must not:
- 3.20.1 do private work during working hours nor on the Council premises nor use Council equipment

- 3.20.2 undertake any private work which prevents you from carrying out your duties with the Council or including any requirements to do contractual overtime
- 3.20.3 undertake private work for any person, firm or company if it will involve the Council
- 3.20.4 prepare or assist with any applications, for example, planning or building, in any private capacity if you deal with these normally
- 3.20.5 access Council Services, for example, if you want to make a planning application personally, unless you declare your employment in writing, in a covering letter with your application and submit this via your line manager
- 3.20.6 undertake private work that needs approval or consent from the Council
- 3.20.7 undertake private work for any person, firm or company who have a contractual relationship with or who are commissioned by the Council for any type of work
- 3.20.8 undertake private work for another employee responsible for supervising you or whom you supervise, or for a Councillor.
- 3.21 Employees must ensure they understand and can comply with both Working Time and Health and Safety regulations before considering other employment.

! Employees must seek consent from their line manager before undertaking other work. All employees must declare an interest where a conflict may arise.

- 3.22 All employees are required to complete an annual declaration of interest return, even if this is to confirm that they have nothing to declare, and then to report issues as and when they occur.

Financial and Non-Financial Interests

- 3.23 The Local Government Act 1972, section 117, requires you to disclose any direct or indirect financial interest in any contract involving the Council. Failure to declare the interest may be a criminal offence.
- 3.24 If you have any direct or indirect interest in an organisation or company that is doing business with the Council, which you think conflicts with your job role, then you should inform your Head of Service.
- 3.25 You may have a conflict of interest even if you have no financial interest. For instance, relationships might be seen to influence judgements and give the impression of a personal motive e.g. a Council employee who is an Honorary Officer of an Association and who is

involved in dealing with an application for a grant by the Association. In such a case, again you should inform your Head of Service.

- 3.26 Employees are able to act as a Member of another council (provided they do not have a PoRP), a school governor, or member of a community organisation but must declare their interest if any potential conflict arises.
- 3.27 If, in connection with his/her employment with the Council, an employee uses his/her relationship with an organisation for his/her own or someone else's personal or financial gain, he/she will be regarded as being in breach of this Code of Conduct.
- 3.28 Employees who are members of other associations or bodies that have dealings with the Council should declare their interest, if there is any potential conflict.
- 3.29 Employees who during the course of attending a meeting believe they that may have a conflict with an item on the agenda should advise the Chair and leave the meeting for all or part of the meeting as appropriate.

! Declare an interest on the Declaration form if there is a potential conflict.

- 3.30 All employees are required to complete an annual declaration of interest return, even if this is to confirm that they have nothing to declare, and then to report issues as and when they occur.

Relationships

3.31 Councillors

- 3.31.1 Mutual respect between employees and Councillors is essential. Close personal familiarity between employees and individual Councillors can damage this relationship. You must be professional at all times and not allow your work and private interests to conflict.

3.32 The Local Community and Service Users

- 3.32.1 You should always remember your responsibilities to the Community and give efficient and impartial service to all groups and individuals within that community as defined by the policies of the Council.

3.33 Contractors

- 3.33.1 If you have a business or private relationship with external contractors or potential contractors you should tell your manager. Orders and contracts must be awarded on merit, by fair competition against other tenders and no special favour should be shown to businesses run by, for example, friends,

partners or relatives in the tendering process. No part of the local community should be discriminated against.

- 3.33.2 If you engage or supervise contractors or work with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, you should declare that relationship to the appropriate manager.

! Declare an interest on the Declaration form if there is a potential conflict and do not take part in any related tendering or contract award processes.

Appointments and Other Employment Matters

- 3.34 If you are involved in the recruitment and selection of employees, appointments should be made on the basis of merit and in accordance with our Recruitment and Selection Policy and Procedures obtainable from HR. To avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant, or have a close personal relationship outside work with him or her.
- 3.35 Similarly, you should not be involved in decisions about discipline, promotion or pay adjustments for any employee who is a relative, partner etc.

! Declare an interest on the Declaration form if there is a potential conflict.

Tendering and Contracts

- 3.36 During the Tendering process, if you are involved in the 'in-house' bid (except Executive Directors and, apart from when their own service is tendered, legal, financial and professional advisers) you must not at the same time be involved in certain client tasks e.g. selecting tenderers. You should seek guidance from your Head of Service as to how the tendering process is to be conducted and how the 'in-house contractor' and client responsibilities are to be discharged.
- 3.37 Employees working for 'in-house' contractors or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 3.38 If you are privy to confidential information on tenders or costs for either internal or external contractors you should not disclose that information to any unauthorised party or organisation.
- 3.39 If you are responsible for selecting contractors to tender or supply quotations, you should ensure that you are not also responsible for the receipt and opening of the tender or quotation except where the sums involved are minor.

! Refer to the appropriate Corporate Procurement rules and guidance.

Private Use of Services of Firms Dealing with the Council

- 3.40 You should be cautious when using the services of firms you know have dealings with the Council. You should ensure that the goods or services bought from such firms are at a price readily available to the general public. This is a difficult and sensitive area. Please try to avoid offending anyone and if necessary, explain the Council's policy.
- 3.41 If you think that any offer of preferential terms is designed to promote a firm's interest, you should not deal with the firm.
- 3.42 You should not use your position with the Council to obtain a discount. However, you may purchase goods at discount terms under a scheme or arrangement which applies to e.g. your trade union.

! If you require further guidance please refer to the Corporate Procurement Team.

Disclosure of Information

- 3.43 You must not:
- 3.43.1 use information about work which is confidential, for personal gain or benefit or pass it on to others who might use it in this way.
 - 3.43.2 give information to the media unless you are authorised to do so.
 - 3.43.3 disclose confidential information to someone else, unless it is a request from an approved source, e.g. HMRC, Department of Social Security and, where authorised, from bank managers or building societies. It is normal practice to ask the person requiring the information to put their request in writing use advance knowledge of a Council decision, particularly about investment decisions or proposed developments to benefit yourself or someone else.

Data Protection Act (Disclosing Information)

- 3.44 You must use personal data in accordance with the Data Protection Act and GDPR. For example, the data must be held only for specified and lawful purposes and must not be used or disclosed for any other purposes.

! If you are unsure please seek guidance from the Data Protection Officer or Communications Team, depending on the nature of the request.

Compliance with the Code

- 3.45 It is important that local government employees are exemplary in their conduct at work. Non-compliance with this Code will be dealt with in accordance with our Disciplinary Code.
- 3.46 Employees who consider other employees to be guilty of misconduct must report this to their line manager or raise it through one of the other available procedures e.g. grievance.
- 3.47 Employees must not treat employees who report (or who intend to report or are suspected of reporting) potential misconduct any less favourably than other employees.
- 3.48 If, in some instances, the employee cannot make use of the existing procedures for any reason then they should raise complaints or genuine matters of concern with the relevant person through the **Whistle Blowing Policy**.

! This code is reviewed annually. Employees should therefore ensure they regularly familiarise themselves with the Code and its Guidance Notes.

4. Associated Forms and Referral Points

- 4.1 The forms can be found on the HR website under the Code of Conduct.

Name	Action taken by	Refer to
Declaration of interest form	Employee to Head of Service	
Ext. Gifts/Hosp/Sponsorship form	Employee to Head of Service	
Reimbursement of Costs	Employee to Business Support	
Register of PoRP	N/A	HR
Whistle Blowing Policy	N/A	HR intranet

Checklist for Assessing Potential Conflict – Gifts and Hospitality

- 4.2 Employees should consider the following Checklist:
- 4.2.1 Have you obtained the prior approval of your Director?
- 4.2.2 Is the donor, or the event, significant in the community or in the Council's area?
- 4.2.3 Are you expected to attend because of your position in the Authority?
- 4.2.4 Will the event be attended by others in the Authority or in other Authorities?

- 4.2.5 Have you considered the motivation behind the invitation?
- 4.2.6 Would the acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future matter involving this Council?
- 4.2.7 Could you justify the decision to the Council, press and public?
- 4.2.8 Is the extent of the hospitality or the nature of the gift reasonable and appropriate?
- 4.2.9 How will you respond to the hospitality?

5. Code of Conduct – Matrix of Regulations and Standards Relevant to Specific Directorates

- 5.1 In determining acceptable standards, employees are asked to familiarise themselves not only with those included in the Code of Conduct but also those included in Service specific Codes, corporate policies or operational procedures used by their own Services.

! You will find an up-to-date list of those documents on the Human Resources section of the Centranet.

6. Cheshire East Core Values “FIRST Framework”

- 6.1 Values are the things in life that we consider to be important. In relation to work, values are what give purpose to our jobs; guiding our behaviours and the decisions we take. Values underpin the culture of our authority and the way we conduct ourselves at work.
- 6.2 Putting Residents First is about really listening and understanding what residents and businesses need and responding appropriately to provide the best possible Service.
- 6.3 This requires **Flexibility**, which means us all adapting quickly to changing circumstances and learning together from our experiences.
- 6.4 **Innovation** is about us being creative in our thinking and the way we approach our work and challenging convention where this no longer seems appropriate.
- 6.5 Taking personal **Responsibility** is at the heart of our values in delivering what we promise, and ensuring efficient use of resources, whether this is our people, funding, processes, information or technology.
- 6.6 **Service** ensures that we listen and respond appropriately enabling others to be empowered, independent and self-reliant.
- 6.7 Bringing this together is **Teamwork**, respecting and working well with others to collectively achieve the best outcomes for residents and communities.

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Chapter 4 – Part 3

Councillor / Officer Protocol

Introduction and Principles

- 1 The purpose of this Protocol is to guide Councillors and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.
- 3 This Protocol seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Councillors receive fair treatment, objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Councillors.
- 4 It also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Councillors and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 5 This Protocol is a local extension of the Councillors' and Employees' Codes of Conduct. Consequently, a breach of the provisions of this Protocol may also constitute a breach of those Codes.
- 6 This Protocol should be read in conjunction with the Councillors' and Officers' Codes of Conduct, the Council's Constitution and any guidance issued by the Audit and Governance Committee and/or Monitoring Officer.

Allegations of Councillor or Officer Misconduct: Responses by Councillors or Officers as appropriate

- 7 In a situation where a Councillor identifies that an Officer may have committed a breach of the Council's disciplinary rules and procedures, s/he shall draw the issue to the attention of the Chief Executive (Head of Paid Service) who will ensure that the appropriate action is taken. Thereafter the Councillor should not discuss or disclose the matter with any other person.
- 8 In respect of an Officer who believes a Councillor has breached the Councillors' Code of Conduct, they should:
 - 8.1 not offer any opinion or judgement upon that conduct to the Councillor

- 8.2 they must advise the Monitoring Officer immediately of the circumstances, facts, their belief and the rationale behind it, including supplying all and any documentation, and
 - 8.3 they should not comment further on the issue to any other Officer or Councillor without the prior consent of the Monitoring Officer.
- 9 These provisions are to protect both the Councillor and Officer, avoid Officers and Councillors from becoming unduly involved in allegations of misconduct at an inappropriate level or in inappropriate fora, and to ensure that any investigation that may need to be carried out by the Monitoring Officer or other agency, is not in any way fettered or damaged.

The Relationship: General Points

- 10 Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, the committees and subcommittees.
- 11 At the heart of the Code, and this Protocol, is the importance of mutual respect.
- 12 Councillor / Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Councillors and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.
- 13 Inappropriate relationships can be inferred from language / style. To protect both Councillors and Officers, Officers should address Councillors as "Councillor XX / Mr or Madam Mayor/Chair" save where circumstances clearly indicate that a level of informality is appropriate, e.g. a one to one between a Head of Service and their respective Committee Chair.
- 14 A Councillor should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. This is a long- standing tradition in public service. An Officer has no means of responding to such criticisms in public. If a Councillor feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, s/he should raise the matter with the respective Head of Service. The Head of Service will then look into the facts and report back to the Councillor.
- 15 If the Councillor continues to feel concern, then s/he should report the facts to the Director who heads the Directorate concerned, or if, after doing so, is still dissatisfied, should raise the issue with the Chief

Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint, will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

- 16 An Officer should not raise with a Councillor matters relating to the conduct or capability of another Officer or department. Such concerns should be raised through appropriate officer reporting lines.
- 17 Where an Officer feels that s/he has not been properly treated with respect and courtesy by a Councillor, s/he should raise the matter with his/her Head of Service, Director or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Councillor concerned. In these circumstances the Head of Service, Director or Chief Executive will take appropriate action either by approaching the individual Councillor and/or group leader/whip or by referring the matter to the Monitoring Officer.

The Relationship: Officer Support to Councillors: General Points

- 18 Officers are responsible for day-to-day managerial and operational decisions within the authority and will provide support to both the Committees and individual Councillors.
- 19 Certain statutory officers – the Chief Executive, the Monitoring Officer and the Chief Finance Officer – have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Councillors.
- 20 The following key principles reflect the way in which the officer core generally relates to Councillors:
 - 20.1 all officers are employed by, and accountable to the authority as a whole
 - 20.2 support from officers is needed for all the authority's functions including Full Council, Committees, Scrutiny, individual Councillors representing their communities, etc.
 - 20.3 day-to-day managerial and operational decisions remain the responsibility of the Chief Executive and other officers
 - 20.4 the authority will seek to avoid potential conflicts of interest for officers arising from the separation of the Scrutiny role and Committees, and
 - 20.5 all officers will be provided with training and development to help them support the various Councillor roles effectively and to understand the new structures.
- 21 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Councillor or Councillors. It must be recognised that it is the Officer, rather than the Councillor or Councillors, who takes the action and it is the Officer who is accountable for it.

- 22 It is important that all Councillors, in exercising their functions as a Councillor, take appropriate legal, financial and professional officer advice, particularly about contractual matters. In order to ensure the highest standards of conduct are maintained at all times in relation to this important area of the Council's functions, additional guidance on Best Practice for Councillor Conduct during a Procurement Exercise is laid out in Appendix.
- 23 Generally, all Councillors should consider, when invited to / attending a meeting, whether or not minutes should be taken and/or an officer should be present. It is a matter for Councillors' judgement whether this is necessary / appropriate, but factors such as whether any commitment is likely to be given on behalf of the Council and/or whether any complex financial, legal or procurement issues may be discussed will be relevant in deciding that. In such situations, Councillors are generally recommended to have an officer present and to ensure that contemporaneous minutes are taken and, where appropriate, shared with the other parties present to ensure that an accurate record is maintained. It will, however, be a case of judgement on each and every occasion as to how and when this principle is applied.
- 24 Finally, it must be remembered that Officers within a Service are accountable to their Head of Service and Director and that whilst Officers should always seek to assist a Councillor, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Head of Service or Director.

The Relationship: Officer Support: Councillors and Party Groups

- 25 It must be recognised by all Officers and Councillors that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Councillor.
- 26 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Councillors, treat them in a fair and even-handed manner.
- 27 The support provided by Officers can take many forms. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups
- 28 Certain points must, however, be clearly understood by all those participating in this type of process, Councillors and Officers alike. In particular:

- 28.1 officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not present at meetings or parts of meetings, when matters of party business are to be discussed
 - 28.2 party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such, and
 - 28.3 similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- 29 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Councillors. Such persons are not bound by Codes of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, Officers may not attend and/or give advice to such meetings.
 - 30 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
 - 31 Whilst any Councillor may ask a relevant Head of Service, Director or the Chief Executive for written factual information about a Directorate or service, such requests must be reasonable and not seek information relating, for instance, to case work of a similar nature, e.g. Social Services, employment, etc. Requests will be met subject to any overriding legal considerations (which will be determined by the Monitoring Officer), or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If a Councillor requesting such information is dissatisfied by such a response, s/he should raise the matter in the first place with the relevant Director, and if still dissatisfied should raise the matter with the Chief Executive who will discuss the issue with the relevant Group Leader(s).
 - 32 Requests for information about generic group employee matters such as Service structures, the overall cost of service provision for a group of employees etc. should be considered in the normal way as set out above. Heads of Service, Directors or the Chief Executive should ensure that any information supplied does not contain any personal information (within the meaning of the data Protection Act 1998) relating to individual employees such as salary, grade, Trade Union affiliation etc.

- 33 Requests for personal information about specific employees or where the group of employees is so small that individual employees personal details are likely to be revealed should only be considered where a Councillor has a demonstrable need for such detailed personal information in order to carry out the business of the Council and they could not carry out that business without the information being supplied in a redacted form. Any such request must be accompanied by the Councillors reasons for requiring the information and must be forwarded to the Head of HR for determination (following consultation with the Council's Data Protection Officer and / or Monitoring Officer as appropriate).
- 34 All information held by the Council, in whatever form, is confidential to the Council unless and until such confidentiality is waived by the Proper Officer and subject to the requirements of the Data Protection Act 1998. Officers and elected Councillors are responsible for ensuring that personal information and data is only handled and processed in accordance with the provisions of the Act and to familiarise themselves with their obligations under the Act accordingly. Officers or Councillors who require advice or assistance in relation to their duties under the Data Protection Act 1998 should take advice from the Monitoring Officer.
- 35 In relation to budget proposals:
- 35.1 the Administration shall be entitled to confidential information / discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of Committee / Council meetings, whichever is the earlier; and
- 35.2 the opposition groups shall also be entitled to confidential information / discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee / Council meetings, whichever is the earlier.
- 36 As part of the Budget process, Officers may be called upon to give advice on budgetary proposals, wherever they may emanate from (once political confidentiality has been lifted). This is in addition to the "normal" rights that any Councillor has to seek advice "in confidence" from Officers. In addition, Officers may feel it appropriate to offer advice to individuals, groups or all Councillors. In doing so, they should be aware of the need to remain impartial. It is appropriate and indeed, in certain circumstances, necessary that as a matter of professional judgement, if a proposed course of action is imprudent, that Officers should advise the Councillors of the Authority that this is so. It would, however, be for the Officer to decide how and when to do so, subject to the general rules outlined in paragraph 33 below. This is without prejudice to issues of legality and financial administration which are covered by specific duties placed on the Chief Finance Officer and Monitoring Officer.

- 37 In view of the need to ensure that the professional integrity of Officers is not impugned, deliberately or inadvertently, the following principles will be applied (although they may be departed from by the Chief Executive, Monitoring Officer or Chief Financial Officer as and when appropriate given their specific statutory duties):
- 37.1 any advice or information provided to any Councillor(s) in writing will be marked 'strictly confidential, signed and dated by the responsible Officer
 - 37.2 occasionally, such advice / information will be provided to the Group Leaders,
 - 37.3 Group Leaders and Councillors who received such advice will treat such advice as strictly confidential to the Council and will ensure that, such advice is not further disseminated without approval of the Monitoring Officer. If such advice is further shared or disseminated within their groups, their groups understand that the advice is confidential to the Council and not to be disclosed further under any circumstances
 - 37.4 Officers will also provide, as appropriate, briefings for either Group Leaders and/or all Councillors as requested by the Group Leaders and/or determined by the Chief Executive, Chief Finance Officer and/or Monitoring Officer prior to the Budget on any particular issues or matters which those Officers, as a matter of professional judgement, consider should properly be drawn to Councillors' attention.
- 38 The over-riding obligation will be to ensure that the integrity of the administration of public affairs is maintained. The prime responsibility of Officers in the matter of any challengeable decision arises in advising Councillors before decisions are reached. It is incumbent, in these circumstances, for Councillors to be fully advised on the legal and financial consequences of any proposed course of action.
- 39 It must not be assumed by any party group or Councillor that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
- 40 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

The Relationship: Officer Support: Committee Chairs

- 41 It is clearly important that there should be a close working relationship between Committee Chairs and Officers who support and/or interact with them. Officers and Councillors should in accordance with best practice, meet to discuss agendas and reports in advance of agendas being published.

- 42 However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Councillors and other party groups.
- 43 Whilst Committee Chairs will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. Similarly, a Head of Service or other senior Officer will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between a Committee Chair and a Head of Service in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.
- 44 Committee Chairs and Vice Chairs will:
- 43.1 lead the policy formation process with input and advice from Scrutiny Committees and any other persons as appropriate
 - 43.2 lead the preparation of the Council's budget
 - 43.3 take in-year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Full Council; and
 - 43.4 be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 45 Where functions are delegated to Officers, Committees will nevertheless remain accountable to the Council for the discharge of those functions.
- 46 Committee Chairs must satisfy themselves that they are clear what exactly they can and cannot do.
- 47 The Council has put in place mechanisms / protocols which ensure that its Committees and Sub-Committees seek advice from relevant Officers before taking a decision. This includes taking legal advice, financial advice and professional officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about vires.
- 48 Guidance has been provided for all Councillors regarding discussions with potential tenderers / contractors / sub-contractors during the course of a procurement exercise.
- 49 Councillors should always be aware of legal and financial liabilities (consulting the Monitoring Officer and Chief Finance Officer as appropriate) which will arise from their decisions. To ensure effective leadership for the Council and the communities it serves, there are

arrangements to ensure co-ordination of and sharing responsibility for decisions including those made by individuals.

- 50 Officers will continue to work for and serve the local authority as a whole.
- 51 Councillors must respect the political neutrality of the Officers. Officers must ensure that, even when they are predominantly supporting the Committee Chairs, that their political neutrality is not compromised.
- 52 In organising support for Councillors, there is a potential for tension between Directors/Senior Officers and Committee Chairs. All Councillors and Officers need to be constantly aware of the possibility of such tensions arising and both Officers and Councillors need to work together to avoid such tensions and conflicts existing or being perceived.

The Relationship: Officer Support

- 53 In relation to the actions of Councillors or Officers, this is the Chief Executive's function alone in relation to staff, and the Monitoring Officer's and Audit and Governance Committee as regards the conduct of Councillors. This means:
 - 52.1 Committee questioning should not be directed to the conduct of individuals, and should be about the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, but without the implication of allocating criticism or blame.
- 54 Complaints by individuals (Councillors, Officers or members of the public) should be dealt with through the correct procedures. These are internal, e.g. the Corporate Complaints Procedure, and external / statutory, e.g. Local Government Ombudsman or appeal to the Courts
- 55 It would be unfair to invite someone to appear before a Panel without telling them in general terms what they will be asked, or not giving them adequate time to prepare. Committees ought to provide written questions (or indicative topics) beforehand, so that the answers can form the basis of the questioning and discussion. In addition, speakers ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the body had previously indicated.
- 56 Committees are, however, entitled to the following:
 - 56.1 the level and extent of questioning, and the depth to which Councillors may probe Officers is dependent upon the seniority of the Officers present – accordingly when calling Officers to give evidence, Councillors may wish to consider the level and nature of the Officer they wish to have before them in the light of the line of questioning they wish to follow
 - 56.2 Officers may be asked to give a professional opinion, and Officers may be asked to give alternative options. Officers may not confine themselves solely to justifying either the position of or the advice

that they gave to the Committee, although in giving options, it is to be expected that they will explain the rationale for the advice that they gave and if the advice given to the Committee reflects, in their professional opinion, the best option, to justify that

- 57 Officers are expected:
- 57.1 to maintain political impartiality at all times when commenting on policies and actions
 - 57.2 to be prepared to explain and justify advice given to Councillors, and the Council prior to decisions being taken and to justify decisions they themselves have taken under the Scheme of Delegation
 - 57.3 to ensure that an Officer of sufficient seniority appears before the relevant meeting
 - 57.4 where requested to provide information e.g. on alternative options. to provide that information in a comprehensive and timely fashion
 - 57.5 to respond to questions from Councillors in an open, constructive and helpful manner
 - 57.6 not to mislead or be economical with the truth.

Support Services to Councillors and Party Groups

- 58 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photo-copying, transport etc.) to Councillors is to assist them in discharging their role as Councillors. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

Councillors' Access to Information and to Council Documents

- 59 Councillors have the ability to ask for information pursuant to their legal rights to information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Councillor. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Head of Service or another senior Officer of the Service concerned. Requests for employee related information (whether group of employees or individual employees) must be treated in accordance with paragraphs 5.8 to 5.10 above. In cases of doubt, Councillors should approach the Monitoring Officer for assistance.
- 60 As regards the legal rights of Councillors to inspect Council documents, these are covered partly by statute and partly by the common law.
- 61 Councillors will find set out in [Appendix](#) guidance on their rights to obtain information. The law in this area is complex, legislation including the

Access to Information provisions of the Local Government Act 1972, the Data Protection Act 2018, Human Rights Act 1998 as well as the Local Government Act 2000 have all had an impact. However, the Freedom of Information Act 2000 will have an even greater impact, and could potentially provide Councillors with a single route through which to obtain information in support of their work, whatever their role within the authority. The guidance note set out in [Appendix](#) maps the hierarchy of rights of Councillors to information, but should be read in combination with the contents of the Constitution, most particularly the Access to Information Procedure Rules in **Chapter 3 Part 2**~~Error! Reference source not found.~~, which cover the statutory obligations of the authority in terms of information and its relationship with the decision-making process.

- 62 Finally, any information provided by the Council to a Councillor is deemed to be information provided in confidence, is subject to the protections afforded by the Data Protection Act and GDPR and must only be used by the Councillor for the purpose for which it was provided, i.e. in connection with the proper performance of the Councillor's duties as a member of the Council. Therefore, for example, early drafts of Committee reports / briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. This point is emphasised in Councillors' Code of Conduct.
- 63 Failure to observe this obligation or disclosure of confidential information may amount to a breach of the Code of Conduct. Failure to safeguard and protect the confidentiality of personal information within the meaning of the Data Protection Act 2018 may result in prosecution of the Authority and / or any individual Officer or Councillor by the Information Commissioner and the imposition of significant monetary penalties.

Correspondence and Advice

- 64 Councillors seeking advice from officers shall be entitled to assume that such advice is given under "Chatham House rules" in terms of disclosure to other Councillors, unless otherwise agreed with the officer(s) concerned, i.e. it is not for further disclosure.
- 65 Correspondence between an individual Councillor and an Officer should not normally be copied (by the Officer) to any other Councillor. In other words, a system of "silent or blind copies" should not be employed.
- 66 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Councillor. It may be appropriate in certain limited circumstances (e.g., representations to a Government Minister) for a letter to appear in the name of a Committee Chair or the Leader or the Leaders of all political groups represented on the Council by agreement, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.

- 67 Correspondence received by Democratic Services from the public with a request that it is either copied to Councillors and/or forwarded to Councillors will, subject to any over-riding legal considerations, be forwarded / copied.
- 68 Officers responding to Councillors' queries should do so in a timely manner, and in accordance with the agreed standards for replying to letters and emails from Councillors.

Publicity and Press Releases

- 69 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is to be welcomed.
- 70 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that Council decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a [Code of Recommended Practice on Local Authority Publicity](#). The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government.
- 71 Officers and Councillors will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, Officers and/or Councillors should initially seek advice from the Head of Communications who will refer the matter to the Monitoring Officer if necessary / appropriate. Particular care should be paid to any publicity used by the Council around the time of an election. Particular advice will be given on this by the Monitoring Officer.

Involvement of Ward Councillors

- 72 Whenever a public meeting is organised by the Council to consider a local issue, all the Councillors representing the Ward or Wards affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, Officers should consider whether other policy or briefing papers, or other topics being discussed with a Committee Chair, should be discussed with relevant Ward Members.

Conclusion

- 73 Mutual understanding, openness on these sorts of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Councillors and Officers.

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Chapter 4 – Part 4

COUNCILLORS' PLANNING CODE OF CONDUCT

BASED ON THE LAWYERS IN LOCAL GOVERNMENT MODEL

Background

The Councillors' Planning Code of Good Practice was originally prepared in response to a series of successful court challenges against local planning authorities concerning Councillors' conduct or conflicts of interests.

This 2014 update takes into account the update to the Seven Principles of Public Life (the 'Nolan principles') and commentary from the Committee on standards in public life, the changes in the approach to codes of conduct and also to predetermination introduced by the Localism Act 2011 and the guide on 'Openness and transparency on personal interests' published by the Department for Communities and Local Government in 2013.

For further reading please refer to [Probity in planning: Advice for councillors and officers making planning decisions | Local Government Association](#).

Introduction

The aim of this Code: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

When the Code applies: this code applies to Councillors at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

1. Relationship to the Councillors' Code of Conduct

- **Do** apply the rules in the Councillors' Code of Conduct first, which must always be complied with. This is both the rules on Disclosable Pecuniary Interests (DPIs) and any other interests, and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- **Do** then apply the rules in this Councillors' Planning Code, which seek to explain and supplement the Councillors' Code of Conduct and the law on decision making for the purposes of planning control. If you do not abide by this Councillors' Planning Code, you may put:
 - the Council at risk of proceedings on the legality of the related decision or maladministration; and
 - yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the DPI provisions of Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

2. Development Proposals and Personal Interests

- **Do** disclose the existence and nature of your interest as required by your Authority's Councillor Code of Conduct.
- **Do take into account when approaching a decision** that the Principle of Integrity is defined in terms that

*"Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships**".*

It is therefore advisable that you:

- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a DPI or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Councillors when other members of the public would not have the same opportunity to do so.
- **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that your role as a councillor may place additional limitations on you in representing the proposal in which you have a personal interest.

- **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest and note that:
 - you should send the notification no later than submission of any planning application where you can;
 - the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
 - you must not get involved in the processing of the application; and
 - it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

3. **Fettering Discretion in the Planning Process**

(natural justice, predisposition and predetermination)

- **Don't** fetter your discretion by approaching the decision with a closed mind.
- **Do** be aware that in your role as an elected Councillor you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011 that purely making a general comment, without more, is unlikely to be taken as having a closed mind.
- **Do** keep at the front of your mind that, when you come to make the decision, you
 - are entitled to have and to have expressed your own views on the matter,
 - provided that you are prepared to reconsider your position in the light of all the evidence and arguments;
 - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice as well as the arguments from all sides;
 - are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Councillor, in giving fair consideration to points raised;
 - are only entitled to take account material considerations and must disregard considerations irrelevant to the question and legal context at hand; and
 - are to come to a decision after giving what you feel is the right weight to those material considerations.
- **Do** be aware that you can be biased where the Council is the landowner, developer or applicant if you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or

advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district/borough and county councillor), provided:
 - the proposal does not substantially affect the well-being or financial standing of the consultee body;
 - you make it clear to the consultee body that:
- your views are expressed on the limited information before you only;
 - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
- you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.
- **Do** explain where you do not intend to speak and vote as a member of the Committee because you may be perceived as having pre-judged the matter or alternatively you reserve the right to judge the matter elsewhere, so that this may be recorded in the minutes. (*Use the disclosure form provided for disclosing interests.*)
- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Councillor (***where this is granted by the authority's standing orders or by the consent from the Chair and Committee***) where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Where you do:
 - advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the seating area for members of the Committee for the duration of that item; and
 - ensure that your actions are recorded.

4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should not seek to arrange that meeting yourself – you should ask the Development Control Manager to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, they will ensure that the meeting is properly

recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

- **Do** otherwise:
 - follow the Authority's rules on lobbying;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the Development Control Manager any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition in respect of presentations by applicants/developers:

- **Don't** attend a planning presentation without requesting an officer to be present.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee.
- **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Councillors would intend to vote at a committee.

5. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to make any sort of promise to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum value, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.
- **Do** copy or pass on any lobbying correspondence you receive to the Development Control Manager at the earliest opportunity.
- **Do** promptly refer to the Development Control Manager any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers

of gifts or hospitality), who will in turn advise the appropriate officers to follow up the matter.

- **Do** note that, unless you have a DPI or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:
 - listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Councillors or appropriate officers (making clear that you must keep an open mind when it comes to making the decision);
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion of others in your role as a Ward Councillor.

6. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter and will therefore step away from the Committee when it comes to make any relevant decisions.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian Society, CPRE, Ramblers Association or a local civic society), but you should normally seek to disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.
- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- **Don't** decide or discuss how to vote on any application at any political group meeting, or lobby any other Councillor to do so. Political Group Meetings should never dictate how Councillors should vote on a planning issue.

7. Site Visits/Inspections

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
 - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.

- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the Ward Councillor(s) who should focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
 - you feel it is essential for you to visit the site other than through attending the official site visit;
 - you have first spoken to the Development Control Manager about your intention to do so and why (which will be recorded on the file); and
 - you can ensure you will comply with these good practice rules on site visits.

8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

9. Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Control Manager, which may be incorporated into any committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** make decisions in accordance with the Council's Development Plan and associated documents and neighbourhood plans unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- **Do** have recorded the reasons for Committee's decision to defer any proposal.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

11. Training

- **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- **[Do** participate in any annual review of a sample of planning decisions to ensure that Councillors' judgements have been based on proper planning considerations.]

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Chapter 4 – Part 5

Whistleblowing Policy

The Council has a [Whistleblowing Policy](#) in place.

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Chapter 5

Scheme of Councillors' Allowances

The Council has a [Scheme of Councillors' Allowances](#) in place.

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Chapter 6

Glossary

Appropriation – The transfer of land and property between purposes or functions of the Council.

ASDV – Alternative Service Delivery Vehicle.

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

Bad Debt – A debt becomes bad if it has not been collected within 6 months. Full provision for all bad debts has to be made within the revenue account, but the debt is still pursued until it is either recovered or written off as unrecoverable.

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.

Balances (Revenue Account) – The accumulated surplus of income over expenditure. Councillors may agree that Balances be used to reduce future Council Tax levels although a minimum level, consistent with prudence and best practice will be maintained. Amounts in excess of that required for day-to-day cash management and to finance working capital can be invested to generate income for the Council.

Best Value – Is the duty to secure continuous improvement in the way services are provided having regard to economy, efficiency and effectiveness.

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.

Block Provisions – Annual capital allocations within which the value of approved schemes must be contained. Any uncommitted sum at the year-end may be carried forward, subject to agreement of the Chief Finance Officer. Any uncommitted sum which is not justified will be returned to Council balances. Equally, any overspending will be carried forward as the first call on the following year's provision.

The **Budget** – this is the financial expression of the Council's Corporate Plans in the Policy Framework and sets out the allocation of resources to Committees, services and projects, the level of contingency funding, the Council Tax base and Council Tax rate, borrowing limits and capital financing requirements.

Business Case Template – This is a proforma to be completed for all Capital schemes and all significant Revenue proposals. It will provide details on the expected outcomes falling from the proposed investment and identify how the proposal will meet corporate objectives. The template, in a form agreed by the Director of Finance & Customer Services, must include an assessment of the asset or Service consequences, risk and impact on users, and include any differential impact on particular groups or localities. The amount of detail will be proportionate to the value and level of risk.

Capital Approval – The total cost of each provision or scheme rather than the anticipated expenditure in each year. Capital programme provision may be amended by any supplementary estimates or virements.

Capital Expenditure – Expenditure on the purchase, construction or replacement of capital (fixed) assets, such as land, buildings, and major items of plant, equipment or vehicles, or expenditure which adds to the life or value of an existing fixed asset. Finance leases may be capital expenditure.

Capital Programme – The Council's plan of capital projects and spending over future years. Included in this category are the purchase of land and buildings, the erection of new buildings and works, Highway Improvement schemes and design fees (unless the scheme is aborted in which case fees will be charged to revenue), and the acquisition of vehicles and major items of equipment.

Capital Project / Scheme – These terms mean the same thing and are used interchangeably within the Procedure Rules. A project/scheme may be separately identified in the capital programme or be an item within a block provision.

Capital Receipts – Income received from the sale of capital assets and available (subject to rules in legislation or laid down by the Government or CIPFA) to finance new capital expenditure or to repay debt.

Carry-forward – An increase or reduction in a Service's new financial year budget, stemming from either an under or overspend in the previous year. All significant carry-forwards (except for Schools) need the approval of the Chief Finance Officer in consultation with the Chair of the Finance Sub-Committee upon the presentation of a Business Case.

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

Chief Executive – The Chief Executive is the most senior officer in the Council. It is his/her role to support Councillors and to provide leadership for the Council. 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, to exercise all powers, duties and

functions of the Council, including those delegated to other officers. Every Council has to appoint one of its officers as the Head of Paid Service. The Chief Executive is also the Council's Head of Paid Service.

Chief Finance Officer – has the responsibility under section 151 Local Government Act 1972 for the proper management of the Council's financial affairs and occupies the post of Director of Finance and Customer Services.

CIPFA – the Chartered Institute of Public Finance and Accountancy;

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.

Commissioning Officer – An officer who is requesting and / or is in need of works, goods or services that will be commissioned/procured under the Contract Procedure Rules.

Commissioning and Procurement Board – a board of Councillors and officers established to ensure a strategic commissioning approach in the Council and that procurement of goods, services and supplies achieves value for money in delivering the Council's corporate strategy and strategic priorities. The Board has detailed Terms of Reference and its activity is overseen by the Audit and Governance Committee.

Concession – Any agreement between the Council and one or more parties (which may be procured under the Concession Contracts Regulations 2016) and which may include:

- 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.

Confidential information – information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order, or by virtue of any enactment as defined in the Access to Information Rules in **Chapter 3 Section 2** of the Constitution.

Contingencies – Sums set aside to meet either:

- the potential costs of activities expected to occur during the year over and above those costs included in Service budgets (pay and price contingency); or
- items which are difficult to predict in terms of financial impact or timing (contingency for uncertain items).

Contract – A legally enforceable agreement to supply goods, services or works for a price. A contract is normally in writing however a contractual arrangement may be entered into orally.

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 the performance criteria set out in the Contract.

Contractor – Any person or organisation awarded a Contract. This includes any consultant appointed by the Council to advise on any project.

Corporate Leadership Team – The officer management arrangements for the Council are overseen by a Corporate Leadership Team comprising the Chief Executive, Executive Directors for Place, People and Corporate Services, the Strategic Director of Adult Services, the Director of Children's Services, the Monitoring Officer and Chief Finance Officer. Each member of the Corporate Leadership Team is accountable to the Chief Executive for leading the Services within his or her area of responsibility and ensuring that the Services are managed in accordance with the objectives, plans, policies, programmes, budgets and processes of the Council.

Corporate Procurement Unit (CPU) /Procurement – The corporate procurement unit is the department responsible for procurement activity within the Council.

Councillors – Also known as Members, Councillors are elected to represent the 52 Wards in the Council's area. They are elected every four years. They are directly accountable to citizens for the running of the Council. They have a duty to represent all constituents in their Ward and they must make decisions in the best interests of the Borough as a whole.

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.

Earmarked Reserves – These reserves represent monies set aside that can only be used for a specific use or purpose.

Electronic Tendering Portal (E-tendering Portal) – A system for the issue and receipt of electronic tenders and quotations as designated by the Executive Director (Corporate Services).

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 a Committee or in writing by the Chief Executive.

Exempt information – information that is not available for disclosure to the public as defined by Schedule 12A of the 1972 Act and the Access to Information Rules in **Chapter 3 Section 2** of the Constitution;

Fiduciary Duty – a duty placed upon officers and Councillors to utilise the Council's resources wisely and balance the interests of the persons providing the Councils money and resources (such as council tax or business rate payers) against the interests of those who would benefit from expenditure or use of resources, taking into consideration appropriate risks.

Finance Leases – Most of the risks and rewards associated with ownership are transferred to the lessee (responsibility for maintenance, insurance etc. will fall to the Council).

Financial Schemes of Delegation – Financial Schemes of Delegation are the documents that set out, for each Service, all specific financial authorisations and approval limits as delegated by the Heads of Service to Authorised Officers within their Service. Heads of Service are responsible for maintaining up to date and accurate Financial Schemes of Delegation.

Financial Year – The Council's accounting period covers the 12 months from April 1 to March 31.

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

Forward Plan – As defined in the Constitution, the Forward Plan is a public document which is prepared and published by the Leader of the Council, as set out in **Chapter 3 Part 2**.

Full Council – Means all 82 elected Members of the Council.

Group – two or more Councillors who notify the Head of Paid Service that they have formed a group

Head of Paid Service – See *Chief Executive*. The Officer who may report to Full Council on staffing requirements pursuant to Section 4 Local Government and Housing Act 1989.

Internal Control – A procedural system designed to manage risk to an acceptable level whereby different staff members perform different parts of a task, so that no one person is entirely responsible for processing a transaction from start to finish.

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 Public Procurement Threshold.

Leader or (Leader of the Council) – The Leader is elected by the Full Council.

Leases – Agreements covering the hire/rental of equipment or buildings, generally for a specified period of time and at a specified rate. There are two types of leases; Finance leases and Operating Leases (see this Glossary).

Monitoring Officer – 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, matters relating to the conduct of elected Councillors and Local Government and Social Care Ombudsman complaints.

Officers – Officers are employees and office holders who support Councillors in providing advice, implementing decisions and managing the day to day delivery of Council Services.

Operating Leases – Where the risks and rewards of ownership remain with the lessor.

Option Appraisal/Business Case – This is required for all Capital schemes and all significant revenue proposals and takes the form of a Business Case Template. This will be used to assess whether the scheme is affordable and deliverable. Consequences to the Service are considered and evaluated and it will also provide a basis for monitoring and reporting progress. In the case of revenue proposals, it will also take into account the risk and impact on users.

Political balance – rules which require the Council to allocate seats on committees in accordance with the proportion of councillors from different political groups represented on the Council as a whole – unless no Councillor votes against, under the Local Government and Housing Act 1989 and Local Government (Committees and Political Groups) Regulations 1990/1553.

Politically Restricted Post (PoRP) – officers holding these posts cannot have any active political role and are prohibited from: standing for office as local councillors, MPs; canvassing on behalf of a political party or a person

who is, or seeks to be, a candidate; and speaking to the public at large or publishing any written or artistic work that could give the impression that they are advocating support for a political party.

Procurement Manager – The manager of the CPU and his/her 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.

Project Board – A group of senior officers, led by the Senior Responsible Owner (SRO) who are accountable for the success of a Project and represent specific business, user and supplier interests. More information on the make-up and operation of a Project Board can be found in the Project Management Handbook which is published and maintained by the Authority's Programme Management Office.

Project Gateway process – A series of control measures put in place to ensure that all projects are instigated, approved, managed and delivered effectively. The Project Gateway process is overseen by the S151 Officer and described in detail in the Project Management Handbook.

Proper Officer – An officer designated in the Proper Officer Register in **Chapter 2 Part 5** to undertake certain functions required by law.

Provision – An amount set aside by the Authority for any liabilities of uncertain amount or timing that have been incurred. The main category is estimates of liabilities or losses already incurred but whose exact amount will be determined in the future (e.g. bad debts, obsolete stock).

Prudential Borrowing Limits – The maximum amount of borrowing that the Council can enter into at any one point in time during the year. This limit is set by Council prior to the start of the year to which it relates and cannot be breached under any circumstances.

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 public procurement market to competition and to promote the free movement of goods, services and works.

Public Procurement Threshold – The financial thresholds above which the Public Contracts Regulations apply to a proposed Contract. The Thresholds are updated every two years, with the next update being in January 2022. The Thresholds are summarised below:

	Supply, Services¹ and Design Contracts	Works Contracts²	Social and Other Specific Services³
Other public sector Contracting authorities	£189,330	£4,733,252	£663,540

	(€214,000)	(€5,350,000)	(€750,000)
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¹ With the exception of the following services which have different thresholds or are exempt:

- Social and other specific services (subject to the light touch regime) Article 74
- Subsidised services contracts specified under Article 13
- Research and development services under Article 14 (specified CPV codes are exempt).

² With the exception of subsidised works contracts specified under Article 13.

³ As per Article 74. Services are listed in Annex XIV.

Revenue Account – An Account which sets out the Council's income and expenditure for the year for non-capital spending.

Revenue Expenditure – Spending on the day-to-day running expenses of the Council. It includes expenditure on employees, premises, transport and supplies 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 Public Procurement Threshold

Ring Fencing – Certain budgets agreed by the Chief Finance Officer are "ring-fenced". This means that under-spends on these budgets will return to balances and overspends will be met centrally. This is to reflect the fact that certain items of expenditure are either demand-led or so significantly influenced by extraneous factors that they are beyond the direct control of managers. Ring-fenced budgets include planning levies, external audit fees some public health grants and election expenses.

Schemes of Delegation – Schemes of Delegation are the documents that set out, for each Service, all authorisations and approval limits as delegated by the Heads of Service to Authorised Officers within their Service. Heads of Service are responsible for maintaining up to date and accurate Schemes of Delegation. (See also: Financial Schemes of Delegation)

Scrutiny – Scrutiny provides an opportunity for members of the Council to examine the way in which the Council provides its services, by questioning how and why decisions are made, and by making recommendations on existing and future Council policies, primarily focussed on Health and Wellbeing, Flood Risk Management and Crime and Disorder.

Section 151 Officer (Chief Finance Officer) – The financial adviser to the Council, Committees, Sub-Committees and Officers and the Authority's 'responsible financial officer' under relevant legislation who is responsible for

the proper administration of the Council's financial affairs and occupies the post of Director of Finance and Customer Services.

Service Plan – A plan which outlines measurable Service aims for the year ahead, encompassing both core purpose and specific key objectives for any given year. The Plan will consider both inputs and outputs.

Social Value – The duty under the Public Services (Social Value) Act 2012 to have regard before a procurement as to how what may be commissioned or procured will improve the economic, social and environmental wellbeing of the area.

Sub-Committee – a body of Councillors who may be drawn from the parent committee and wider Council membership and may also include non-councillors as co-optees that will report on its work to the parent committee and may make recommendations for action. Advisory sub-committees may allow co-optees to vote, but rules under the Local Government and Housing Act 1989 generally prevent co-optees from voting. Advice on the status and voting rights of sub-committee members can be provided by the Monitoring Officer or the Head of Democratic Services and Governance.

Supplementary Estimate – An approved increase to a Service revenue or capital budget during the financial year, funded centrally from reserves, contingencies or external funding sources such as grants or partner contributions, developer contributions, receipts or government grant.

Statutory Officers – Means the Head of Paid Service, the Monitoring Officer the Chief Finance Officer, the Director of Adult Services, Director of Children's Services and the Director of Public Health.

Statutory Protected Officers – Means the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer.

Third Party Fund(s) – Funds provided by outside bodies or individuals in support of Council activities, establishments or clients. Can sometimes be known as trust funds.

Underspend – An underspend results when the net costs of a budget holder are lower than the net budget for the year.

Virement – A transfer of amounts from one budget heading to another within, or between, Heads of Service or changes to Capital budgets funded from within the existing Capital programme.

Verifying Officer – 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 Legal Services.

Waiver – A process whereby approval may be granted to disregard some of the Procedure Rules or the requirements of competition.

Note that:

- Copies of Acts, Orders and Regulations are available at: [legislation.gov.uk](https://www.legislation.gov.uk)
- Note that any reference in this Constitution to legislation that is repealed and re-enacted is to the subsequent legislation that replaced it (in accordance with section 17 Interpretation Act 1978).

Chapter 7

List of Associated Documents

This Constitution contains references to a number of documents that are not reproduced in full within it, but which can be accessed electronically from it via hyperlinks to the necessary content.

These hyperlinked documents are listed below, together with their status³ and ownership:

Tier 1

Document	Owned by	Page
Local Ward Member Protocol ⁴	Corporate Policy Committee	
Scheme of Councillors' Allowances	Council	

Tier 2

Document	Owned by	Page
Job Description of Committee Chairs	Corporate Policy Committee	
Whistleblowing Policy	Audit and Governance Committee	
Planning Protocol of Conduct in relation to the Determination of Planning Matters	Strategic Planning Board	
Protocol on Public Speaking Rights at Strategic Planning Board and Planning Committees	Strategic Planning Board	
Mayoralty Code of Practice	Corporate Policy Committee	

³ These hyperlinked documents have been given a status, as set out below:

Tier 1 links are links which take readers to documents which are required to be part of the Constitution and will need to be updated from time to time but which are self-standing.

Tier 2 links are links which take readers to documents which support the Constitution but are not required legally to be part of it – sometimes referred to as "ancillary documents".

Tier 3 links are links which take readers to documents completely outside the Constitution and possibly outside the Council itself but where it is useful to signpost readers to a particular source.

⁴ Although not required by law, this is being treated as a Tier 1 Hyperlink.

Tier 3

Document	Owned by	Page
Election Schedule	The Council	
List of Council Wards	The Council	
List of Councillors	The Council	
Political Composition of the Council	The Council	
Register of Members' Interests	Democratic Services	
Council Senior Management Structure	Chief Executive	
Complaint Form	Chief Executive	
Ombudsman Complaint Form	Chief Executive	
Forward Plan	Democratic Services	
Local and Regional Organisations	Chief Executive	
Specific Delegation Register	Monitoring Officer	
IDC Handbook	Monitoring Officer	
Governance, Risk and Control	Executive Director (Corporate Services)	
Financial Reporting	Executive Director (Corporate Services)	
Accountability Arrangements	Executive Director (Corporate Services)	
Complaints	Executive Director (Corporate Services)	
Ombudsman	Executive Director (Corporate Services)	
Cheshire Police and Crime Panel Terms of Reference	Cheshire Police and Crime Panel	

Cheshire Fire Authority Terms of Reference	Cheshire Fire Authority	
Proper Officer Register	Chief Executive	
List of Local Schemes of Delegation	Monitoring Officer	
Joint Scrutiny Protocol	Corporate Scrutiny Committee	
ASDV Framework	Executive Director (Corporate Services)	
Social Value Policy	Chief Executive	
List of Dispensations	Chief Executive	
Declaration of Interests Form	Chief Executive	
External gifts / Hospitality / Sponsorship Form	Chief Executive	
Reimbursement of Costs Form	Chief Executive	
Register of Politically Restricted Postholders	Democratic Services	

Add: Roles and responsibilities of Councillors and Chairs in the committee system

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Mayoral Code of Practice Appendix

Mayoral Code of Practice – The Constitution Committee’s recommended Code of Practice, as recommended at the meeting on 6th April 2021

Suggested amended Mayoral Code of Practice (7th April - following Constitution Committee)

NB: This Code of Practice relates to the role of the Mayor (and where relevant the Deputy Mayor), not that individual when acting in their capacity as a Ward Councillor.

1. Introduction

- 1.1 The Mayor is the Borough’s “first citizen”, acting as a civic figurehead and the public face of the Borough. Members and Officers must appropriately respect the Mayor and his/her office, but there is no requirement for them or members of the public to stand when the Mayor enters a room at the start of meetings, unless the Mayor is wearing their ceremonial robes and chain.
- 1.2 In accordance with the provisions of the Constitution and law, the Mayor’s interpretation of the Council’s Constitution and the way this is applied to proceedings of Council should not be challenged at meetings, always subject to the Mayor taking advice from the legal officer present.
- 1.3 The Deputy Mayor will support the Mayor in the fulfilment of civic engagements and will take the chair in the absence of the Mayor at Council meetings and deputise for the Mayor if they are indisposed.

2. Mayoral impartiality

- 2.1 Throughout the Mayor’s term of office, he/she must remain politically impartial in all matters of policy and should not be involved in political matters, campaigns, or in controversial matters, other than when they relate to their role as a Ward councillor.
- 2.2 The Mayor may accept ex-officio positions (such as the chairmanship or presidency of a charity or sports club or become an organisation’s patron) with outside organisations or bodies where his/her membership stems from the position of Mayor. He/she may attend the annual meeting or other special meetings of an outside organisation or body, but should not become actively involved in issues of policy during his/her term of office.

- 2.3 The Mayor, in their position as a Councillor and candidate in a forthcoming local election may campaign for re-election, but should not reference their current or prior Mayoral role for political campaigning.
- 2.4 The Mayor during their term of office may not serve as a Director of a Council ASDV. To ensure political impartiality, they are advised to not take up a seat on any Council Committee to which they may be entitled.

3. Selection of the Mayor

- 3.1 The Mayor and Deputy Mayor will be elected by Council. Any Member may be nominated and seconded for these positions. Custom and practice would dictate that unless in exceptional circumstances, an individual will only serve one twelve-month term as Mayor.
- 3.2 The Deputy Mayor will cover engagements for the Mayor should they be indisposed or otherwise be unable to discharge their duties for a period of time (see paragraph 1.3 above). If either the Mayor and / or Deputy Mayor are indisposed for a protracted period and need to stand down from their position, Council will select a new Mayor and / or Deputy Mayor.
- 3.3 The offices of Mayoress or Consort and Deputy Mayoress or Consort have no legal status. The appointment to these offices is made upon the invitation of the Mayor and Deputy Mayor.

4. Promoting and representing the Borough and the Council

- 4.1 The Mayor will do all that they can to promote the Borough and to celebrate the achievements of its people and businesses.
- 4.2 In his/her capacity as first citizen the Mayor will always represent the Borough at formal, non-political events organised by third parties. In the absence of the Mayor, the Deputy Mayor should represent the Borough or, at the Mayor's discretion, and always subject to his/her ruling, the appropriate Committee Chair may do so.
- 4.3 In his/her capacity as first citizen, the Mayor should officiate at all formal civic events organised by Cheshire East Council. In the absence of the Mayor, the Deputy Mayor should officiate or, at the Mayor's discretion, and always subject to his/her ruling, the appropriate Committee Chair may do so.

5. Civic ceremonies, regalia, chaplain and civic service

- 5.1 The Mayor and Deputy Mayor may wear their Chains of Office at formal and informal events if they so wish. Mayoral robes will only be worn at the Council's annual Mayor Making Ceremony / Annual Council, on other prestigious occasions such as royal visits and at other events at the discretion of the Mayor.

- 5.2 The Mace, a physical symbol of the Council's authority and legitimacy should only be used at the Council's Mayor Making Ceremony and, by exception, at other events when deemed appropriate by the Mayor. It will not routinely be used at Council meetings.
- 5.3 The Mayor may if they wish appoint a Chaplain and hold a civic service during their term of office. If a Chaplain is appointed the Mayor may ask them to say prayers at the start of Council Meetings, but should endeavour to accommodate those Members who do not wish to participate.

6. Invitations and attendance at events

- 6.1 Details of how to invite the Mayor to events will be published on the Council's website. The website will outline the role of the Mayor of Cheshire East and the role of Town Mayors across the Borough, including contact details for Town Mayors, so that organisers of events can invite Town Mayors should they wish to do so.
- 6.2 The Mayor during their term of office is likely to receive a considerable number of invitations to events, taking advice from Officers when appropriate, they should seek to attend as many events as can be realistically managed. Where there are conflicting invitations, the Mayor may ask the Deputy Mayor to assist.

7. Relationship with Town Mayors, local and national protocol

- 7.1 When attending an event either hosted by a Cheshire East Town Council or at the invitation of a third party, the relevant Mayors will enjoy equal status, unless national procedures render this impossible, for example a Royal visit where strict national protocols always apply.
- 7.2 The Lord – Lieutenant for Cheshire, as the sovereign's representative in the county, always takes precedence over the Mayor.

8. Fund raising

- 8.1 Any fundraising activities undertaken for the Mayor's charity are the responsibility of the Mayor, the Mayoress / Consort and friends. Fundraising for the Mayor's charity is discretionary. Officers will only provide support to the Mayor in respect of charitable activity at formal civic occasions. The Mayor may consider establishing a committee to assist him/her in the preparation for this activity.
- 8.2 The Mayor should not manage any charity funds themselves, such funds will be managed and administered by Officers and may be subject to routine audit.

9. Support to the Mayoralty

- 9.1 Support is provided to the Mayor and Deputy Mayor by the Council's Head of Democratic Services and Governance, and their accommodation shall be in the

Mayor's Parlours at Macclesfield Town Hall and the Crewe Municipal Buildings, recognising that these rooms are also used by others.

- 9.2 The Head of Democratic Services and Governance will ensure that, when appropriate, the Mayor is transported to and supported at events. The Mayor will be driven to most civic engagements, especially those held in the evening or when there is a significant distance to travel or when there are multiple events held on the same day.
- 9.3 The mode of transport used to transport the Mayor will be kept under review ensuring that environmental considerations are always of uppermost importance.
- 9.4 Press enquiries about the Mayor will be managed by the Council's Communications Team.

10. Recognition of Service

- 10.1 Former Mayors of the Council and their consorts will be presented with a medallion as a memento of their term of office, which should be worn on such occasions as they feel appropriate.

Significant changes from existing Code of Practice:

- Reference to the Mayor attending Group meetings has been removed.
- Reference to the Mayor not being a member of a Council Committee has been removed, but those appointed as Mayor are advised not to take up a seat on any Committee to which they may be entitled.
- Reference to Mayor / Deputy Mayor being nominated by the Administration / largest political Group has been removed.
- Reference to standards of dress have been removed.
- Reference to the Mayor Elect or Deputy Mayor Elect acting as Mayor if the Mayor and Deputy Mayor are indisposed have been removed.
- Reference to a Mayor hosting a “At Home” have been removed.
- Reference to the Mayor being the Queen’s representative in the Borough has been removed.

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A&G Appendix

Audit and Governance Committee – The Constitution

Committee's recommended terms of reference, as recommended at the meeting on 6th April 2021

Statement of Purpose:

1. The Audit and Governance Committee is a key component of the Council's corporate governance. It provides:
 - a. independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards;
 - b. independent review of the Council's governance, risk management, control frameworks and oversees the financial reporting and annual governance processes; and
 - c. 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).
2. The Committee receives reports and assurances from across the organisation. In doing so, the Committee will consider the effectiveness of the arrangements described, identifying further information needed, and/or making recommendations for improvements and additional action required.

Form and Structure

3. **9** Members of the Council, subject to proportionality, which may be altered to accommodate the overall political balance calculation together with 2 co-opted independent committee members.
4. To support the political independence in this oversight committee, membership of the Committee may not include the Leader or Deputy of the Council, or the Chairs and Vice Chairs of service committees including the Corporate Policy Committee and Finance Sub Committee. The Chair and Vice Chair of the Audit and Governance Committee should not sit on service committees.
5. Members may not review decisions as part of the Audit and Governance Committee that they have made as a member of another Committee.
6. Co-opted independent members of the Committee are appointed to the Committee for a four year period. The Council on 22nd October 2015 resolved that the independent member be a voting member.¹

¹ The authority should have regard to section 13 of the Local Government and Housing Act 1989 which relates to the voting rights of non-elected committee members. In essence, where a committee is acting in an advisory capacity and making recommendations, all members of the committee should be able to vote on the recommendation. Where the Council has delegated to the Committee decisions such as the adoption of financial statements, the independent member should not be able to vote on those matters.

7. To ensure that the Committee remains focussed on its assurance role, all members of the Committee, and any designated substitute, must be appropriately trained.
8. 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.

Matters reserved for the Audit and Governance Committee

Accountability Arrangements

1. To report annually to those charged with governance on the committee's findings conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks of the Council.
2. To report to full Council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

Governance, risk and control

3. To consider the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
4. To approve the Annual Governance Statement and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control and includes an agreed action plan for improvements where necessary.
5. To consider the effectiveness of the system of risk management arrangements by receiving regular reports on the adequacy and effectiveness of the Council's risk management and reporting arrangements and receive assurance that actions have been taken as necessary.
6. To review the Council's Risk Management Policy and Framework and recommend it for approval by Corporate Policy Committee.
7. To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
8. To monitor the counter-fraud strategy, actions and resources.
9. To review the governance and assurance arrangements for significant partnerships or collaborations.

10. To consider amendments to the Constitution and recommend proposals to Full Council for approval except where specifically delegated to the Monitoring Officer.

Internal Audit

11. To approve the internal audit charter.
12. To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
13. To consider reports from the Head of Audit and Risk Management on internal audit's performance during the year, including
 - (a) updates on the delivery of the audit plan, including key findings, issues of concern and monitoring the actions taken in response to internal audit recommendations.
 - (b) reports on Internal Audit's effectiveness and compliance with its Quality Assurance and Improvement Programme, including conformance with the Public Sector Internal Audit Standards, and the results of the external assessment review of Internal Audit when due.
14. To approve significant interim changes to the risk-based internal audit plan and resource requirements
15. To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.
16. To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit. To approve and periodically review safeguards to limit such impairments.
17. Receive the annual report from the Head of Audit and Risk setting out internal activity during the year, and an opinion on the level of assurance as to the Council's arrangements for governance, risk management and internal control.
18. To consider summaries of specific internal audit reports as requested
19. To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.

External Audit

20. To oversee the process by which the Council's external auditor is appointed.
21. To consider specific reports as agreed with the external auditor.
22. To commission work from internal and external audit.

23. To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies. Annual Statement of Accounts
24. To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
25. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
26. Monitor management actions in response to issues raised by the external auditor

Related Functions

27. Subject to the requirements set out below, to consider all findings of the Local Government Ombudsman, 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 or which arise from, or are as a result of the Ombudsman's findings.
 - (a) There are statutory obligations which will, in some circumstances, require reports to be taken to Cabinet or full Council.
 - (b) The Ombudsman operates protocols in relation to the timing of the publication of findings. The Council would have to give consideration to those protocols when determining how to manage the Audit and Governance Committee's agenda.

Standards Arrangements

28. The Committee is responsible for the Council's standards arrangements to:
 - (a) promote high standards of ethical behaviour.
 - (b) develop, maintaining and update Codes of Conduct and protocols.
 - (c) Training Audit and Governance Committee –
29. The Committee is responsible for monitoring and advising Council about the operation of its Code of Conduct for Councillors in the light of best practice and any changes in the law.
30. The Committee will approve the arrangements for dealing with allegations that a Councillor or a town/parish Councillor within the borough has failed to comply with the relevant Councillors' Code of Conduct.
31. To assist the Council with the appointment of Independent Persons as required by the Localism Act 2011 and any independent persons under other secondary legislation.

32. To determine any request for a dispensation under Section 33 of the Localism Act 2011, where not determined by the Monitoring Officer or to appeal against a determination by the Monitoring Officer.
33. To respond on behalf of the Council to national reviews and consultations on standards related issues.
34. To consider and make recommendations to Full Council on any other matter that may be referred to the Standards Committee relating to the conduct and training of Councillors.
35. To review, advise, monitor and report to Full Council on member training.
36. To recommend proposals to Full Council for changes to the constitution in respect of any governance or standards matters, except where specifically delegated to the Monitoring Officer.

Hearing Sub Committee

37. The Hearing Sub-Committee is a Sub-Committee of the Council's Audit and Governance Committee appointed to consider complaints referred under the Code of Conduct Complaints procedure.
38. The Hearing Sub-Committee quorum will be drawn from the Audit and Governance Committee.
39. The standing Chair of the Hearing Sub Committee is the Chair of the Audit and Governance Committee; when convened for any individual item, the Chair should be of a different group to any subject member
40. The Vice Chair will be appointed by the Audit and Governance Committee and if practicable, will be from a different political group to the Chair.
41. An Independent Person is invited to attend all meetings of the Hearing Subcommittee and his/her views are sought and taken into consideration before the Hearing 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.
42. The Independent Person is a person who has applied for the post following advertisement. He/she is appointed by Council.
43. Where the Committee finds that a failure to comply with the Code of Conduct has occurred, the Hearing Sub-Committee will determine what action, if any, to take and to apply the sanction or recommend to Council to apply an appropriate sanction.

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HWBB Appendix

Health and Wellbeing Board – The Constitution Committee's recommended Terms of Reference, as recommended at the meeting on 6th April 2021

Cheshire East Statutory Health and Wellbeing Board

Terms of Reference ~~August 2020~~ March 2021

1. Context

- 1.1 The full name of the Board shall be the Cheshire East Health and Wellbeing Board. (CEHWB)
- 1.2 The CEHWB was established in April 2013.
- 1.3 The Health and Social Care Act 2012 and subsequent regulations provide the statutory framework for Health and Wellbeing Boards (HWB).
- 1.4 For the avoidance of doubt, except where specifically disapplied by these Terms of Reference, the Council Procedure Rules (as set out in its Constitution) will apply.

2. Purpose

- 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 and keep up to date the Joint Strategic Needs Assessments (JSNAs) and Joint Health and Wellbeing Strategies (JHWSs), which is a duty of local authorities and clinical commissioning groups (CCGs).
- 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.

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- 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 under 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.

3. Roles and Responsibilities

- 3.1 To work with the Council and CCG 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.

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- 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 the relevant Governing Body of the NHS Clinical Commissioning Group 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~~ that 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. Membership

- 5.1 The Core membership of the CEHWB will comprise the following:

Voting members:

- **Three** councillors from Cheshire East Council
- The ~~Executive Director of People (~~Director of Adult Social Services Care and Director of Children's Services)
- The Director of Public Health
- A local Healthwatch representative
- Two representatives from the Cheshire Clinical Commissioning Group
- Two representatives from the Cheshire Integrated Care Partnership
- The Chair of the Cheshire East Place Partnership

Non-voting members:

- The Chief Executive of the Council
- The Director of Children's and Families
- A nominated representative of NHS England / NHS Improvement

The councillor membership of the CEHWB (the three core voting members) will be determined by Cheshire East Council. 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.

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- 5.2 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.
- 5.3 The above Core Members ¹ through a majority vote have the authority to appoint individuals as Non-Voting Associate Members of the CEHWB. (Committee Procedure Rule 20.1 refers). 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.
- 5.4 The above Core Members ² 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.
- 5.5 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.

6. Frequency of Meetings

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

7. Agenda and Notice of Meetings

- 7.1 Any agenda items or reports to be tabled at the meeting should be submitted to the Council’s Democratic Services no later than seven working days in advance of the next meeting. Generally, no business will be conducted that is not on the agenda.
- 7.2 Any voting member of the Board may approach the Chairman 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.

¹ Regulation 5(1) removes this restriction in relation to health and wellbeing boards by disapplying section 104(1) of the 1972 Act to enable the local authority directors specified in the 2012 Act to become members of health and wellbeing boards

² Regulation 5(1) removes this restriction in relation to health and wellbeing boards by disapplying section 104(1) of the 1972 Act to enable the local authority directors specified in the 2012 Act to become members of health and wellbeing boards

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- 7.3 In accordance with the Access to Information legislation, Democratic Services will circulate and publish the agenda and reports prior to the next meeting. Exempt or Confidential Information shall only be circulated to Core Members.

8. Annual General Meeting

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

9. Quorum

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

10. Procedure at Meetings

- 10.1 General meetings of the CEHWB are open to the public and in accordance with the Council's Committee Procedure Rules will include a Public Question Time Session. Papers, agendas and minutes will be published on the Cheshire East Health and Wellbeing website.
- 10.2 The Council's Committee Procedure Rules will apply in respect of formal meetings subject to the following:-
- 10.3 The CEHWB will also hold development/informal sessions throughout the year where all members are expected to attend and partake as the agenda suggests.
- 10.4 Core Members are entitled to speak through the Chairman. Associate Members are entitled to speak at the invitation of the Chairman.
- 10.5 With the agreement of the CEHWB, subgroups can be set up to consider distinct areas of work. The subgroup will be responsible for arranging the frequency and venue of their meetings. The CEHWB will approve the membership of the subgroups.
- 10.6 Any subgroup recommendations will be made to the CEHWB who will consider them in accordance with these terms of reference and their relevance

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to the priorities within the Joint Health and Wellbeing Strategy and its delivery plan.

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

11. Expenses

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

12. Conflict of Interest

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

13. Conduct of Core Members at Meetings

- 13.1 CEHWB members will agree to adhere to the seven principles outlined in the CEHWB Code of Conduct when carrying out their duties as a CEHWB member [Appendix 1].

14. Review

- 14.1 The above terms of reference will be reviewed every two years at the CEHWB AGM.
- 14.2 Any amendments shall only be included by consensus or a simple majority vote, prior to referral to the Corporate Policy Constitution Committee and Council.

January 2017

Revised July 2019

Revised August 2020

Revised March 2021

Draft revisions March 2021

Definition

Exempt Information

Which is information falling within any of the descriptions set out in Part I of Schedule 12A to the Local Government Act 1972 subject to the qualifications set out in Part II and the interpretation provisions set out in Part III of the said Schedule in each case read as if references therein to “the authority” were references to “CEHWB” or any of the partner organisations.

Confidential Information

Information furnished to, partner organisations or the CEHWB by a government department upon terms (however expressed) which forbid the disclosure of the information to the public; and information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court are to be discussed.

Conflict of Interest

You have a Conflict of interest if the issue being discussed in the meeting affects you, your family or your close associates in the following ways;

- *The issue affects their well being more than most other people who live in the area.*
- *The issue affect their finances or any regulatory functions and*
- *A reasonable member of the public with knowledge of the facts would believe it likely to harm or impair your ability to judge the public interest.*

Associate Members

Associate Member status is appropriate for those who are requested to chair sub groups of the CEHWB.

Health Services

Means services that are provided as part of the health service.

Health-Related Services *means services that may have an effect on the health of individuals but are not health services or social care services.*

Social Care Services

Means services that are provided in pursuance of the social services functions of local authorities (within the meaning of the Local Authority Social Services Act 1970

CEHWB Member Code of Conduct

1. Selflessness

Members of the Cheshire East Health and Wellbeing CEHWB should act solely in terms of the interest of and benefit to the public/patients of Cheshire East. They should not do so in order to gain financial or other benefits for themselves, their family or their friends

2. Integrity

Members of the Cheshire East Health and Wellbeing CEHWB should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their duties and responsibilities as a CEHWB member

3. Objectivity

In carrying out their duties and responsibilities members of the Cheshire East Health and Wellbeing CEHWB should make choices based on merit and informed by a sound evidence base

4. Accountability

Members of the Cheshire East Health and Wellbeing CEHWB are accountable for their decisions and actions to the public/patients of Cheshire East and must submit themselves to whatever scrutiny is appropriate

5. Openness

Members of the Cheshire East Health and Wellbeing CEHWB should be as transparent as possible about all the decisions and actions that they take as part of or on behalf of the CEHWB. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands

6. Honesty

Members of the Cheshire East Health and Wellbeing CEHWB have a duty to declare any private interests relating to their responsibilities and duties as CEHWB members and to take steps to resolve any conflicts arising in a way that protects the public interest and integrity of the Cheshire East Health and Wellbeing CEHWB

7. Leadership

Members of the Cheshire East Health and Wellbeing CEHWB should promote and support these principles by leadership and example

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Health and Wellbeing Board Principles and Behaviours

The Cheshire East Health and Wellbeing Board Partners shall work together to achieve the objectives of the Cheshire East Health and Wellbeing Strategy and The Cheshire East Place Partnership Five Year Plan. The Board shall:

- (a) Collaborate and work together on an inclusive and supportive basis, with optimal use of their individual and collective strengths and capabilities;
- (b) Engage in discussion, direction setting and, where appropriate, collective agreement, on the basis that all the Partners will participate where agreed proposals affect the strategic direction of the Health and Wellbeing Board and/or of Services, and in establishing the direction, culture and tone of the work and meetings of the Board;
- (c) Act in the spirit of partnership in discussion, direction setting and, where appropriate, collective agreement making;
- (d) Always focus upon improvement to provide excellent Services and outcomes for the Cheshire east population;
- (e) Be accountable to each other through the Board by, where appropriate, taking on, managing and accounting to each other in respect of their financial and operational performance;
- (f) Communicate openly about major concerns, issues or opportunities relating to the Board;
- (g) Act in a way that is best for the delivery of activity to drive forward the Five Year Plan, and shall do so in a timely manner and respond accordingly to requests for support promptly;
- (h) Work with stakeholders effectively, following the principles of co- design and co-production;

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Working for a brighter future together

Council

Date of Meeting: 19 April 2021

Report Title: Political Representation on the Council's Committees

Senior Officer: Jane Burns, Executive Director Corporate Services

1. Report Summary

- 1.1. The law requires that each relevant Council decision making body must be politically balanced, as far as is reasonably practicable, and that there is an appropriate total balance of Committee seats across the political structure of the Council as a whole.
- 1.2. This report addresses the changes which will take place following the Council's Annual General Meeting, when the new committee system is implemented.

2. Recommendations

- 2.1 That the political group and other representation, as set out in Appendix A to the report (which will be superseded by a replacement circulated Appendix), and the methods, calculations and conventions used in determining this, as outlined in the report be adopted, and the allocation of places to Committees be approved.

3. Background

- 3.1. Appendix A sets out the political representation on committees, this being based on the political structure of the Council as a whole.
- 3.2. The proportionalities in the Appendix have been arrived at by the following methods and conventions:
 - applying the relevant percentage to each body
 - rounding up from 0.5 and above, and rounding down below 0.5
 - where rounding up would result in more than one political Group receiving an additional seat, and the total allocation of seats

exceeding what is required, the Group having the lowest residual entitlement will not receive an additional seat

- where the required number of members for a decision making body cannot be achieved using the above methods and calculations, the political group having the largest residual entitlement for that body will be entitled to be awarded the additional place (e.g. if one group is entitled to 4.25 places, and another group is entitled to 1.48 places, the first group will be awarded 4 places on the body in question, and the second group will be awarded 2 places)
- where two or more political Groups have an identical residual percentage, the agreement of one Group to sacrifice a seat will be observed. Alternatively, the matter will be resolved by the toss of a coin.

- 3.3 The Appendix also acknowledges the fact that there are now two non-grouped independent Members of the Council. Following a question raised at a recent Full Council meeting about the allocation of committee places to those Members who were not members of a political Group, the legal position and the practice of other local authorities have been researched, and such allocation of places has been agreed to be appropriate.
- 3.4 At the time of writing this report, the political groups were still working together in order to arrive at the requisite balance of committee places, as is needed to ensure that the Appendix properly reflects the requirements of legislation. It is intended that an updated and balanced Appendix be circulated to Members in advance of the meeting, and it is this which will form the basis of the recommendation to Council at Recommendation 2.1 of this report.
- 3.5 This report is being brought to Council for formal decision in advance of the usual practice of reporting to the Council's Annual General Meeting, in order to address a change in legislation.
- 3.6 The legislation which currently provides for formal local authority meetings to take place virtually, ceases to have effect after 6th May 2021. After this date, all formal meetings must take place as "face to face" meetings with Members, officers and members of the public physically present "in the room".
- 3.7 However, separate arrangements have been made, and communicated to Members, which will enable the Council to retain the facility of an informal virtual meeting of Full Council on 12th May 2021. The decisions made at

that meeting will, following the meeting, be formalised using urgency powers.

- 3.8 However, given the nature and importance of the political representation on the Council's committees, and the fact that the opportunity exists for this report to be considered in advance of the Annual General Meeting, it is being brought before Full Council on 19th April 2021 for decision.
- 3.9 Members will see from an earlier report on the Council agenda, the recommendation that provision be made for a meeting of Full Council to take place on 22nd June 2021. In addition to other business which might need to be brought before that meeting, the political representation on the Council's committees can be reaffirmed.

4. Implications of the Recommendations

4.1. Legal Implications

- 4.1.1. The Local Government (Committees and Political Groups) Regulations 1990, made pursuant to the Local Government and Housing Act 1989, make provisions in respect of the political group representation on a local authority's committees in relation to the overall political composition of the Council. The legislation applies to overview and scrutiny committees and the decision-making committees and sub committees of the Council.
- 4.1.2. The legislation requires that, where proportionality applies, and seats are allocated to different political groups, the authority must abide by the following principles, so far as is reasonably practicable:
- 4.1.2.1. Not all of the seats can be allocated to the same political Group (i.e. there are no single group committees).
- 4.1.2.2. The majority of the seats on the body are to be allocated to a political Group with a majority membership of the authority.
- 4.1.2.3. The total number of seats on all ordinary committees and sub committees allocated to each Political Group bears the same proportion to the proportion on the full Council.
- 4.1.2.4. The number of seats on each ordinary committee allocated to each Political Group bears the same proportion to the proportion on full Council.
- 4.1.3 The proposals contained in this report meet the requirements of the legislation.

- 4.1.4 The 1990 Regulations require Political Group Leaders to notify the Proper Officer of the Groups' nominations to the bodies in question.

4.2. Finance Implications

- 4.2.1. There are no direct finance implications.

4.3. Policy Implications

- 4.3.1. There are no direct implications for policy.

4.4. Equality Implications

- 4.4.1. There are no direct implications for equality.

4.5. Human Resources Implications

- 4.5.1. There are no direct human resource implications.

4.6. Risk Management Implications

- 4.6.1. Failure to comply with the Act and Regulations when appointing its committee memberships would leave the Council open to legal challenge.

4.7. Rural Communities Implications

- 4.7.1. There are no direct implications for rural communities.

4.8. Implications for Children & Young People/Cared for Children

- 4.8.1. There are no direct implications for children and young people/Cared for Children.

4.9. Public Health Implications

- 4.9.1. There are no direct implications for public health.

6.10 Climate Change Implications

- 6.10.1. There are no direct climate change implications.

5. Ward Members Affected

- 5.1. All ward members

6. Access to Information

- 6.1. The background papers relating to this report can be inspected by contacting the report writer.

7. Contact Information

7.1. Any questions relating to this report should be directed to the following officer:

Name: Brian Reed

Job Title: Head Democratic Services and of Governance

Email: brian.reed@cheshireeast.gov.uk

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APPENDIX A

CHESHIRE EAST COUNCIL - POLITICAL PROPORTIONALITIES ON ALL BODIES (other than those to be appointed on an ad-hoc basis)**Based upon the following:****Con:32; Lab:25; Ind:17; Lib Dem:4; R. Ind:2; NGI:2**

Committee	Con.	Lab.	Ind.	Lib. Dem.	R. Ind	N.G.I	Total Allocated
Overview and scrutiny cttee	5.0726 (5)	3.9637(4)	2.6949(3)	0.6344(1)	0.3172(0)	0.3172(0)	13
Corporate Policy cttee	5	4	3	1	0	0	13
Economy and Growth cttee	5	4	3	1	0	0	13
Highways and Transport cttee	5	4	3	1	0	0	13
Env. and Communities Cttee	5	4	3	1	0	0	13
Children and Families cttee	5	4	3	1	0	0	13
Adults and Health cttee	5	4	3	1	0	0	13
Finance Sub cttee	3.1216(3)	2.4392(3) (rounded up)*	1.6584(2)	0.3904(0)	0.1952(0)	0.1952(0)	8
Audit and Governance Committee	3.5118(4)	2.7441(3)	1.8657(2)	0.4392(0)	0.2196(0)	0.2196(0)	9
Strategic Planning Board	4.6824(5)	3.6588(4)	2.4876(2)	0.5856(1)	0.2928(0)	0.2928(0)	12
Northern Planning Committee	(5)	(4)	(2)	(1)	(0)	(0)	12
Southern Planning Committee	(5)	(4)	(2)	(1)	(0)	(0)	12
Licensing Committee	5.853(6)	4.5735(5)	3.1095(3)	0.732(1)	0.366(0)	0.366(0)	15
Staffing/ Appointment cttee	(3)	(3) (rounded up)*	(2)	(0)	(0)	(0)	8
Committee	Con.	Lab.	Ind.	Lib. Dem.	R. Ind	N.G.I	Total
Total Places allocated	66 (one too many)	54 (three too many)	36 (one too many)	11 (three too many)	0 (four too few)	0 (four too few)	167
Percentage entitlement	39.02439 (39.02)	30.487804 (30.49)	20.731707 (20.73)	4.8780487 (4.88)	2.4390243 (2.44)	2.4390243 (2.44)	100%
Proportional Entitlement	65.1634 (65)	50.9183 (51)	34. 6191 (35)	8.1496 (8)	4.0748 (4)	4.0748 (4)	167
Difference	+1	+3	+1	+3	-4	-4	0

*Rounding-up carried out in accordance with Council agreed conventions

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