

Constitution Committee

Agenda

Date: Thursday, 29th April, 2021
Time: 10.30 am
Venue: Virtual Meeting

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

[Join live event](#)

Or dial in via telephone: 141 020 3321 5200 and input Conference ID: 990 754 74# when prompted.

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

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

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

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

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

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

In accordance with paragraph 2.32 of the Committee Procedure Rules, a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the Committee. Individual members of the public may usually speak for up to 5 minutes. However, if there are a significant number of speakers, the

Please contact Paul Mountford, Executive Democratic Services Officer
Tel: 01270 686472
E-Mail: paul.mountford@cheshireeast.gov.uk

Chairman may exercise his discretion to modify the amount of time allocated to each speaker in order to accommodate everyone wishing to speak.

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.

4. **Member Speaking**

A period of up to 20 minutes will be provided at the meeting to enable visiting members to speak or ask a question in relation to any matter on the agenda. The Chairman will determine the amount of time allocated to each member based on the number of members wishing to speak. The Chairman will have discretion to vary the arrangements if he considers it appropriate.

Any visiting member wishing to speak or ask a question at the meeting is asked to give notice in writing at least three days before the meeting. This will assist the Chairman in managing the business of the meeting.

5. **Minutes of Previous meeting** (Pages 3 - 12)

To approve the minutes of the meeting held on 6th April 2021.

6. **Scheme of Members' Allowances: Report of the Independent Remuneration Panel (IRP)** (Pages 13 - 28)

To consider the Independent Remuneration Panel's review of Cheshire East Council's Scheme of Members' Allowances.

7. **Transitional Provisions and Future Constitutional Work** (Pages 29 - 36)

To consider the recommendations of the Constitution Working Group.

THERE ARE NO PART 2 ITEMS

Membership: Councillors M Asquith, R Bailey, M Benson, J Bratherton, J Clowes, L Crane, S Edgar, S Hogben (Vice-Chairman), A Martin, B Murphy, J Nicholas (Chairman), A Stott, M Warren and P Williams

CHESHIRE EAST COUNCIL

Minutes of a virtual meeting of the **Constitution Committee**
held on Tuesday, 6th April, 2021

PRESENT

Councillor J Nicholas (Chairman)
Councillor S Hogben (Vice-Chairman)

Councillors M Asquith, R Bailey, M Benson, J Bratherton, J Clowes, L Crane,
S Edgar, D Marren, A Martin, B Murphy, A Stott and P Williams

Other Members Present

Councillors J Saunders, B Evans, L Wardlaw, L Smetham, A Moran, S Pochin,
A Farrall, M Sewart, B Puddicombe, J Rhodes, P Redstone, D Murphy, T Fox,
J Smith, C Bulman, M Houston, D Brown, M Beanland, M Simon, B Burkhill,
P Groves, S Holland and S Akers Smith.

Officers

David Brown, Director of Governance and Compliance
Brian Reed, Head of Democratic Services and Governance
Martin Smith, Registration and Civic Services Manager
Josie Griffiths, Head of Audit and Risk
Guy Kilminster, Corporate Manager Health Improvement
Roisin Beressi, Legal Team Manager Adults & Education
Peter Jones, Barrister
Phil Christian, Business Intelligence Manager
Nick Billington, Economic Research and Intelligence Officer
Paul Mountford, Executive Democratic Services Officer

External Technical Adviser

Dr Melvin Humphreys

9 DECLARATIONS OF INTEREST

There were no declarations of interest.

10 PUBLIC SPEAKING TIME/OPEN SESSION

Councillor Kevin Gibbs, Vice-Chairman of Shavington-cum-Gresty Parish Council, asked the Committee not to approve the community governance review proposals until Gresty was put back into the parish of Shavington-cum-Gresty where it had been for centuries. He also opposed the transfer of part of Shavington into the neighbouring parish of Wybunbury.

Councillor John Smith, Handforth Parish Council, spoke about his Council's opposition to a merger with Wilmslow and Chorley Parish

Councils on the grounds that Handforth was a community in its own right and should be allowed to continue as such.

Hilda Gaddum, former Councillor and past Mayor of Cheshire East, spoke in opposition to the transfer of part of Sutton Parish to Macclesfield as this failed to recognise its community identity and the natural boundaries between the parish and Macclesfield. She also spoke against the merger of the Macclesfield Forest and Wildboarclough Parishes with the residual Parish of Sutton, both parishes being in the Peak District National Park Authority and subject to different planning rules.

Councillor Georgina Bailey, Vice-Chairman of North Rode Parish Council, voiced her council's opposition to the merger of the Parish with the neighbouring Parish of Eaton. The Parish wished to retain its unique rural identity and saw no benefits from the merger.

Dr Roger Small, spoke on behalf of the Handforth Neighbourhood Plan Steering Group in opposition to a merger with Wilmslow and Chorley on the grounds that the evidence did not justify such a merger and that the principles and criteria underpinning the community governance review had been applied inconsistently and erroneously.

Ashley Comiskey Dawson, Clerk to Chorley Parish Council, voiced his Council's opposition to a merger with Wilmslow and Handforth, as Chorley was a village with its own distinct rural identity.

At the Chairman's invitation, Councillor R Bailey read out the comments of Councillor Les Horne, Chairman of Minshull Vernon and District Parish Council, who had been unable to attend the meeting. Councillor Horne said that the abolition of the parishes of Leighton and Woolstanwood and their merger with Crewe was opposed by the parish council and local residents and that Cheshire East Council had failed to put forward any justifiable reasons for the proposal.

11 MEMBER SPEAKING

Councillor L Smetham spoke of the need for local ward members to be informed of any significant changes affecting their wards so that they could comment consult with their local parish councils. She spoke in particular about excessive land transfers proposed from Gawsworth and Eaton to their neighbouring towns of Macclesfield and Congleton.

Councillor J Saunders spoke of the need for meetings of the Corporate Parenting Committee to continue to start at 4.00 pm in the new calendar to allow child representatives to attend. She also questioned whether the number of committee meetings in the new calendar was sufficient.

Councillor S Pochin asked the Committee to ensure that under the new committee system, all councillors, including those not belonging to political groups, were able to participate actively in the decision-making process.

The Chairman responded that the Head of Democratic Services and Governance would give a written response.

Councillor A Farrall commented that the proposed procedure rules for the new committee system provided that visiting members could only speak at committee meetings at the discretion of the chairman and that there was no provision for visiting members to speak as of right, and no time limits set on individual speakers. This, he felt, left the matter open to discrimination and abuse. He asked that the rules be amended to provide an opportunity for visiting members to speak.

Councillor M Sewart commented that certain committees referred to in the draft calendar of meetings were scheduled to be held on different days of the week throughout the year. This presented difficulties for those members who had structured lives and were in employment. He asked that there be a set day of the week for each committee. He also spoke in opposition to a three hour time limit for Council meetings which he felt was undemocratic. Finally, he expressed his support for the community governance review proposals for Poynton and Adlington.

Councillor D Brown asked that a series of briefing sessions be arranged for parish councils prior to the formal consultation on the community governance review.

Councillor P Redstone wanted to know what model of engagement with parish councils had been used for the pre-consultation survey on the community governance review, given that only 56 of 142 parish councils had responded.

12 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 5th October 2020 be approved as a correct record.

13 COMMUNITY GOVERNANCE REVIEW-FORMAL CONSULTATION ON DRAFT PROPOSALS

The Committee considered a report on the draft proposals for formal consultation on the community governance review, and the recommendations of the Community Governance Review Sub-Committee in relation thereto.

The Community Governance Review Sub-Committee meeting on 26th February 2021, having considered the draft proposals, had resolved:

That the Sub-Committee recommends to the Constitution Committee that the draft proposals attached at Appendix B to the report be

formally agreed for the purposes of consultation and consulted upon for a 12-week period, subject to any amendments required to reflect the response of Holmes Chapel Parish Council to the pre-consultation survey.

A number of amendments had been made to the draft proposals following feedback from the Sub-Committee, including reference to the response from Holmes Chapel Parish Council to the pre-consultation survey. In addition, the maps had been amended to display all the potential expansion areas within each map view.

It was confirmed that all parish council clerks and chairmen, as well as other organisations affected by the community governance review, would be notified when the 12-week consultation period commenced. Parish councils and others would be able to feed back their comments through the dedicated Cheshire East Council website or in writing. Consideration was also being given to holding briefings for parish councils.

There was support among members for the suggestion that, where there was a proposed change to a parish boundary or parish name, and where requested by the relevant parish councils, those affected by the change should be given the opportunity of a referendum on the matter. Reference was made to the postal ballot-type “referendums” which had been put in place in respect of the Community Governance Reviews for Crewe and Macclesfield shortly after the Council came into being. It was also felt that where a parish council could not afford such a poll, the costs should be met by Cheshire East Council.

Officers advised that there was no budget for any referendum or poll and that this was outside of the existing budget framework. Any financial implications outside of existing resources would need to be considered as part of the Medium-Term Financial Strategy.

Officers, and the Council’s external adviser, Dr Humphreys, further advised that it would be appropriate for any referendum or poll to take place after the consultation, when the proposals were formulated. However, members considered it appropriate to seek the views of residents on the proposed changes in the consultation document during the consultation period.

Officers further advised that the outcome of any such referendum would not be binding on the Council although it could be taken into consideration by Council when making a decision on the final recommendations. Members felt that it should be binding on the Constitution Committee and referred to in the report to Council.

RESOLVED

That the draft proposals attached at Appendix B to the report be formally agreed for the purposes of consultation and consulted upon for a 12-week

period, and that where there is a proposal to change a parish name or alter a parish boundary, Cheshire East Council will conduct a referendum, reflecting the request of the parish council, and the result of that referendum will be binding.

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.

It was suggested 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. It was also felt that the number of scheduled meetings of the Committee should remain at six. Officers advised that the calendar of meetings was flexible and that committee chairmen would be able to approve additional meetings as and when it was considered appropriate. In this respect, it was noted that the Corporate Parenting Committee at its meeting on 30th March 2021 had resolved to review the frequency of its meetings following the implementation of the committee system.

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.

At this point, the meeting was adjourned for half an hour, to reconvene at 2.00 pm.

15 CHESHIRE EAST MAYORALTY

The Committee considered a report summarising the work of the Mayoral Working Group that had been established by the Constitution Committee late in 2019.

At the Chairman's invitation, Councillor B Murphy addressed the meeting as Chairman of the Mayoral Working Group.

RESOLVED

That the Committee recommends to Council the recommendations set out in the report, including the adoption of a revised Mayoral Code of Practice as set out in Appendix 2 to the report, subject to the following:

- (a) Paragraph 2.3 of the revised Code be augmented by the requirement that the Mayor must not reference their role as Mayor when campaigning in local elections.
- (b) The Mayor must not sit on the board of directors of an ASDV.
- (c) The Mayor should be advised not to sit on any committees of the Council.
- (d) Paragraph 7 of the revised Code be amended to provide that when the Mayor is attending an event alongside a town mayor in Cheshire East, and that event is hosted by the town council or by a third party, both mayors will enjoy equal status unless national protocols provide otherwise.
- (e) The Mayor to decide upon when it is appropriate for them to wear their formal robes, and upon whether to have a chaplain.
- (f) The officers make such other minor changes to the Protocol as agreed by the Committee.

16 CONSTITUTIONAL UPDATE TO IMPLEMENT THE COMMITTEE SYSTEM

The Committee considered an early draft of a revised constitution designed to address the needs of the new committee system.

Members felt that there were a number of matters which required further detailed consideration before a formal recommendation could be made to Council on the adoption of a revised constitution. In this respect it was noted that a special meeting of the Committee had been convened for 29th April.

RESOLVED

That consideration of the revised constitution be deferred to the Committee's meeting on 29th April 2021.

17 TRANSITIONAL PROVISIONS AND FUTURE CONSTITUTIONAL WORK

The Committee considered a report which made provision for the transition of past executive decisions into the new committee system. The report also set out the consequential impacts relating to some sub committees, external boards and appointments, provided an indicative process for budget-setting for next year and summarised the further work that would be undertaken on the constitution.

The Committee noted that where Cabinet had delegated a decision to an individual Portfolio Holder, that decision would in future be taken by the relevant Executive Director or Director unless it fell within the specific categories referred to in the transitional provisions. Members asked that this provision be deleted.

The Committee noted that the new budget process would provide each service committee with a review of the mid-year position and the opportunity to comment on future proposals relating to its area of work. Members asked that such information be provided by individual service area. The Monitoring Officer undertook to raise the matter with the Section 151 Officer.

RESOLVED

That the report attached as Appendix A to the report, and the recommendations set out therein, be recommended to Council for approval subject to the following:

- (a) the deletion of the provision whereby a decision delegated to an individual Portfolio Holder would in future be taken by the relevant Executive Director or Director unless it fell within the specific categories referred to in the transitional provisions; and
- (b) consideration being given to providing service committees with budgetary/financial information by individual service area.

18 AUDIT AND GOVERNANCE COMMITTEE STRUCTURE AND COMPOSITION

The Committee considered the recommendations of the Audit and Governance Committee on its future composition and structure, and terms of reference.

The changes proposed by the Audit and Governance Committee were summarised in section 4 of the report. These included a Committee of nine elected members plus two co-opted independent members on a fixed term membership of four years. Proposed terms of reference were set out in Appendix 1 to the report, subject to a suggested amendment in paragraphs 4.3 and 4.4 of the report to provide clarification on the proportionality arrangements for a hearing sub-committee.

RESOLVED

That the changes proposed by the Audit and Governance Committee, with the additional clarification identified after the Committee, as set out in the report, be recommended to full Council, with any outstanding matters being delegated to the Director of Governance and Compliance to resolve in consultation with the Chairman and Vice-Chairman of the Constitution Committee if required.

19 APPOINTMENT OF NEW MEMBER TO THE INDEPENDENT SCHOOL ADMISSION APPEALS PANEL AND INDEPENDENT REVIEW PANEL FOR EXCLUSION REVIEWS

The Committee considered the appointment of an individual to become a member of the Independent School Admission Appeals Panel and the Independent Review Panel for Exclusion Reviews.

RESOLVED

That the Committee approves the appointment of the individual to become a member of the Independent School Admission Appeals Panel and Independent Review Panel for Exclusion Reviews.

20 PROPOSED CHANGES TO THE CHESHIRE EAST HEALTH AND WELLBEING BOARD TERMS OF REFERENCE

The Committee considered proposed changes to the terms of reference of the Cheshire East Health and Wellbeing Board as set out in Appendix 1 to the report.

The Cheshire East Health and Wellbeing Board had approved the changes at its meeting on 23rd March 2021.

RESOLVED

That

1. the suggested amendments to the Cheshire East Health and Wellbeing Board terms of reference as set out in Appendix 1 to the report be endorsed;

2. the Acting Director of Adult Social Services be included as a core voting member of the Health and Wellbeing Board and the Interim Director of Children's Services a core non-voting member;
3. the wording regarding the nomination of Councillors to sit on the Health and Wellbeing Board be amended as shown in paragraph 5.1 of the draft amended terms of reference; and
4. the amended references to the naming of the Scrutiny Committee in paragraph 4.6 of the draft terms of reference be accepted.

21 AMALGAMATION OF THE COUNCIL'S MEMBER FORUM AND PANELS

The Committee considered proposals to amalgamate the Council's three informal member panels: the Brighter Future Members' Forum, the Member Technology and Development Panel and the Members' Enquiries Service Panel, into one body to be known as the Members' Input Panel.

The merger would create efficiencies, avoid duplication and promote a more holistic approach to the support provided to Members.

RESOLVED

That

1. the Brighter Future Members' Forum, the Member Technology and Development Panel and the Members' Enquiries Service Panel be replaced with a single body to be known as the Members' Input Panel;
2. the terms of reference for the Members' Input Panel as appended to the report be approved; and
3. the Head of Democratic Services and Governance be authorised to agree the number of Panel members in consultation with the Chairman and Vice-Chairman of the Committee, based upon political proportionality, excepting that the Panel should have representation from all of the Council's political Groups.

The meeting commenced at 11.00 am and concluded at 6.30 pm

Councillor J Nicholas (Chairman)

This page is intentionally left blank



Working for a brighter future together

Constitution Committee

Date of Meeting: 29th April 2021

Report Title: Scheme of Members' Allowances: Report of the Independent Remuneration Panel (IRP)

Senior Officer: Jane Burns, Executive Director Corporate Services

1. Report Summary

- 1.1. This report appends the Independent Remuneration Panel's (IRP) review of Cheshire East Council's Scheme of Members Allowances (Appendix A), which has been undertaken in order to address the change to the Council's governance arrangements.

2. Recommendations

- 2.1. That the Constitution Committee note the IRP report and refer the report to full Council for consideration, together with any specific recommendations arising from the deliberations of the Committee.
- 2.2 That the Constitution Committee give specific consideration to the recommended annual index which may be applied to all allowances in the Scheme and to recommend that, if Council chooses to agree such an index, this be applied to the Scheme for a period of 4 years.

3. Reasons for Recommendations

- 3.1 The reasons for the recommendations of the IRP are contained with the Panel's report.

4. Background

- 5.1 The Members Allowances Regulations 2003 require that an IRP be established by local authorities in order to make recommendations upon Member allowances.
- 5.2 The current IRP was appointed in 2019 and comprises Professor Steve Leach (Chairman), Mrs Mandy Ramsden and Mrs Jacquie Grinham. The IRP has a four-year term of office, which expires in 2023.
- 5.3 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, to take effect from the Annual Council meeting in 2021. As the current scheme of allowances is based on the Leader and Cabinet model, the IRP has given consideration to a new scheme of allowances which reflects Members' new roles and responsibilities.
- 5.4 The Constitution Committee agreed, as part of the last review in 2016, that there was no necessity for a report of the IRP to be produced on an annual basis. To achieve this, consideration was given to making future provision for the Members Allowances Scheme to be adjusted on an annual basis, by reference to an index.
- 5.5 As an index may be applied for a period of up to four years, the IRP has again considered whether the current indexation arrangements (i.e. alignment of Member allowances with any NJC Officer Pay award) should continue. The IRP has made this recommendation, which is included in their report. If Council is minded to agree this approach, it will need to determine the period of such indexation (which is recommended for all allowances, apart from mileages). It is recommended that the indexation period, as is currently the case, should be for the period of 4 years, which removes the need for the IRP to be asked to make recommendations for Council to consider on a more frequent basis.
- 5.6 The Committee will see the appended report of the IRP, which fully details its recommendations, in respect of Member allowances, to the Council. Each recommendation is accompanied by the IRP reasons and explanation. For example, the Committee will note that the IRP has made recommendations in paragraphs 2.14-2.16 to a role of "opposition spokesperson".

5. Implications of the Recommendations

5.1. Legal Implications

- 6.1.1. The Council is empowered to pay a range of allowances to its elected Members in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 in respect of their roles and responsibilities.
- 6.1.2 In accordance with the Regulations, the Council is required to appoint an Independent Remuneration Panel to make recommendations to it, in respect of the Members' Allowances Scheme. Council has to have regard to the recommendations of the Panel when determining or making changes to a scheme of Members' Allowances.

5.2. Financial Implications

- 5.3. The cost of all proposed allowances, including the inflationary increase, remain within the 2021/22 budget envelope of £1.387m for basic and special responsibility allowances.

5.4. Policy Implications

- 5.4.1. There are no direct policy implications.

5.5. Equality Implications

- 5.5.1. There are no direct equality implications.

5.6. Human Resources Implications

- 5.6.1. There are no human resources implications.

5.7. Risk Management Implications

- 5.7.1. Council is not required to accept the Panel's findings, nor endorse its recommendations but any alternative approach agreed should seek to manage any corresponding financial or business risk.

5.8. Rural Communities Implications

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

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

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

5.10. Public Health Implications

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

5.11. Climate Change Implications

5.11.1. The scheme includes green travel incentives i.e. allowances for travel by bicycle and car sharing.

6. Ward Members Affected

6.1. The implications are borough wide.

7. Consultation & Engagement

7.1. All members of Council were invited to submit their views to the Panel via email. Two virtual meetings also took place in January 2021 with the Leaders of the Labour Group, the Conservative Group, Independents and Liberal Democrats.

8. Contact Information

8.1. 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

CHESHIRE EAST MEMBERS' ALLOWANCES

Report of the Independent Review Panel, March 2021

1.0 Background.

- 1.1 In November 2020, Cheshire East Council resolved to move from a Cabinet and Leader model of decision-making to a Committee System, the new structure to be introduced at the start of the 2021-22 municipal year. This major change, involving the creation of many new positions of responsibility necessitated a review of members' allowances in the authority. The Independent Review Panel (IRP) was asked in November 2020 to develop recommendations for a new scheme which responded to these changes.
- 1.2 The Panel comprises the chair, Steve Leach (Emeritus Professor of Local Government, De Montfort University), Mandy Ramsden (resident and former local government officer) and Jacquie Grinham (former CEO of Cheshire North Citizens Advice Bureau). Its previous report was accepted by the Council (with a few minor amendments) in 2016. Some of the analysis and conclusions in that report remain relevant to the current exercise, but in other cases a major re-assessment of the scheme is clearly required.
- 1.3 The Panel was provided with several background papers which detailed the thinking behind the new decision-making structure and with the reports of IRPs which had dealt with parallel situations in other authorities (including Brighton and Hove, Nottinghamshire, Reading and the London Borough of Sutton) which had moved from a cabinet and leader model to a committee structure. All councillors were invited to make representations to the Panel in writing, 17 of whom did so. Opportunities of virtual meetings with the Panel were offered to all five leaders of the parties represented on the council, four of whom took advantage of this opportunity. The Panel is grateful to Diane Moulson and Brian Reed for their much-appreciated support and for the many informal discussions which took place with them.

2.0 Analysis and Recommendations.

- 2.1. The Panel discussed the principles which it felt should underpin its analysis and recommendations. They have all been commonly identified by panels elsewhere and are listed below: -
 - the allowances scheme should facilitate a greater diversity of council membership, including under-represented groups such as younger people, those in full-time work and ethnic minorities.
 - it should take account of allowances schemes in comparable authorities.
 - it should acknowledge that not all of the time commitment of members should be deemed eligible for remuneration. 50% is the figure typically recommended.
 - it should facilitate the democratic viability of the council, by giving due weight to the roles of opposition parties and of the scrutiny function.

- it should facilitate as wide as possible a sharing of positions of responsibility; hence only one special responsibility allowance (SRA) should be claimable by any one councillor.
- the proportion of members qualifying for SRAs should ideally not be greater than one third (this is government guidance)
- SRAs should be provided as a response to the level of responsibility involved in a particular post, not the time committed to it.

2.2. The comments from councillors in their submissions to the Panel were typically wide-ranging and varied. There was a good deal of support expressed for some of the principles listed above, particularly those relating to diversity of council membership, the wide sharing of positions of responsibility and retaining the link between officer and member pay increases. Comments listed below were made by two or more members, and hence may be assumed to enjoy a degree of support.

- the allowances budget should be frozen at its current level.
- SRAs should be paid to vice -chairs of the six new committees and possibly more widely.
- The basic allowance should be increased, if there is scope to do so in a 'no net increase' situation.
- the work of a committee chair is likely to be more time-consuming than a cabinet member.

2.3 The Panel was notified at an early stage that leading members did not wish to see a net increase in the overall members' allowances budget for 2020-21 to be introduced in 2021-22, the first year of operation of the new system. It was happy to accept this constraint, subject to the application of the existing criterion for updating allowances (the NJC Officers' settlement imposed by the government). The Panel itself would not have been minded to recommend any significant increase in the allowances budget, partly in light of the impact of the Covid pandemic on unemployment and poverty levels, but also because the average allowances per member is already higher than that of many of its CIPFA comparators. However, it notes that the Council decided not to apply the recommended criterion for uprating members' allowance – the NJC officers' pay settlement of 2.75% – in 2020. The Panel would have no objection if the Council decided to apply this increase retrospectively; it was after all the Panel's recommendation.

2.4 The move from a cabinet and leader structure to a committee system has two important consequences for members' allowances. First, because decision-making responsibilities cease to be dominated by a small number of individuals (the cabinet) and move to a committee system in which all members of the various committees share responsibility for decisions, there would be a logic in shifting the balance between the basic allowance and the total level of allowances paid to members of the cabinet in favour of the former. Second, even though it is normal practice in a committee system for the process of decision-making to be led by the chair, who will have held preparatory meetings with the officers concerned (and probably members of his or her own party group who sit on the committee), the formal responsibility for the decisions made rests with the collective body – the committee. If something goes wrong, or legal action is taken in response to a decision, it is the committee which will be held responsible, not the chair or vice-chair. In the

cabinet and leader model it is the cabinet members, collectively or individually, (depending on the allocation of responsibilities) who would be held responsible for subsequent problems, legal or otherwise.

- 2.5 In addition, given that the new structure includes only one scrutiny committee (presumably on the assumption that most scrutiny will take place within the committees themselves), members of committees will have a dual role – to make decisions and to scrutinise them. Previously, they had carried out the latter role in the four scrutiny committees operated by the council but had played no part in the decisions taken within the cabinet. As their role as local representatives and advocates will certainly not diminish, the likelihood is that they will become even busier than they have been in the past.

The Basic Allowance

- 2.6 In these circumstances, the Panel's initial view was that the Basic Allowance should be increased, and the SRAs payable to committee chairs should be decreased, compared with those previously paid to cabinet members. But it soon became apparent that there was a problem with this plan. Given the Panel's acceptance of the dominant 'no net increase in members' allowances' view, if it had recommended that the basic allowance be increased even by a modest 5%, then the cuts that would have been required in the total SRA budget would have been of the order of £50,000. In addition, because in Cheshire East there is now a joint Labour/Independent administration, the Panel had been informed that in the six new service committees, whichever party holds the chair, the vice-chair would be held by the other party. In these circumstances both chair and vice chair have a vital role to play in managing the business of the committee, and it would become imperative to allocate an SRA to the vice-chair as well as the chair. If the basic allowance were to be increased by 5%, this would result in a decrease in the chair's SRA (compared with the SRA previously paid to cabinet members) of a level that could not be justified.
- 2.7 The Panel noted that the basic allowance in Cheshire East currently stands at £12,351. This figure is 22% higher than the average (£10,080) for the CIPFA group of authorities which are used as comparators. This disparity enabled the Panel to conclude that the basic allowance in Cheshire East was a relatively generous one, and as a result, the case in principle for an increase (see 2.2 above) should not be implemented. Its view was that the current level of the basic allowance was such as to contribute to the aim of increasing the diversity of those motivated to stand for election and that to raise the allowance by 5% would not be likely to make a significant difference to this desirable outcome. **The Panel's recommendation is that the basic allowance should remain at £12,351 (unless the council decides to apply the 2.75% uprating retrospectively, in which case it would become £12,690).**

Leader and Deputy Leader of the Council

2.8 The Panel felt that it was appropriate to retain the current SRA allocated to the Leader of the Council. Although in a committee system leaders have less power than in an authority which operates the cabinet and leader model, (they can no longer appoint cabinet members, allocate portfolios to them nor allocate decision-making responsibilities to them or to themselves) the significance of and demands on the role of leader of a large unitary authority have increased over the past decade. This is particularly true of the role's external dimensions - working with central government agencies and local partners. Leading the Council's response to the Covid Pandemic has been an additional responsibility. **The Panel's recommendation is that the Leader's SRA should remain at £28,371.**

2.9 The role of deputy leader is often more problematical for allowances panels. The normal pattern is for their SRAs to be pitched between £2,000 and £5,000 above those of other members of the cabinet (or of committee chairs in an authority which has adopted that model). The problem is that the responsibilities enjoyed by the deputy leader depend crucially on the leader's propensity (or otherwise) to delegate, which is not always easy for a panel to ascertain. However, in a joint administration like that of Cheshire East, there is no doubt that the role of the deputy leader, who is from a different party to that of the leader, is a 'real job'. It is not a case of what the leader delegates; agreement must be negotiated over a wide range of issues facing the council. **It would be appropriate in these circumstances to retain the SRA currently paid to the deputy leader at £17,128. This is the Panel's recommendation.**

Opposition Group Leaders and Group Whips

2.10 The SRA of the main opposition group leader is currently set at £7,650. This figure is below the average (£9,090) in Cheshire East's CIPFA group of comparator authorities, although allowances for this position vary widely. The Panel was of the opinion that in the light of this disparity and in the interests of 'facilitating the democratic viability of the council, by giving due weight to the role of the opposition' (see 2.1 above), there was a case for increasing this SRA, not least because of the crucial role the main opposition plays in a hung authority with a shared administration (or coalition), which is arguably more demanding and potentially influential than in a majority-control situation. **The Panel recommends an SRA of £10,000 for the leader of the largest opposition party and £5,000 for the deputy. The deputy group leaders of the two parties forming the administration should also receive an SRA of £5,000 apiece, as was the practice previously. The leader of any smaller opposition group with a membership of four or more should also receive an SRA of £5,000.**

2.11 The net increase in the allowances budget for opposition leaders and their deputies can largely be financed by discontinuing the SRAs paid to the administration whip (now two of them presumably), the deputy whip, and the whips attached to the opposition parties. The practice of allocating SRAs to these positions, which focus predominantly on the internal management and discipline of party groups, has largely died out. Of the 16 authorities in

Cheshire East's CIPFA family, only three (including Cheshire East) pay allowances for these positions. Their retention was justified to the Panel on the grounds that they play an important co-ordination and business management role in a 'no overall control situation' and that their workload is likely to increase in 2021, after the council moves to an unfamiliar committee system. The Panel does not doubt that this is the case. However, if it were to allocate SRAs for all these whip positions, this would necessitate reductions in other allowances that the Panel has recommended and increase the number of SRAs to well above the 33% guidelines. In these circumstances, it regards this activity as one of the many significant but lower order responsibilities which the majority of councillors exercise, which their basic allowance should be seen as covering. It would be impossible (and undesirable) to devise an allowances scheme which allocated SRAs for all such additional responsibilities.

Chairs of the new Committees

- 2.12 By not recommending an increase in the basic allowance, the Panel was able to consider reallocating the total SRA allowance paid to cabinet members (£113,488) to the new service committees. The Panel was informed of the importance to be attached to the Finance sub-committee in the new arrangements and that it was seen as being of equal status to the six service committees. The Panel concluded that it would be appropriate for it to be treated in the same way as the service committees, as far as the allocation of allowances was concerned. Thus, one seventh of the above sum (£16,213) should be allocated to each committee
- 2.13 But in recognition of the importance of the role of vice chair of a decision-making committee, in a situation where a joint administration operates (see 2.4 above), the Panel was clear that some of this allocation should go to the vice-chairs. **Its view was that the most appropriate division of this sum would be SRAs of £12,000 for the chair and £4,200 for the vice-chair, which is the Panel's recommendation.** This division would mean that the chair of each committee would be receiving around £2,000 less than the SRA received by cabinet members, but the Panel was clear that this reduction was justified in the light of the reduction in individual responsibility involved (see 2.4 above).

The Scrutiny function

- 2.14 It is likely that members of the opposition will play a leading role in scrutiny, both on the scrutiny committee and in the six service committees and Finance sub-committee which have been established. This role is crucial to the effective working of democracy in the council; it is right that decisions or proposed decisions should be robustly challenged, if there are substantive grounds for doing so. In these circumstances the Panel considered that it was right to allocate SRAs to the role of opposition spokesperson on each service committee and Finance Sub-Committee. This practice has been introduced in Nottinghamshire and Brighton when these authorities switched from a leader and cabinet model to a committee system.

- 2.15 The Panel recognised that the role of opposition spokespersons on the new committees had not been specified in the proposed structure. However, it was aware that there was a tradition of shadow cabinets in Cheshire East, in which it presumes that members are appointed to focus on the topics identified in the cabinet portfolios. Assuming this to be the case, one might reasonably anticipate that, in the new structure, main opposition group members would be similarly appointed to shadow the topics covered by the new committees and Finance Sub-Committee. They would be the logical incumbents of the 'opposition spokespersons' roles which should encompass access to officers for information on scrutiny topics which they wish to raise, to facilitate a well-informed and constructive approach to scrutiny. Given the small size of the other opposition groups, it would not be feasible to include them in the system of opposition spokespersons.
- 2.16 The Panel was informed that the brief of the Scrutiny Committee in the new structure will be limited to its statutory requirements, focusing on external scrutiny of health and policing issues (amongst others) and that meetings were expected to be held no more than quarterly. The scrutiny of internal policies and decisions was planned to take place within the six new committees and Finance Sub-Committee. In these circumstances, the Panel's view was that the SRA allocated to the chair of the Scrutiny Committee should be no higher than that currently paid to the chairs of the Strategic Planning Board and the Licensing Committee, namely £7,650. The existing allowances budget in Cheshire East for Overview and Scrutiny Chairs is £30,600, which leaves £22,950 available for the seven opposition spokespersons. The Panel's view was that an SRA of £4,200 – equivalent to that paid to the vice chairs of the committees – should be allocated to these positions, which would increase the overall scrutiny allowances budget to £37,000. However, this increase is supportive of the principle of 'giving due weight to the roles of opposition members and scrutiny to facilitate democratic viability' (see 2.1 above); and the likelihood is that at least two of these positions will be filled by opposition members who hold other positions with higher SRAs attached to them, in which case there would be no net budgetary increase.
- 2.17 **The Panel's recommendation is that the Chair of the Scrutiny Committee should be allocated an SRA of £7,650 and the seven opposition spokespersons on the new service committees and Finance Sub-Committee SRAs of £4,200.**

Regulatory and other Committees

- 2.18 In the light of the 'no net increase in the allowances budget' provision and the sparsity of members' comments regarding the existing committees, the Panel could see little reason to do other than recommend that the existing SRAs allocated to the chairs of these committees should be retained. It noted that the Constitution Committee does not appear in the new structure. The Panel's view is that the sum which will be saved should be used to remedy an anomaly that became apparent in its 2016 review. In that review, it learned that most of the business of the Licensing Committee was carried out in its two sub-committees, which is where panels were established to undertake the detailed and time-consuming work on specific licensing issues (for example, taxi licensing). The Panel was informed that, at present, the Chair of the

Licensing Committee also chairs both sub-committees and the panels dealing with specific licensing issues. If this were not the case, the Panel would have been minded to recommend SRAs for the chairs of the two sub-committees. In the current circumstances, this would be inappropriate but, if they were to change, the Panel should be notified with a view to reconsidering its recommendation. **The Panel's recommendation is that the Licensing Committee Chair's SRA of £7,650 is retained.**

- 2.19 **Otherwise, it is recommended that the SRAs for the chairs of Audit and Governance, the Strategic Planning Board, the Southern and Northern Planning Committees should remain at £7,650. The SRAs for the chairs of minor committees such as Appointments Committee and the Public Rights of Way Sub-Committee should be set at £4,200.**
- 2.20 No allowances are currently allocated to the chairs of other committees and boards included in the committee structure diagram, such as the Corporate Parenting Committee, the Health and Wellbeing Board and the Tatton Park Board. In the absence of any representations that allowances should be paid for these roles, the Panel makes no recommendations to introduce them. The expectation would be that their chairs would be likely to be the chair or vice chair of the parent committee to which these boards are attached, or not necessarily positions held by an elected members. If, during the course of the next year, there is seen to be a case for introducing SRAs for any of these positions, the Panel would be happy to review its recommendation. The same readiness to review is applicable to certain elements in the new structure (Decisions Review Committee, ASDV Shareholders Committee and the Shared Services Committee) regarding which again no representations were received by the Panel, and the probability is that their chairs will be members already receiving an SRA elsewhere in the new committee structure.
- 2.21 The Panel considered the case for the allocation of SRAs for vice-chairs of the existing committees, in the light of the existence of a joint administration. Its view was that to do so would result in both of the problems identified in relation to the retention of SRAs for the various whip positions, namely the need to make reductions in other allowances, and the unacceptable increase in the total number of SRAs. It also felt that a joint administration should not have any impact on these committees in relation to a Vice-Chairs role given their less political and quasi-judicial nature.

Other Allowances

Car Mileage

- 2.22 Although a couple of members felt that the current car mileage allowance was too high, if the Panel were to depart from the existing basis on which travel and subsistence allowances are paid in Cheshire East, it would require the authority to opt out of the allowances schemes which have been adopted by the vast majority of local authorities, namely the HMRC approved tax-free mileage rates and the LGA-recommended travel and subsistence rates (both of which are also applied to officer travel and subsistence entitlements). The Panel's view is that, in the light of all the other changes which will be

introduced in May, **it would be sensible to retain the familiar existing schedule of these allowances.**

Dependants' Carers' Allowance

- 2.23 The Dependants' Carers' Allowance is a potentially important contribution to encouraging a greater diversity of council membership, particularly for those with young families or who are caring for vulnerable elderly relatives. The current scheme in Cheshire East is to be commended. Instead of setting maximum hourly rates (as many authorities do), it specifies a maximum annual total amount (£6,410) which may be claimed, subject to the production of receipts. The flexibility involved in this approach and its potential contribution to council diversity is recognized by the Panel, **who recommend that it should be continued on this basis. It was felt, however, that members' knowledge of the scheme was patchy, a situation which should be remedied by the Council.**

Annual increase

- 2.24 **The criterion for the annual updating of members' allowances should continue to be NJC officers pay award, for as long as the upper percentage limit on this award is specified by the government.** This choice avoids the sense of unfairness which would be likely to occur if there was a difference in the levels of increase awarded to these two groups. If and when this central specification ceases, the choice of updating criteria should be reviewed.

Co-optees

- 2.25 For co-opted members on boards and committees who have been appointed as a result of their expertise in the subject area concerned, it is common practice for allowances to be paid, although the allowances vary considerably. In some authorities, co-optees are paid an annual allowance, which is set between £575 and £1,283 per annum, in the schemes accessed. In others (including Cheshire East) they are paid a meetings allowance. The sums involved are in the broad range of £25 - £200.
- 2.26 The Panel considered that a meetings allowance was the better option, in that it overcame the problem of variation in the number of meetings per year any co-optee actually attended. The allowance paid in Cheshire East is well below the average. **The Panel was impressed by the schemes in operation in Shropshire and Central Bedfordshire, both of which make payments of £75 for a meeting lasting up to four hours and £150 for a meeting lasting between four and eight hours. The panel recommends that this should be the practice in Cheshire East.**

Broadband reimbursements

- 2.27 Of the 15 authorities in Cheshire East's CIPFA family, only five (including Cheshire East) reimburse members' broadband costs as part of a separate 'technology allowance.' Only two of Cheshire East's neighbouring authorities do so. The Panel's experience elsewhere is that the payment of separate

allowances of this nature has become a minority phenomenon. **It recommends that the payment of a broadband allowance should be discontinued in Cheshire East**, where the basic allowance has been set at a relatively high level, which can reasonably be expected to incorporate members IT requirements. The Council may choose to continue to give help and advice and (where appropriate) small grants to purchase equipment to members who are unfamiliar with the IT world.

Civic Allowances

- 2.28 The allowances set for the Mayor (who operates as chair of the council) and the Deputy Mayor are categorised as civic allowances, separate from the members allowances scheme itself, however members' allowances panels are often asked to comment on them. The current levels of SRA - £14,000 and £5,600 respectively - are significantly higher than the average for Cheshire East's comparator authorities but having received no arguments as to why these allowances should be reduced, **the Panel's view is that they should be retained at their present levels.**

ASDVs

- 2.29 The Panel understands that there is a provision relevant to the payment of directors of the Council's range of ASDVs in the Local Authorities (Companies) Order 1995. This Order sets out a legal requirement, the effect of which is **that payments to Directors of ASDVs should not exceed the amount paid in respect of the nearest equivalent role that commands an SRA and that furthermore, if the Director is paid for that equivalent role, that other payment should be deducted. This is the guideline currently applied in Cheshire East and the Panel sees no reason to question it.**

3.0 Review of Recommendations

- 3.1 The Panel became aware in the course of its work that there was, understandably, an element of uncertainty as to how the new structure would work out in practice. Normally it would not expect to be reconvened until 2025, but if the Council so wished, it would be happy to meet in 2022 or 2023, to review its recommendations in the light of the Council's experience of the new arrangements.

4.0 Parental Leave (see attached appendix)

5.0 Summary of Recommendations

5.1 The Basic Allowance should remain at £12,351

5.2 Special Responsibility Allowances (SRAs) should be set as follows:

Leader of the Council	£28,371
Deputy Leader of the Council	£17,128
Leader of the main opposition group	£10,000
Deputy Leader of the main opposition group	£5,000

Deputy Group Leaders of the parties in the Joint administration	£5,000
Leader of any other group with 4+ members	£5,000
Chairs of the 6 new service committees and Finance Sub-Committee	£12,000
Vice Chairs of the above	£4,200
Opposition spokespersons on the six service committees and Finance SC	£4,200
Chair of the Scrutiny Committee	£7,650
Chair of the Strategic Planning Board	£7,650
Chairs of the two Area Planning Committees	£7,650
Chair of the Licensing Committee	£7,650
Chair of Audit and Governance Committee	£7,650
Chair of Appointments Committee	£4,200
Chair of Public Rights of Way SC	£4,200

- 5.3 The current scheme of allowances for travel and subsistence should be retained.
- 5.4 The current Dependants' Allowances' scheme should be retained and given more publicity, especially for new members and candidates.
- 5.5 The criterion for the annual updating of members allowances should continue to be the NJC officers pay award, for as long as this is specified by the government.
- 5.6 The Panel would have no objection if the Council chose to apply the 2.75% NJC award of 2020-21 in the coming financial year (2021-22) having chosen not to do so last year. If so, this updating should be applied uniformly, to all the recommended allowances.
- 5.7 Meeting allowances for co-opted members on council committees, boards or panels should be set at £75 for meetings of less than 4 hours and £150 for meetings of between 4 and 8 hours, unless there are good reasons for the council not to make such payments.
- 5.8 The civic allowances paid to the Mayor and Deputy Mayor should remain at £14,000 and £5,600 respectively
- 5.9 The current guidelines regarding the relationship between payments to directors of ASDVs and SRAs allocated to them for council responsibilities should be retained.
- 5.10 The reimbursement of broadband costs in Cheshire East should be discontinued and assumed to be covered by the Basic Allowance. However, the Council may choose to continue to provide help and advice and where appropriate small grants to purchase equipment to members who need it.

- 5.11 The Panel meet again in 2022 or 2023, to review its recommendations in the light of the council's experience of the new arrangements**
- 5.12 See appendix for recommendations re Parental Leave**

Appendix

Parental Leave for Councillors

A Notice of Motion was submitted to Council in February 2019, regarding a proposal to adopt a Parental Leave Policy for Councillors. The Panel understands that the policy will be developed as the new Committee arrangements become embedded within the organisation.

The Panel was invited, as part of its review, to consider those financial aspects of the draft policy which would fall within the Scheme of Members' Allowances.

The Panel wholeheartedly supports the premise on which the report is based; and considers that all members should continue to receive their basic allowance in full, whilst on maternity, paternity, shared parenting, or adoption leave. The Panel also supports the provisions in the policy regarding 'resigning from office and election' i.e. that all allowances would cease from the effective resignation date.

With regard to special responsibility allowances (SRAs), the Panel **agrees that when a replacement is appointed to cover the period of absence of a councillor on leave, they should receive an SRA on a pro rata basis for the period of the temporary appointment.**

However, the Panel does not support the recommendation that members entitled to an SRA should continue to receive their allowance in full, in the case of maternity, paternity, shared parenting or adoption leave as it would increase the total expenditure on members' allowances, in a way in which the public might find it hard to understand. The SRA is a 'rate for the job' and if the councillor on leave is not at the time responsible for carrying out that job, the justification for continued payment is tenuous.



Working for a brighter future together

Constitution Committee

Date of Meeting: 29 April 2021

Report Title: Transitional Provisions and Future Constitutional Work

Senior Officer: Director of Governance and Compliance

1. Report Summary

- 1.1. This report is to inform the Committee of the recommendations of the working group held on Friday 16 April 2021.
- 1.2. The working group made the following recommendations to Committee:
 - i) There should be no time limits imposed on the length of meetings. This has been resolved at full Council on Monday 19 April 2021.
 - ii) A protocol should be considered to assist members of the public in engaging with the committee system to be prepared by the Monitoring Officer in phase 2.
 - iii) A protocol should be considered to assist Councillors and specifically Ward Councillors to engage in the committee system to be prepared by the Monitoring Officer in phase 2.
 - iv) That the role of the Staffing Appeals Committee remains unchanged and the criteria for appeals to members are unchanged. This has been resolved at full Council on Monday 19 April 2021.
 - v) The Monitoring Officer prepare a draft note in respect of the role of committee or opposition spokesperson as identified in the Independent Remuneration Panel Report.
 - vi) Minor changes to fees and charges delegation to recognise compliance with the Medium-Term Financial Strategy (MTFS) and budget.

2. Recommendations

- 2.1. That the Committee agree:
 - i) The basis of a public engagement protocol as set out in appendix 1.

- ii) The basis of a member engagement protocol as set out in appendix 1.
- iii) The basis for development of a non-administration group role in a committee as set out in appendix 2,
- iv) To note that the Monitoring Officer will amend the free fees and charges protocol to clarify the compliance with the MTFS.
- v) To note the areas of amendment as set out in the amendment section of the report below.
- vi) To note that phase 2 work will be undertaken by the Constitution Working Group under the committee system.

3. Background

- 3.1. At the Council meeting on 19 April 2021, Council adopted a committee-style constitution. In doing so, Council considered and removed any time limits from the length on meetings and also confirmed the right of access of all staff to the appeals committee. Two of the working group recommendations have been resolved by council.
- 3.2. The working group considered that further work should be done to assist a better understanding of how the public and members can engage with the committee process. It was felt that a system of engagement loosely based upon the approach taken at planning committee may help. The basic policy approach is set out in appendix 1.
- 3.3. The working group was concerned that a clearer understanding was required in respect of the recommendation from the independent remuneration panel to remunerate and recognise a role of 'opposition spokespersons'.
- 3.4. This role does not appear in the constitution and if the post is to be identified and remunerated with a special responsibility allowance there should be clarity as to what that responsibility is and how it should be approached. An initial draft for consideration is set out in appendix 2.
- 3.5. An updated constitutional document can be found on the [agenda web page](#) for this meeting under Item 7.

4. Additional Changes

- 4.1. On the 19 November 2020 a general delegation was given to the Monitoring Officer to assist in the finalising the constitution. The final text will be reported to council and published and is likely

- 4.2. A further minor amendment was suggested which inserts the words 'in alignment with the medium-term financial strategy and budget.' At the end of paragraph 34 Chapter 2 part 4.
- 4.3. In revising the constitution in its draft form, it has become apparent there is some overlap in respect of the Environment and Communities Committee and the Economy and Growth Committee. The essential issue is that some functions appear twice an example is a split between on the ground 'enforcement' and 'policy'. As the Committee is aware attempts are being made to align budgets and officers to committees so this leads to the conclusion that a committee that set a policy should be responsible for ensuring the policy is enforced. Other areas which may also be subject to alignment relate to some social care committees where some areas of operation such as domestic violence initiative are important to both Adults and Children's Services.
- 4.4. The Committee will note these terms of reference of delegation to the committees are not materially changing it just apportionment of activity between some committees.
- 4.5. The Committee will also be aware that continuing development has resulted in some budgetary realignment to facilitate the work of the committees. The Chief Financial Officer is proposing minor operational changes to the Committee budget alignments and Financial Procedure Rules as part of that continuing development.

5. Implications

5.1. Legal Implications

- 5.1.1. The Constitution Committee is required to make a recommendation to council and in the future, this will be undertaken by the Constitution Working Group.

5.2. Finance Implications

- 5.2.1. The recommendations have no direct financial impact but the greater clarity on the constitution aids financial certainty.

5.3. Equality Implications

- 5.4. None

5.5. Human Resources Implications

- 5.5.1. None

5.6. Risk Management Implications

5.6.1. This report forms part of the corporate risk mitigation proposal

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.

6. Ward Members Affected

6.1. All

7. Consultation & Engagement

7.1. This is to give effect to a decision of full Council in adopting a new Constitution and to complete existing work.

8. Access to Information

8.1. This paper is published

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

Appendix 1

Public and Member Engagement Protocol Issues Document.

Issue	Purpose	Action
To ensure appropriate policy matters are taken to committee	Better customer satisfaction choosing correct route to resolve service issues	Explain the power of the Chairperson to refer matters to services or complaint routes
Ensure correct committee as matter must be within the terms of reference.	Align the engagement with the correct members	Clarify power of officers to refer to correct Committee
Prioritisation of relevant matters	The committee may have a limited time prioritise matters be relevant to that agenda	Chairpersons power to order public speaking
Relevance to an agenda item	Balance public participation at the correct point. Should public and Member engagement align.	Consider if a member of the public or Councillors speaks to an agenda item at the point it is debated or just at the beginning of the meeting. Balance time on attendance and disengagement.
Questions being answered on the day.	Should question be submitted with a view to being answered on the day. Prioritise question relevant to an agenda item.	Check early notification period for questions power to allow and disallow and if need ability to give written answers.
If virtual meetings are not renewed will committee accept virtual attendance from questioners/speakers	Wider access encourages engagement a hybrid solution	Technological solution would be required
Adaptation of the Protocol for speaking at planning committee as basis for engagement	Well recognised and structured process generally considered fair and transparent	Consider revision of protocol to generic use.
Ward Councillors being engaged on specific issues	Ensure locality-based concerns are properly ventilated.	Members representing the Ward or Wards affected invited to attend the meeting. If Ward Members should be notified. Access to committee work programme etc.

This page is intentionally left blank

Report Constitution committee 29 April 2021

Appendix 2

Role of spokesperson.

The IRP have recommended in their report remuneration for a spokesperson role. The report broadly realigns the allowances for scrutiny with the allowance for a spokesperson.

It should be noted some but not all committee style constitutions of other councils recognise this role.

If the role attracts significant remuneration you would anticipate the role would be identified and responsibilities articulated in the constitution. The proposed remuneration is a special responsibility allowance of £4200 equivalent to the role of a vice chair of a service committee.

It would appear the main purpose of the special responsibility allowance is to address the scrutiny function within the service committee. The one scrutiny committee (as set out in the November 2020 Council report) mainly deals with external bodies (e.g. health, police and crime).

The main internal scrutiny is to take place within the six new service committees (and the Finance sub). It followed that Scrutiny SRA payments needed to be allocated within these committees.

In governance terms and special responsibility allowance terms the spokesperson role has the responsibility of leading internal scrutiny of a service committee decision making. It is not an opposition role for the purpose of opposing the administration.

The IRP noted the recommendations made by the allowance's panels in Brighton and Hove and Nottinghamshire concerning SRA payments to lead opposition members within their committee structures, the Panel was clear that a similar approach was appropriate in Cheshire East.

If the reason for the remuneration is to underpin and to facilitate the democratic viability of the council, achieved by giving due weight to the roles of the opposition/non-administration groups and the scrutiny function. Any writing in of the role into the constitution or description must be based on an internal scrutiny function.

The IRP report described this as opposition spokesperson as it would normally be expected that the opposition would take the lead in relation to the scrutiny of proposed decisions emanating from the administration.

The Committee should note in various member sessions two concerns were often articulated. A) The capability and capacity of a committee to self-scrutinise itself and B) the need to select the right member sometimes described in terms of experience or skill set. Although described 'opposition' spokesperson. Members have also stated that previous challenge by scrutiny chairs from the same political group has been effective.

Additionally, Professor Leach (IRP report author) opined 'I would expect them [opposition spokesperson] to have a separate pre-meeting meeting with the chief officer(s) concerned, at which they could ask any questions regarding items on the agenda. This would enable them to make evidence-based interventions, where appropriate, at the committee meeting itself, which would (if deployed responsibly) add to the quality of the debate and make the scrutiny process a meaningful one.'

Suggested Role definition

Scrutiny / Opposition/ Group SPOKESPERSON

A Committee has collective responsibility for the decisions that it makes. To ensure each decision is appropriately considered each Service Committee will have a spokesperson.

The role of the spokesperson is to champion the principles of open, timely efficient and affordable decision making in accordance with legal obligations and the needs of the residents of Cheshire East.

A spokesperson will be expected to:

- To work with the Committee chairperson to facilitate the efficient and timely conduct of the committee business.
- To inform, discuss and where appropriate agree with the Chairperson an approach to contentious issues which support the principles of openness, timely, efficient decision making which meets the needs of the residents of Cheshire East
- To work with the Chairperson to provide recommendations for training, development, and improved learning for all committee members.
- Champion the effective scrutiny of the Committee decisions and to support the democratic process by ensuring that the activities of the administration are examined, tested and where appropriate promote consideration of alternative options.
- To ensure the committee decisions and administration respects and reflects the policy, budgetary and constitutional and policy framework of the Council.
- To contribute to policy development and the operational role of the committee, from the perspective of non-administration groups
- To meet regularly with relevant senior officers and receive briefings on the work programme of the committee and share information with Councillors from other Groups
- To be the committees' first political point of contact for non-administration Councillors
- To establish and maintain effective working relationships with Chief Officers, Heads of Services and other key officers.
- To support key officers in the delivery of reports to the committee which meet the needs of Councillors to make informed decisions.
- To champion Cheshire East Councils programme for Brighter Futures and encourage positive behaviour and challenge inappropriate conduct in the Committee.