

# Council Agenda

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**Date:** Wednesday, 15th December, 2021

**Time:** 11.15 am or on the rise of the previous meeting whichever is the later

**Venue:** Crewe Lifestyle Centre, Moss Square, Crewe. CW1 2BB

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**PLEASE NOTE** that anyone attending this meeting will need to wear a face covering upon entering and leaving the venue. This may only be removed when seated.

**The importance of undertaking a lateral flow test in advance of attending any committee meeting.** Anyone attending is asked to undertake a lateral flow test on the day of any meeting before embarking upon the journey to the venue. Please note that it can take up to 30 minutes for the true result to show on a lateral flow test. If your test shows a positive result, then you must not attend the meeting, and must follow the advice which can be found here:

[https://www.cheshireeast.gov.uk/council\\_and\\_democracy/council\\_information/coronavirus/testing-for-covid-19.aspx](https://www.cheshireeast.gov.uk/council_and_democracy/council_information/coronavirus/testing-for-covid-19.aspx)

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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 at the top of each report.

It should be noted that Part 1 items of Cheshire East Council decision making meetings are audio recorded and the recordings will be 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.

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For requests for further information

**Contact:** Rachel Graves

**Tel:** 01270 686473

**E-Mail:** [rachel.graves@cheshireeast.gov.uk](mailto:rachel.graves@cheshireeast.gov.uk) with any apologies

3. **Minutes of Previous Meeting** (Pages 5 - 16)

To approve as a correct record the minutes of the meeting of Council held on 20 October 2021.

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

In accordance with the Council Procedure Rules, a total period of 30 minutes is allocated for members of the public to speak at Council meetings. Individual members of the public may speak for up to 2 minutes, but the Chair will have discretion to vary this requirement where they consider it appropriate.

Members of the public wishing to speak are required to provide notice of this at least three clear working days' in advance of the meeting and should include the question with that notice.

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

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

6. **Recommendations from Corporate Policy Committee: Interim Review of the Committee System** (Pages 17 - 332)

To consider the recommendations from the Corporate Policy Committee.

7. **Recommendations from Corporate Policy Committee: Council Tax Support Scheme 2022/23** (Pages 333 - 356)

To consider the recommendations from the Corporate Policy Committee.

8. **Recommendation from Corporate Policy Committee: Council Tax Base 2022/23** (Pages 357 - 366)

To consider the recommendation from the Corporate Policy Committee.

9. **Recommendations from Finance Sub Committee: 2021/22 Financial Year Update** (Pages 367 - 392)

To consider the recommendations from the Finance Sub Committee.

10. **Recommendation from Audit and Governance Committee: Procurement of External Audit Services** (Pages 393 - 400)

To consider the recommendation from the Audit and Governance Committee.

11. **Audit and Governance Committee Annual Report 2021/22** (Pages 401 - 424)

To receive the annual report of the Audit and Governance Committee.

12. **Connecting Cheshire Accelerated Grant Funding** (Pages 425 - 434)

To approve acceptance of a grant from Building Digital UK.

13. **Educational Psychologist Capacity for Supporting SEN Learners**  
(Pages 435 - 440)

To consider approving a Voluntary Ex-Ante Transparency Notice with a maximum contract value of £2.5 million to serve the Educational Psychologists service over the next five years.

14. **Workforce Recruitment and Retention Fund for Adult Social Care**  
(Pages 441 - 446)

To approve a Supplementary Revenue Estimate.

15. **Notices of Motion** (Pages 447 - 452)

To consider any Notices of Motion that have been received in accordance with the Council Procedure Rules.

16. **Questions**

In accordance the Council Procedure Rules, opportunity is provided for Members of the Council to 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.

At Council meeting, there will be a maximum question time period of 30 minutes. A period of two minutes will be allowed for each Councillor wishing to ask a question. The Mayor will have the discretion to vary this requirement where they consider it appropriate.

17. **Reporting of Urgent Decisions taken by the Chief Executive** (Pages 453 - 454)

To note the urgent decisions taken by the Chief Executive on behalf of Council.

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**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Council**  
held on Wednesday, 20th October, 2021 at Macclesfield Leisure Centre,  
Priory Lane, Macclesfield, SK10 4AF

**PRESENT**

Councillor S Pochin (Mayor/Chair)

Councillor D Marren (Deputy Mayor/Vice Chair)

Councillors Q Abel, S Akers Smith, Anderson, M Asquith, R Bailey, J Barber, M Beanland, M Benson, L Braithwaite, S Brookfield, D Brown, C Browne, J Buckley, C Bulman, B Burkhill, J Clowes, S Corcoran, L Crane, S Davies, T Dean, D Edwardes, S Edgar, H Faddes, A Farrall, JP Findlow, K Flavell, R Fletcher, A Gage, S Gardiner, L Gilbert, M Goldsmith, P Groves, S Handley, A Harewood, G Hayes, S Holland, M Houston, M Hunter, D Jefferay, L Jeuda, A Kolker, C Leach, N Mannion, A Moran, R Moreton, B Murphy, D Murphy, C Naismith, J Nicholas, K Parkinson, J Parry, P Redstone, 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

The Mayor referred to the death of Sir David Amess, Member of Parliament for Southend West, and asked all present to observe a minute's silence. The Mayor then invited the Group Leaders – Cllr S Corcoran, Cllr C Browne, Cllr J Clowes, Cllr R Fletcher and Cllr B Murphy to say a few words in tribute.

**25 APOLOGIES FOR ABSENCE**

Apologies were received from Councillors M Addison, J Bratherton, P Butterill, S Carter, B Evans, A Gregory, S Hogben, A Martin, I Macfarlane, B Puddicombe and J Rhodes.

**26 DECLARATIONS OF INTEREST**

Councillor L Crane declared a potential interest in Item 13 and declared she would abstain from voting on this item.

**27 MINUTES OF PREVIOUS MEETING****RESOLVED:**

That the minutes of the meeting held on 22 June 2021 be approved as a correct record.

**28 MAYOR'S ANNOUNCEMENTS**

The Mayor, summary

- 1 welcomed Councillor Lata Anderson to her first Council meeting as the recently elected representative for the Wilmslow Dean Row Ward.
- 2 welcomed the newly appointed Executive Director – Place – Jayne Traverse, and the Executive Director for Adults, Health, and Integration - Helen Charlesworth-May to the Council.
- 3 reported that she had been involved in the process to appoint the Head Boy and Head Girl at Oaks Academy in Crewe.
- 4 reported she had visited the Fermain Academy in Macclesfield and had been impressed to learn that all the children leave with either a college place or an apprenticeship.
- 5 reported that in her role as Mayor she was trying to facilitate finding premises for the YouthFed to set up a new youth club in Macclesfield, and new premises for the Welcome Café in Longridge Knutsford.
- 6 reported she had visited the New Life Church in Congleton and was humbled by the dedication of the volunteers working there to provide an invaluable space for the community across a wide range of services
- 7 congratulated Gary Johnson and the team at the Crewe Market Hall for the excellent work they are doing to make that space a vibrant community 'go to' location for events, business meetings, or just lunch or coffee with friends
- 8 reported that the next meeting of full Council on 18 November would be held at the Crewe Lifestyle Centre.
- 9 announced that a special meeting of Council would be held, along with the full Council meeting, on 15 December 2021 at Tatton Park to honour the Olympians and Para Olympians.
- 10 announced she would be holding a charity drinks party on Friday 3<sup>rd</sup> December at Dorfold Hall in Nantwich to raise money for Hopes and Beams.

**29 PUBLIC SPEAKING TIME/OPEN SESSION**

Mr Stuart Redgard stated he both wanted to praise and scold the Council. He reported he had received outstanding service from two officers of the Council – Helen Davies in Democratic Services and John Dean in Community Enforcement. However, he stated that he could not say the same for the service he had received from Highways and gave as an example the winter gritting routes information, which, he said, was full of errors and omissions and had not been put right despite being informed that it would be in July. He had provided the Council with a list of over 20 questions and requested that written responses be provided for each before the next Council meeting. Councillor C Browne, Chair of the Highways and Transport Committee, undertook to respond to the submitted questions.

Mr Andrew Wood asked if the Council would support the proposal for a new farmers market on land in Chelford. Councillor N Mannion, Chair of Economy and Growth Committee, undertook to provide a written response to Mr Wood.

Mr Alek Adamski referred to the changes made to the winter gritting routes programme and asked for an immediate review of the programme to take place and that councillor be allowed a free vote to show how many supported the policy of cutting the number of winter gritting routes. He asked who was responsible for the scoring which had removed the road he lived on from the winter gritting route programme. Mr Adamski referred to a Facebook Group that had been set up on this matter which had growing support, along with support of councillors and Town and Parish Councils. Councillor C Browne, Chair of the Highways and Transport Committee, responded that no individual member was responsible for determining which roads were either included or excluded from the programme. A common assessment framework was used consistently across all roads, which has showed that some roads had been included in the programme without rationale. Following the introduction of the assessment framework some roads had been added and others removed but if severe or extreme weather conditions occurred roads not covered by the regular programme would be included. The Council's revenue budget for highways maintenance was £9.5m a year with winter gritting costing just over £2m. The Council had a fixed income and the additional costs of adding back in route to the winter gritting programme would have to be met by reductions elsewhere. A review of the winter gritting routes would be carried out annually and a report was due to come to the Highways and Transport Committee in March 2022.

### 30 LEADER'S AND DEPUTY LEADER'S ANNOUNCEMENTS

The Leader, in summary

- 1 re-iterated the welcome to the Executive Director of Place – Jayne Traverse, and new Executive Director of Adults Health & Integration – Helen Charlesworth-May.
- 2 reported that the overall covid infection rate in Cheshire East was at a record high of over 700 per 100,000 and the number of people in hospital due to covid-19 remained low, which he credited to the effectiveness of the vaccinations.
- 3 encouraged all residents to get vaccinated, including the booster covid vaccination and flu vaccination, to help reduce pressures on the NHS over the winter period.
- 4 reminded all of the 'hands, face, space and fresh air' message to reduce the spread of coughs, colds, flu, Covid-19, and winter vomiting.
- 5 referred to the challenges faced by politicians and that they must not allow those who use hate and division to further their personal aims to take over public debate.
- 6 referred to the challenges of climate change and the action being taken by the Council

- 7 invited Cllr A Farrall, Armed Forces Champion, to say a few words due to the fast-approaching Remembrance Day.

Councillor A Farrell, in summary

- 1 reported that 2021 marked 100 years of the Royal British Legion and asked all to support their local branch.  
2 asked those attending remembrance services with older veterans in attendance to give them space as they were still vulnerable to COVID.  
3 provided an update on the Council's work to achieve the Gold Standard as an armed forces covenant employer  
4 reported that the Council had created a new role of Armed Forces Community Liaison Officer, who had already been involved with accommodation for Afghan interpreter families.  
5 reported on the plans to open a veteran's hub early next year.

Deputy Leader, in summary

- 1 praised the efforts by the Council's workforce over the last 12 months and reported that the waste and recycling services had been voted best service team for waste management and recycling by the Association for Public Sector Excellence and the Congleton link road project team had won the Civil Engineering Contractors' North West award for 'social value', which recognised exceptional partnership work delivering local community initiatives.  
2 reported that the new 'on demand' rural bus services had been launched with the new 'go-too' pilot scheme covering a wide area south of Nantwich, taking in Bunbury, Wrenbury and Audlem and other villages, where no commercial services were available.  
3 informed that he had joined the Mayor of Macclesfield and Ward Members for the official re-opening of Castle Street in Macclesfield following the completion of the regeneration scheme.  
4 declared that it was the Council's intention to bid for headquarters of the newly formed Great British Railways  
5 reported the launch of the recovery and growth grant scheme, which was a discretionary scheme, aimed at helping businesses to grow, adapt and diversify and was open until 17 December 2021.

31 **RECOMMENDATION FROM FINANCE SUB COMMITTEE: ALIGNING THE MEDIUM-TERM FINANCIAL STRATEGY TO THE COMMITTEE STRUCTURE**

The Finance Sub Committee, at its meeting on 1 July 2021, had considered the aligning of the Medium-Term Financial Strategy to the Committee Structure and made a recommendation to full Council to approve fully funded supplementary estimates above £1,000,000 in accordance with the Financial Procedural Rules, as detailed in Appendix D – Table B to the report.

**RESOLVED:**

That, in accordance with Financial Procedure Rules, the fully funded supplementary estimates above £1,000,000, as detailed in Appendix D – Table B, be approved.

**32 RECOMMENDATION FROM FINANCE SUB COMMITTEE: GROUP OUTTURN 2020-21**

The Finance Sub Committee, at its meeting on 22 September 2021, had considered the Group Outturn 2020-21 report and made recommendations to full Council to approve the supplementary capital estimates over £1,000,000, as detailed in Appendix 3, Annex D to the report, and approve the fully funded supplementary revenue estimates over £1,000,000, as detailed in Appendix 2, Table 1 to the report.

**RESOLVED:** That, in accordance with Financial Procedure Rules,

- 1 the supplementary capital estimates over £1,000,000, as detailed in Appendix 3, Annex D, be approved, and
- 2 the fully funded supplementary revenue estimates over £1,000,000, as detailed in Appendix 2, Table 1, be approved.

**33 APPOINTMENT OF VICE CHAIR TO THE AUDIT AND GOVERNANCE COMMITTEE**

At the Council at its meeting on 4 May 2021, it was agreed that the position of Vice Chair of the Audit and Governance Committee be allocated to the Independent Group and it approved the appointment of Councillor T Fox to this position. Following the resignation of Councillor Fox, Council was requested to appoint a Vice Chair to the Audit and Governance Committee.

It was moved and seconded that Councillor David Marren be appointed as the Vice Chair to the Audit and Governance Committee.

**RESOLVED:**

That Councillor David Marren be appointed as the Vice Chair to the Audit and Governance Committee.

**34 NOTICES OF MOTION**

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

## **1. Protect the Right of Communities to Object to Individual Planning Applications**

Proposed by Councillor R Vernon and Seconded by Councillor C Bulman

*This Council believes planning works best when developers and the local community work together to shape local areas and deliver necessary new homes; and therefore, calls on the Government to protect the right of communities to object to individual planning applications.*

### **RESOLVED:**

That the Motion be referred to the appropriate Committee.

## **2. 'Fire and Re-Hire'**

Proposed by Councillor L Smith and Seconded by Councillor C Naismith

*This Council notes;*

- 1 1 in 10 workers have experienced 'fire and rehire' - told to reapply for their jobs on worse pay, terms and conditions or face the sack, with BME workers facing this at twice the rate of white workers, since March 2020 (TUC research, January 2021). A quarter of all workers have experienced a worsening of their terms and conditions – including a cut in their pay - since the pandemic began.*
- 2 That while the prime minister has called the practice “unacceptable” he has continually refused to take action to outlaw the practice, raising concerns that he will not intervene in this race to the bottom as an escalating number of employers across all sectors using our weak employment protections employers as they force their staff to accept worse terms and conditions, leaving many having to work longer hours and for lower pay, with what can be devastating consequences for workers and their families.*
- 3 Even before the pandemic, 1 in 9 workers – 3.8 million people – were already 'insecure', meaning they did not have access to basic rights at work and could be dismissed at will; including those on zero-hour contracts and agency workers.*

*This Council therefore resolves to:*

- Seek to ensure local residents are protected against such employers and agrees to ask the Leader of the Council to write to the Prime Minister demanding he outlaw fire and rehire and act now to keep his promise to local residents to protect their employment terms and conditions.*
- Not use fire and rehire itself as an employer and to prevent its use by council contractors, and to ensure the Council has a procurement practice that ensures we are working with contractors that have good employment, trade union, equality and environmental records.*

- *Promote the increasing number of progressive local employers prioritising their employees' standard of living and their wellbeing, work with our anchor institutions and key partners to bring forward plans to ensure all have best practice employment and to work with recognised trade unions on this.*
- *Support the TUC campaign for a 'New Deal for Working People'.*

**RESOLVED:**

That the Motion be referred to the appropriate Committee.

**3. Headquarters for Great British Railways**

**Proposed by Councillor J Clowes and Seconded by Councillor D Browne**

*This Council engages directly with the Transport Secretary Grant Schapps and prioritises the submission of a competitive bid for Crewe to host the new headquarters for Great British Railways.*

*Cheshire East Council engages proactively with Crewe & Nantwich MP Dr Kieran Mullan, together with our regional and subregional transport partners, to enhance and strengthen this unique and iconic bid.*

Following debate on the Motion, a requisition for a named vote was submitted, with the following results:

**FOR**

Councillors Q Abel, S Akers Smith, L Anderson, M Asquith, R Bailey, J Barber, M Beanland, M Benson, L Brathwaite, S Brookfield, D Brown, C Browne, J Buckley, C Bulman, B Burkhill, J Clowes, S Corcoran, L Crane, S Davies, T Dean, S Edgar, D Edwardes, H Faddes, A Farrall, JP Findlow, K Flavell, R Fletcher, A Gage, S Gardiner, L Gilbert, M Goldsmith, P Groves, S Handley, A Harewood, G Hayes, S Holland, M Houston, M Hunter, D Jefferay, L Jeuda, A Kolker, C Leach, N Mannion, D Marren, A Moran, R Moreton, B Murphy, D Murphy, C Naismith, J Nicolas, K Parkinson, J Parry, S Pochin, P Redstone, 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.

**AGAINST**

None

**NOT VOTING**

None

The motion was declared carried with 70 votes for, 0 against and 0 not voting.

**RESOLVED:**

That the Motion be adopted.

**4 Starter Units**

**Proposed by Councillor A Kolker and Seconded by Councillor P Groves**

*This Council, in order to support the Borough's post-pandemic recovery, commits to providing a wide range of affordable rental units for small and micro business start-ups.*

**RESOLVED:**

That the Motion be referred to the appropriate Committee.

**5 UK100 Pledge**

Proposed by Councillor Q Abel and Seconded by Councillor R Fletcher

*This Council makes the UK100 pledge and asks the relevant committee to determine whether Cheshire East Council should join the UK100 Network.*

Following debate on the Motion, a requisition for a named vote was submitted, with the following results:

**FOR**

Councillor Q Abel, S Akers Smith, L Anderson, M Asquith, J Barber, M Benson, L Braithwaite, C Browne, J Buckley, C Bulman, B Burkhill, J Clowes, S Corcoran, L Crane, T Dean, S Edgar, H Faddes, A Farrall, JP Findlow, R Fletcher, L Gilbert, P Groves, A Harewood, S Holland, M Houston, D Jefferay, L Jeuda, A Kolker, C Leach, N Mannion, D Murphy, J Parry, S Pochin, M Sewart, L Smetham, J Smith, M Warren, J Weatherill, P Williams and J Wray.

**AGAINST**

Councillor, S Brookfield, D Brown, D Edwardes, M Goldsmith, S Handley, G Hayes, J Nicholas, L Roberts, D Stockton and L Wardlaw.

**NOT VOTING**

Councillors R Bailey, M Beanland, S Davies, K Flavell, A Gage, S Gardiner, M Hunter, D Marren, A Moran, R Moreton, C Naismith, K Parkinson, P Redstone, J Saunders, M Simon, L Smith, A Stott, R Vernon and N Wylie.

The motion was declared carried with 40 votes for, 10 against and 19 not voting.

**RESOLVED:**

That the Motion be adopted and referred to the relevant Committee.

35 **QUESTIONS**

Cllr A Farrall referred to sink hole in Hobson Street, Macclesfield and asked when the hole would be fixed. Cllr C Browne, Chair of Highways and Transport Committee, responded that it was complex issue as it involved multiple agencies and landowners and that negotiations and discussion were on-going with all involved but unfortunately local authorities did not have the powers to oblige them to work with the Council to solve the matter. Information was available on the Council's website and affected residents kept informed by direct correspondence.

Cllr S Akers Smith referred to the removed of roads from the winter gritting route programme and asked when would the volume of complaints received trigger a review of the policy. Cllr C Browne, Chair of Highways and Transport Committee, responded that the policy was to have a common assessment framework which treated all roads, in all wards, fairly and assessed all roads using the same criteria. A report was due to come to the Highways and Transport Committee in March 2022.

Cllr S Gardiner asked when day-services and day centres would re-opening following closure due to the Covid-19 pandemic as he had inquiries from Knutsford residents and the Knutsford Lions. Cllr A Moran, Vice Chair Adult and Health Committee, undertook to provide a written answer.

Cllr L Smetham referred to the quality of highways maintenance carried out, the Top Up pilot for Town and Parish Councils and that highway maintenance was a matter for the Brough Council and asked what sensible ideas the administration had to access better value for highways work. Cllr C Browne, Chair of Highways and Transport Committee, responded that the contract did not provide for a quality assurance process on highways maintenance work carried out and that it was proposed to bring forward a process of checking of the quality of maintenance work by engineers not employed by the contractor.

Cllr R Bailey sought clarity on when grit bins would be provided in her Ward. She indicated that in February 2020 the Portfolio Holder had committed to this. Cllr D Browne, Chair of Highways and Transport Committee, agreed to provide clarification in writing.

Cllr D Brown sought clarification over electric charging points which he understood were to be removed from Congleton and re-installed in Wilmslow. Cllr S Corcoran, Leader of the Council, agreed to provide a written response.

Cllr S Holland expressed concern about the charges faced by Travelling Fairs to operate in Congleton and asked if these could come to Congleton at no cost. Cllr Mannion, Chair of Economy and Growth Committee undertook to provide a written response if further information was provided to him by Cllr Holland.

Cllr L Wardlaw asked that, in the light of tragic death of an MP, was it an opportune moment to re-energise and refresh the Brighter Future programme. Cllr S Corcoran responded that the Members Forum would be the correct place to take body to deal with this question.

Cllr L Gilbert referred to the Highways Top Up Scheme and asked about the approval process for this policy. Cllr C Browne, Chair of Highways and Transport Committee, responded that grant for highways maintenance received from the Department of Transport was not sufficient and that the Top Up Scheme provided an opportunity for Town and Parish Council, where they wish to do so, to buy in extra work, over and above that which have been programmed.

Cllr M Simon referred to the winter gritting routes and concerns about road safety in rural areas asked that a review be carried out before the onset of any severe winter weather. Cllr C Browne, Chair of Highways and Transport Committee, responded that it was difficult to review something which had not yet commenced and that a report would be coming to Committee in March 2022.

Cllr R Fletcher referred to the provision of bus timetables in bus stops and asked that the bus companies include more information on them rather than referring people to look on-line or ring for further information as not all have access to a mobile phone at a bus stop. Councillor C Browne, Chair of Highways and Transport Committee, responded that the Bus Advisory Group (a subgroup of the Highways and Transport Committee) was looking into this issue as part of the development of an improvement plan.

Cllr J Saunders referred to the planting of trees as part of the Corporate Plan to achieve carbon neutrality but stated there was no point in doing this if they were not going to be maintained. She referred to trees in her ward which had been identified as requiring urgent attention but had been told that there was no budget for maintenance, this was despite there being a budget for tree risk management and the carbon neutral action delivery plan. She asked the Chair of Environment and Communities Committee to commit to working with relevant officers and Members to resolve this issue using the budget allocated. Cllr M Warren, Chair of Environment and Communities Committee undertook to provide a written response.

Cllr J Barber referred to 'unapproved activity' by developers at a Chelford Road development. Cllr M Warren, Chair of Environment and Communities Committee, responded that he was aware of discussions with the developer and would provide a written response.

Cllr P Redstone raised concerns about the planning enforcement process and asked for it to be reviewed by the relevant service committee. Cllr M Warren, Chair of Environment and Communities Committee, responded to the effect that a plan was in place to address these matters and undertook to provide a written response.

Cllr M Beanland referred to current confusion over policy decisions being made in Cheshire East, citing examples of car parking charges and charging for assisted technology and said there was confusion over policy and consultation and which came first and would consultation be ignored. He stated that this was not pertinent to good decision making. Cllr S Corcoran responded that in relation to car parking charges the committee made a decision not to go to consultation, and for assistive technology consultation was undertaken and the results taken in account when the committee made its decision.

Cllr M Hunter referred to the date of implementation for the winter gritting routes as the original report had stated 2022/23 but now appears to be 2021/22 and if correct, why had it been brought forward by 12 months. Cllr C Browne, Chair of Highways and Transport Committee, responded that he was under the impression that it has always been 2021/22.

Cllr M Asquith raised a point of order in relation to the response provided by Cllr C Browne to Cllr L Gilbert's question. In response the Monitoring Officer suggested that there might have been a misunderstanding of the statutory provision which needed further research, and that the recording of the meeting needed to be listened-to.

**36 REPORTING OF URGENT DECISION 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.

**37 HOUSEHOLD SUPPORT FUND GRANT**

*In accordance with Section 100B(4)(b) of the Local Government Act 1972 the Mayor had agreed that this report should be considered as a matter of urgent business to enable approval of a supplementary revenue estimate to allow for the distribution of vouchers as soon as possible on behalf of the Department of Works and Pensions, to support the most vulnerable households in Cheshire East with food, utilities, and other essentials over the winter period.*

Consideration was given to a report relating to the Household Support Grant.

The Council had been awarded £2,203,892.10 and approval of a supplementary revenue estimate for this amount was required as the grant would lead to an increase in the Council's approved budget for 2021/22.

The funding was expected to be used to support households in Cheshire East Borough with food, utilities, housing costs and other essentials over the winter period.

**RESOLVED:**

That a supplementary revenue estimate for £2,203,892.10 be approved and authority be delegated to the Executive Director Children's Services to incur expenditure in line with the conditions of the Household Support Grant.

The meeting commenced at 11 am and concluded at 2.30 pm

Councillor S Pochin  
MAYOR/CHAIR

**COUNCIL MEETING – 15<sup>TH</sup> DECEMBER 2021****INTERIM REVIEW OF THE COMMITTEE SYSTEM****RECOMMENDATION**

**That the Committee Review Report as set out in Appendix 1 to the report, and the additional changes to the constitution reported at the meeting, be recommended to full Council.**

Extract from the Minutes of the Corporate Policy Committee meeting on 4<sup>th</sup> November 2021

35 **INTERIM REVIEW OF THE COMMITTEE SYSTEM**

The Committee considered a Committee Review report to full Council.

The report set out the current operational data available from two rounds of the committee system, encapsulated feedback from service areas, set out further recommendations and identified the future project delivery methodology that had been adopted. The report included the current constitutional updates recommended by the Constitution Working Group. A consolidated updated text of the constitution had been provided.

The Director of Governance and Compliance reported a number of additional required changes to the constitution which had been identified since the report was written. Most of these were of a minor or technical nature to correct inaccuracies and provide clarification. However, the Constitution Working Group had also proposed that the following amendment be made to the definition of a Group Lead Member in the Glossary at Chapter 6 of the constitution:

*Page 310 Group Lead Member - A Group Lead Member is a position that is held by members of each of the political groups on the Council in relation to each Committee. ~~Group Lead Members will be expected to work with the Committee Chair to facilitate the efficient and timely conduct of the committee business, and to inform, discuss and where appropriate agree with the Chair 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.~~*

Additional work was to be undertaken by the Constitution Working Group in relation to the following matters:

- Question time at Council
- Rules of debate
- Notice of Motion

- Terms of Reference of the Finance Sub-Committee/ Corporate Policy Committee (ASDVs)
- Provisions on public speaking
- Reporting of sub-committee minutes to parent committees

In response to the report, the following comments were made by various members of the Committee:

- The definition of a Group Lead Member needed more detail to define the role adequately.
- The report to Council should identify clearly any additional costs arising from the implementation of the new committee system.
- The scheme of delegation should be amended to provide that where an officer had delegated authority to take a decision in consultation with the chair and vice-chair of a committee, this should also include consultation with the lead opposition members. The Director of Governance and Compliance undertook to raise the matter with the Constitution Working Group.
- Public questions should relate to any matter within a committee's terms of reference and not just to items on the agenda.
- There was currently little opportunity for members to make political comments and this needed to be debated at full Council.
- A member briefing session was scheduled for 12<sup>th</sup> November and the Chair advised that he, as Leader of the Council, and the Deputy Leader were considering the possibility of a separate question and answer session for members and members of the public.

At the invitation of the Chair, Councillor R Bailey spoke on this matter as a visiting member.

## **RESOLVED**

That the Committee Review Report as set out in Appendix 1 to the report, and the additional changes to the constitution reported at the meeting, be recommended to full Council.

## **Council**

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**Date of Meeting:** 15 December 2021

**Report Title:** Interim Review of the Committee System

**Report of:** Director of Governance and Compliance

**Wards Affected:** All Wards

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### **1. Report Summary**

- 1.1** This report is to inform Council of the review of the functioning of governance since the Annual General Meeting on the 4 May 2021 when the committee system of governance was adopted. The Council has achieved a fundamental change in the way that decisions are made. It has achieved this through a pandemic; changes to online and physical meetings; and resources being allocated to a multitude of external issues ranging from EU withdrawal, legislative changes, market, and supply chain factors. This has required a concerted effort on the part of members and officers to ensure that the council continues to conduct its business successfully.
- 1.2** The Council's ability to make timely, urgent, and complex decisions required as a result of the fast-changing nature of the pandemic and associated changes to legislation and government guidance has continued without interruption. Many of these decisions have profound implications for communities in Cheshire East and have required coherent, complex, and fast engagements with central government and partner organisations.
- 1.3** There has been no legal or other challenge to the validity or timeliness of the Council's decision-making following the change to the committee system.
- 1.4** The change in governance is legally centred upon a specific date: 4 May 2021. The continuing improvements and alignments of internal and external policies, procedures, internal and external protocols will be reflected in continuing governance and constitutional improvements as a journey of learning and development. This journey is similar to the continuous improvement under the Cabinet style and the description

used during the 2018 review that the constitution was a 'living document' remains apt.

1.5

The policy parameters to adopt a committee system were set by Council on 19 November 2020. The approach to those parameters reflects the design principles agreed in appendix G of 19 November 2020 report (hereafter referred-to as the November report). A summary review of the five design principles against delivery is set out below. The ability of the Council to make timely, lawful decisions during the period of change of governance to a committee system has been achieved.

**Openness:** Virtually all members are engaged in the committee process, either by membership of a service committee, or in an oversight function. Proportional committees allow decisions to benefit from input across most political groups. Data (appendix 1) and feedback suggests wider membership of committees has resulted in wider information-sharing across elected members, and a demand for more member training in their committee subject-areas. There are slightly more public decisions in the committee system, and it is for members to assess whether they have effectively scrutinised those decisions within committee. A committee system allows more opportunities for local democracy reporting of nearly any committee decision the reporters wish.

**Quick Decision Making:** The committee cycle is running on a two-monthly cycle. The cabinet met 11 times over 12 months. The ability to call extraordinary meetings remains. No immediate issues have presented on timing of decisions. The prevalence of urgent decisions relates primarily to government pandemic support schemes.

**Affordability:** *The cost of a committee system will be kept to a minimum.* This design principle required any increase in system costs to be limited to essential elements e.g. greater participation of elected members has resulted in more officer time spent engaging with members. There is no information to suggest profligacy in the requests being received from members. Cost of the changes will always be indicative as system costs before Covid were not identified, pandemic distortion is indicated from the data and current costs are still in transition from cabinet to committee and from pandemic to business as usual. The Constitution Working Group will be asked to consider the value and nature of further analysis of costs

**Legal Requirements:** *The Council must comply with all legal requirements and legal advice will be available to all meetings.* Legal

advisers attend all meetings, and each report contains a section on legal and financial implications. This design principle should seek a wider interpretation relating to the democratic process and conduct of meetings which appears to be met at this time as legal requirements have changed during the pandemic.

**A Modern Committee System:** The system provides for equivalent public engagement as previously. There are more opportunities for engagement through a greater number of meetings, and there is a voluntary petition scheme for residents. The Scrutiny Committee has terms of reference for health partners, crime and disorder, and flood risk management.

- 1.6** This report is divided into four parts. Part 1 sets out the current operational data available from 2 rounds of the committee system. This information is limited, and caution must be used in extrapolating trends. Part 2 compares this data to historical data and encapsulates feedback from service areas. Part 3 sets out the project delivery and methodology that has been adopted for future development and improvement together with further recommendations and identifies some of the products being delivered. Part 4 sets out the current constitutional updates recommended by the Constitution Working Group with the updated Constitution.
- 1.7** An increase in resource/cost was anticipated with a design parameter of minimisation and the Part 1 data reflects that assumption. Data reliability is challenging due to the pandemic distortion and the limited time of operation of the committee system and a cautious interpretation is recommended (appendix 1).
- 1.8** The feedback in Part 2 (summary in appendix 2) centres around the need for clarity on which reports are required at committee, the use of noting reports and briefing of members. There is also a brief description of some of the mitigating actions identified.
- 1.9** The Constitution Working Group, Corporate Policy Committee and Audit and Governance Committee in respect to Code of Conduct and whistleblowing provided the member oversight and anchor for the project for continuous improvement described in part 3. The supporting project structure divides the work into 3 sections and a series of recommendations for products from the project which will be reviewed and recommended through the Constitution Working Group.

**1.10** Part 4 relates to the Constitution. Previous delegations from Full Council have permitted the Monitoring Officer to adjust the Constitution to facilitate the transition to the committee system. However, certain changes are specifically reserved to Full Council. The Constitution Working Group has regular meetings to review and agree the approach to constitutional improvements. A summary is provided in Part 4 and a consolidated constitution provided in appendix 4. The whole revised constitution is attached to give full context to the changes which are tracked.

**1.11** The committee system, at the time of drafting, will just be commencing the third cycle of meetings. The information, data sets, intelligence and learning that can be extracted at this time is therefore limited, this must be seen as part of a continuum of work and a cautious approach taken to policy setting on limited early data.

## **2. Recommendations**

**2.1** That Council is recommended to:

- (a) Note the current and comparative data and the commentary so far.
- (b) Note the proposal for delivery of further constitutional reform through the Constitution Working Group, supported by the Brighter Future Transformation Programme.
- (c) Agree the revisions to the Constitution in Appendix 4.
- (d) Require a further review to be provided to Council (April 2022) and annually thereafter.

## **3. Background**

**3.1** On 19 November 2020 Council decided to adopt a committee style of governance. The policy basis was set in the 8 appendices to that report. Council requested a review in November 2021.

**3.2** On 19 April 2021 Council approved the draft Constitution to give effect to the committee system, and approved Chapters 1 to 7 of the constitution.

**3.3** On 4 May 2021, the Council held its Annual General Meeting, which commenced the operation of the committee system.

**3.4** On 22 June 2021 Council approved further revisions to Chapters 1, 2, and 3 of the Constitution, and Member Allowances Scheme (Chapter 5). Amendments to the management structure were also agreed with

delegation to the Monitoring Officer to make the consequential amendments required to give effect to the new management structure.

- 3.5** The review and development of the committee system has continued, which is in turn supported by development of the Constitution. This report updates Council on issues wider than the Constitution and sets out the context and issues surrounding further development. The development of an effective and efficient governance structure is never a completed task but one of continuous learning and improvement which reflects the changing environment of local government. Recent experience has shown how the speed of change is often determined by external factors, exemplified by remote meetings, urgent decisions, response to rapid changes in legislation or a health crisis.
- 3.6** The Constitution at appendix 4 is a consolidated text and shows by tracked changes alterations to Chapters 1, 2 and 3 from 22 June 2021 and all changes to chapters 4, 5, 6 and 7 since April 2021.

#### 4. PART 1 Current

- 4.1** Cabinet and Overview and Scrutiny have been replaced by six service committees and a standing Finance Sub Committee. Various free-standing committees, such as Staffing etc have been merged with service committees. In summary, the number of meetings completed (approximately a half year) have been estimated to an annual figure:

<i>Number of <u>meetings</u></i>	<i>Cabinet before Covid</i>	<i>Cabinet Covid era</i>	<i>Committee</i>
	<i>No.</i>	<i>No.</i>	<i>No.</i>
Annualised Total	36	35	40
<i>Number of <u>reports</u></i>	<i>Cabinet before Covid</i>	<i>Cabinet Covid era</i>	<i>Committee</i>
	<i>No.</i>	<i>No.</i>	<i>No.</i>
Annualised Total	256	233	261

- 4.2** The table above currently suggests a trend to slightly more meetings and more reports under the new system. It is probable there will be adjustments to the data as Work Programme and Forward Plan provides a basis for extrapolation within these numbers. Essentially accuracy will improve with actuals against estimates.
- 4.3** These data sets have additional caveats. The data shows distortion through the pandemic period, e.g.

- a) urgency powers, covid reporting etc.
- b) The shortness of time would not identify municipal in-year variations.
- c) The Council has not completed a budget cycle under the committee system.
- d) The impact of the clarification of significant decisions which must go to committee.
- e) The impact of Council deciding Portfolio Holder decisions should go to committee.
- f) Learning from the initial phase has yet to be incorporated in our approach.
- g) Member initiated items have increased the total by 6.
- h) Underlying assumption can be challenged, for example Corporate Policy Committee also fulfils the role of staffing committee (currently excluded) and the validity of including that figure.

**4.4** The use of the prepopulated work programmes has allowed a line of sight of future decisions and has provided some insight to allow matters to be reprioritised at need. As each committee fulfils a scrutiny function in its own sphere a proportion of the work programme and noting reports relate to that function.

## **5. PART 2 Comparative information and Member/Officer Feedback**

**5.1** The comparative data below is subject to the caveats outlined above. The supporting tables are in appendix 1.

- (a) The number of formal meetings being held under the Cabinet model both pre and post-Covid was static at around 36 a year. The committee system is projecting 40 meetings a year.
- (b) The number of reports being presented to those meetings reduced during the Covid era (from 256 to 233 a year) but is currently projected to reach 261 under the Committee system.
- (c) The average length of meetings rose from 2 hours 6 mins before Covid to 2 hours 46 mins during the Covid Era (an increase of 32%). It has since reduced to 2 hours 10 mins.
- (d) The total volume of paperwork being submitted into meetings rose substantially from 6,589 pages per year before Covid to 7,529 per year during the Covid Era (a 14% increase). That has reduced somewhat under the Committee system, with a projected 6,828 pages per year (still a 4% increase before Covid).
- (e) The total amount of Member time spent in meetings increased from 1,220 hours a year in meetings before Covid to 2,107 hours a year during the Covid Era (an 73% increase). Under the committee system it has dropped below pre Covid levels, projected at 1,067 hours in total.

- (f) The total amount of officer time spent in meetings also increased from 366 hours a year before Covid to 561 hours per year during the Covid Era (a 53% increase) and this has continued to rise under the committee system to a projected 585 hours (60% higher than before Covid levels). A further analysis will be required to consider the impact of member briefings and the increase in number of officers involved in committee work.
- 5.2 The impact of the pandemic distorts any direct comparison. The changes may relate to an ambition set out in the Corporate Plan, the commencement and cessation of online meetings, or lengthy meetings on single controversial issues which are not dependant on the governance arrangements or simply the change period itself and embedding of new systems. Council also decided to refer more decisions to committee by requiring Cabinet member/Portfolio holder decisions to be referred to committee.
- 5.3 In general the data is consistent with anecdotal feedback and pre-committee system assumptions. Increased officer time was anticipated with directors engaging with committees, and the desire by members to have relevant subject knowledge. The use of noting papers to engage and inform members will require additional analysis.

### **Feedback**

- 5.4 Informal conversations with members have raised functional and operational issues. It is proposed that members' views are captured in a more formal manner as part of the Brighter Futures Transformation Programme for the next review. It is important to incorporate any learning around change and identify areas of improvement from the decision makers perspective.
- 5.5 Members have opined that they have become familiar with Cabinet Members/Portfolio Holders presenting reports to Cabinet and having the opportunity to question a political lead. Reports are now presented by officers to a cross-party committee, all of whom may ask questions of the officer but not of the political mind that initiated the report. Reports arise from the Corporate Plan and Medium-Term Financial Strategy, which set the policy and budgetary framework, but the opportunity to ask political questions is missed. This may be a temporary or transitional factor as reports have a gestation period predating the adoption of the committee system. Over time, the reports will reflect more committee-generated items. It should be noted, as clearly articulated in the November 2020 report, that it is intrinsic within any committee governance that any matter not delegated to a committee will be

resolved by officers. There is no provision for single-member decisions (such as portfolio holder or Leader decision) and there can be no gaps in decision making.

- 5.6** Officer feedback is set out in summary in appendix 2. Some of the common themes are explored here. The number of noting reports for committee, together with requests for member and officer training may be considered related. The anecdotal explanations given relate to officers developing understanding of the system through transition and desire by committee members to fully understand their committee's area of operation. Previously knowledge was concentrated in Cabinet Members who built up a reservoir of knowledge and experience both across the Council but specifically in their portfolio area. That knowledge needs to be shared across the 13 members of each new committee, many of whom will be unfamiliar with the genesis of reports that were initiated under the cabinet system.
- 5.7** A development programme can be created to support members and officers. Mitigation will be seen through greater sharing of information with members outside of committee; in addition to agenda items/reports, member briefings will include core knowledge to provide better background for members. The need for noting papers should reduce as the reservoir and depth of knowledge and experience over a wider membership increases.
- 5.8** Additional clarity is required on the operational delivery of day-to-day matters and where members consider an appropriate level of oversight is needed. These are not directly related to the change in governance system as these issues existed previously. The committee system has generated a wider discussion on operational efficiency and this opportunity will be used to engage with members to improve the clarity and understanding of how members' time can be focused on the relevant and important. For example, a 'business as usual' procurement pipeline to the Finance Sub Committee may give members adequate reassurance that the day to day functioning of the Council is safeguarded, whereas specific service committee procurement may engender greater interest. The development of this approach over time is aligned with the design principle of timeliness, transparency, and cost.
- 5.9** The better decision making workstream will need to consider how members can be supported to help improve the quality of decision making by early engagement in respect of background information questions or proposed amendments.

## **6. PART 3 Project Delivery and Further Recommendations**

- 6.1** The original task centred around the delivery of a functional constitution reflecting the needs of the organisation for a committee style of governance. That was by necessity led through a need to ensure compliance and legal adherence to the wider statutory framework against a set timetable. Members lead the wider committee development through the Constitution Working Group , Corporate Policy, and Audit and Governance Committees. To enable officers to support the committees and the Constitution Working Group, a project within the officer Brighter Futures Together Governance Board has been created and benefits from dedicated project support with engagement and improvement focused on a much wider basis. There are three project boards in this work stream 1. Better Decision Making 2. Governance and Financial Codes 3. Policy and Performance.
- 6.2** Better Decision Making. This area will concentrate on continued improvement in how decisions are made. The administrative policy and the supporting process, the structure of reports, member information and the balance between strategic member oversight and operational delivery fall within this area, as well as partnership working arrangements.
- 6.3** Governance and Financial Codes. This area will consider compliance and updates to good governance codes, financial codes, reporting and oversight and the annual governance statement. Again, where improvements are identified a recommendation will be made to the relevant working group or committee. An important element of this review is to ensure consistency between financial codes and delegations. Council should also note that a full budget cycle under the committee system will not be completed until next year and it is anticipated recommendations will be made in respect to developing the budget process.
- 6.4** Policy and Performance. The current approach was centred on changing the existing constitutional arrangements to reflect a committee system. A longer-term approach will ensure the ambitions of Council through the Corporate Plan will become the primary drivers for governance changes. At the most basic level the social and political policy ambitions of the Council in the Corporate Plan and Medium-Term Financial Strategy (subject to legal and financial constraints) should be the core drivers for changes to the financial codes and the Constitution to reflect and support the delivery of those ambitions. Mainstream policy development is not within this project, but policy development may be supported by the

future development of the committee system. This may help develop a clear process or methodology to enable service committees to instigate and generate policy concepts for officers. The committee system will also need to develop a clear mechanism to measure its own effectiveness and performance. Those measures will then inform areas for improvement.

- 6.5** In descriptive terms, the better decision-making workstream and the governance and financial codes workstream represent the financial, legal and governance brake. The better the brakes, the faster the organisation can move forward, act and react to the needs of its residents and the wider environment. That is the ultimate ambition of the project described in part 3.

## **7. PART 4 Constitutional Update**

- 7.1** The predominant work undertaken at this time relates to Chapters 4, 5, 6 and 7 of the Constitution. The Constitution Working Group has to date met on 5 occasions since the Annual Council meeting on 4 May 2021, which introduced the committee system. Work includes:

- a) Questions from Members at Council meetings. (June Council)
- b) Member requests for items of business to be included on a committee agenda.
- c) Updated member allowances scheme – mileage rates.
- d) Changes to the Constitution following senior management restructure.

- 7.2** Chapter 5 relates to the Member Allowances Scheme. This was approved at Council on the 22 June 2021 and has now been inserted into the Constitution. The mileage and subsistence allowances have been explicitly linked to reflect the same allowances to officers. This will ensure we are operating one system and avoid anomalies arising as a result of updating omissions. The mileage allowance makes explicit reference to electric vehicles, so members are clear there is no disadvantage to adopting an environmental stance.

- 7.3** Chapter 6 is the Glossary, and this has several revisions. The Glossary is where the definitions of roles and responsibilities used in the Constitution are found and is key to interpretation. There are some significant changes to the text. Some changes were previously approved by Council and were awaiting inclusion; others are new or revised. There are reworked definitions of Budget and Policy Framework, data protection legislation, significant decisions, group spokespersons, treasury management and group administrator (formerly whip).

- 7.4** Significant decisions. These are decision that need to go to committee. There are no 'Key Decisions' in a committee system but clarity on where a decision should be made was requested. The previous definition was simplified to a decision over £1m unless the context required otherwise. This was causing confusion as the Council has numerous 'business as usual' decisions over £1m which would have required routine reports to committee. These are now captured in a single report to Finance Sub Committee with an approval for the matters identified in the 'procurement pipeline report' not requiring further member input. The context issue was also open to wide interpretation, so it is suggested this reverts to the more traditional significant impact on two or more wards. There was textual conflict with existing officer delegations.
- 7.5** Council in November 2020 approved definitions and role descriptions. Some have now been incorporated, e.g., the role of the Leader of the Council was approved in the November 2020 report and can now be found in a revised summary in the glossary and with a link to the full supporting document in chapter 7.
- 7.6** Chapter 7 of the Constitution contains the list of associated documents. These are documents, many having been previously agreed by Council, that inform, interpret, or explain elements of the Constitution. Although they are not contained within the Constitution, they are essential for interpretation and establishing a common understanding. The previous list of supporting documents had grown to an extent that it had become a reference library in its own right, with many documents only having a tenuous relationship with the Constitution. There was duplication and recasting of the same document over a period of time. The original list has been significantly pruned and the remaining documents are being updated.
- 7.7** The Constitution Working Group will continue to meet and will revise the supporting documents and recommend any consequential material changes. Although most changes are for consistency there are new and revised documents. This includes the description of lead members for committees. At this time members should note the revisions to the:
- (a) Petitions Scheme (attached at Appendix 5)
  - (b) Definition of Group Lead Members (contained with the glossary of the Constitution).
  - (c) Role of Chairs – (attached at Appendix 5)
  - (d) Role of Leader – (attached at Appendix 5)

**7.8** Audit and Governance Committee is responsible for the Code of Conduct and Whistleblowing Policy. The Committee has set up a working group to review these provisions. This is a key update and is based on the Committee for Standards in Public Life report in January 2019 and the consequential Local Government Association's updated Model Code of Conduct. The Code of Conduct is currently in draft form and has been shared with town and parish councils for consultation. Following the consultation period, revised drafts of the Code of Conduct, the process for dealing with complaints, and the whistleblowing policy, are currently scheduled for Audit and Governance Committee in January 2022.

**7.9** The Members Code of Conduct will require approval at Full Council, and support and engagement from town and parish councils if it is to be an effective way for members to show the public the transparency and accountability requested. Any revisions to the Whistle Blowing policy will also fall to this committee.

## **8. Consultation & Engagement**

**8.1** Engagement with members is primarily through the Constitution Working Group and where relevant, for Codes of Conduct, the Audit and Governance Committee. Future member engagement will be formalised through the project arrangements. All directorates have contributed to the feedback.

## **9 Implications**

### **9.1 Legal**

**9.1.1** The proposed amendments to the Constitution are part of the continuing development of the committee system. Although predominately to ensure consistency with a committee style of governance, changes require approval of Full Council such as the editorial amendments to terms of reference.

**9.1.2** The Constitution is the functioning rule book used by all officers and members in driving forward the business of the Council. Like any set of rules, it needs to remain current and consistent with the intent of Council and practicable in the delivery of the Council's objectives.

**9.1.3** The core elements of the Constitution are set through various legislative regimes and the current Constitution appears to meet

the substantive legal requirements. The areas in which the Council has a discretion must also remain broadly reasonable and consistent with the objectives of the Council.

**9.1.4** Failure to keep the Constitution under review and adapt to the changing needs of the organisation will build in levels of risk into the decision-making process. Those risks may manifest themselves as delay, poor quality decisions or ultimately a challenge to the decision itself.

## **9.2 Finance**

**9.2.1** The unavoidable costs relate to system change and implementation. A reliable cost analysis is not possible after only two committee cycles and Councillors will need to remain mindful of Full Council policy parameters when requesting additional reports and new elements for the work programmes.

**9.2.2** Appendix 1 indicates a potential trend which may increase the resources required to support each committee, but no direct budgetary implication has been identified.

**9.2.3** As the committee system progresses a costing methodology for reports will need to be developed.

**9.2.4** This proposal returns the project has no additional budgetary implications.

**9.2.5** There are no direct cost implications of the constitutional updates.

## **9.3 Policy**

**9.3.1** The Corporate Plan 2021-25 includes the vision for an Open, Fair and Green Cheshire East. The move to a committee form of governance is a priority in the Corporate Plan.

## **9.4 Equality**

**9.4.1** An Equality Impact Assessment was completed for the original decision to change governance. The accessibility and intelligibility of the Constitution has remained at the forefront of the drafting process. Accessibility and transparency are core design principles and additional learning has been incorporated through the changes to and the review of remote meetings.

**9.5 Human Resources**

**9.5.1** There are direct implications for human resources. Staff (and members) have requested additional training. Training requests include process training on how decisions are made, and practical issues such as additional training on report writing given the change in audience from cabinet to committee. Members have sought better understanding of how to obtain best results from officers who present reports, consistency in style of recommendations, to process and procedural issues.

**9.6 Risk Management**

**9.6.1** The risk of changing systems of governance were set out in paragraph 1.6 onwards of the November 2020 report. The Council has continued to effectively manage the strategic risks related to the wider pandemic, changes in legislation on meetings, resource constraints and the fixed time frame set by the November decision. At present these risks appear to have been successfully mitigated.

**9.6.2** The review of the operational effectiveness of the committee system and supporting constitution is an essential component of ensuring the efficacy of corporate decision making which is a key element of continuing risk mitigation.

**9.7 Rural Communities**

**9.7.1** There are no direct implications for rural communities.

**9.8 Children & Young People**

**9.8.1** There are no direct implications for children and young people.

**9.9 Public Health**

**9.9.1** There are no direct implications for public health.

**9.10 Climate Change**

**9.10.1** There are no direct implications for climate change.

<b>Access to Information</b>	
Contact Officer:	David Brown, Monitoring Officer & Director of Governance and Compliance
Appendices:	<ol style="list-style-type: none"><li>1. committee system data</li><li>2. feedback summary</li><li>3. project plan</li><li>4. Constitution</li><li>5. associated documents</li></ol>
Background Papers:	<ul style="list-style-type: none"><li>• 19 November 2020 Council Committee Report</li><li>• 19 April 2021 Council Constitution Report</li><li>• 4 May 2021, Council Annual General Meeting</li><li>• 22 June 2021 Constitution Report</li></ul>

## Appendix 1

The Committee System came into force on 5th May 2021 for a period of at least five years. This system disbanded Cabinet, as well as the old Overview and Scrutiny Committees and Constitution Committee and replaced those with six new Service Committees.

### 1. Committee System Data

<b>Name of Committee</b>	<b>Total No. of Meetings held  (includes meetings anticipated to take place throughout November)</b>	<b>Total No. of reports considered,  (includes anticipated items to be considered at the November meetings)</b>	<b>Other items (petitions, requests by Members for items to be included on the work programme)</b>	<b>Additional Working Groups Established</b>	<b>Average length of time of Meeting  Not including Nov meeting</b>
Adults and Health Committee	3	24	0	0	2 Hours 19 Mins
Children and Families Committee	3	26	0	0	3 Hours 17 Mins
Corporate Policy Committee	4	27	1	1	2 Hours 18 Mins
Economy and Growth Committee	3	14	1	1	2 Hours 3 Mins

Environment and Communities Committee	3	19	2	0	1 Hours 39 Mins
Finance Sub Committee	5	14	1	2	1 Hours 4 Mins
Highways and Transport Committee	3	20	1	1	3 Hours

The Covid-19 pandemic has had an impact on all elements of Council activity. For the purposes of this analysis, we have therefore looked at three separate periods:

- (1) Operation of the Committee system (May 2021 onwards)
- (2) Operation of the Cabinet system during the Covid-19 pandemic (Covid Era) (March 2020 to May 2021)
- (3) Operation of the Cabinet system for a similar length period before covid (January 2019 to March 2020)

This analysis looks at several indicators across the three time periods:

**Number of meetings**

<i>Number of <u>meetings</u></i>	<i>Cabinet before Covid</i>	<i>Cabinet Covid era</i>	<i>Committee</i>
	<i>No.</i>	<i>No.</i>	<i>No.</i>
Cabinet	13	12	0
Overview & Scrutiny Committees	25	24	0
Constitution Committee	3	4	0
Service Committees	0	0	17
Total	41	40	17
Meetings / day	0.10	0.10	0.11
Annualised total	36	35	40

**2. Number of reports**

<i>Number of <u>reports</u></i>	<i>Cabinet before Covid</i>	<i>Cabinet Covid era</i>	<i>Committee</i>
	<i>No.</i>	<i>No.</i>	<i>No.</i>
Cabinet	86	81	0
Overview & Scrutiny Committees	147	136	0
Constitution Committee	18	15	0
Portfolio Holder Decisions	43	35	0
Service Committees	0	0	110
Total	294	267	110
Reports / day	0.70	0.64	0.71
Annualised total	256	233	261

**3. Length of meetings**

<i>Length of meetings</i>	<i>Cabinet before-Covid</i>	<i>Cabinet Covid Era</i>	<i>Committee</i>
	<i>Hours</i>	<i>Hours</i>	<i>Hours</i>
Cabinet	22.6	30	0
Overview & Scrutiny Committees	55.5	65.6	0
Constitution Committee	8	14.9	0
Service Committees	0	0	36.9
Total	86.1	110.5	36.9
Meeting hours / day	0.21	0.26	0.24
Annualised total	75	96	87
Average meeting length	2.10	2.76	2.17

**4. Size of agenda packs**

<i>Meeting papers</i>	<i>Cabinet before Covid</i>	<i>Cabinet Covid Era</i>	<i>Committee</i>
	<i>Pages</i>	<i>Pages</i>	<i>Pages</i>
Cabinet	3,120	3,906	0
Overview & Scrutiny Committees	3,014	2,831	0
Constitution Committee	290	894	0
Portfolio Holder Decisions	1,140	1,012	0
Service Committees	0	0	2,881
Total	7,564	8,643	2,881
Pages / day	18.05	20.63	18.71
Annualised total	6,589	7,529	6,828

**5. Member attendance at meetings**

<i>Members' time in meetings</i>	<i>Cabinet before-Covid</i>	<i>Cabinet Covid Era</i>	<i>Committee</i>
	<i>Hours</i>	<i>Hours</i>	<i>Hours</i>
Cabinet	521	1,030	0
Overview & Scrutiny Committees	752	979	0
Constitution Committee	127	410	0
Service Committees	0	0	450
Total	1,400	2,419	450
Meeting hours / day	3.34	5.77	2.92
Annualised Total	1,220	2,107	1,067

**6. Officer attendance at meetings**

<i>Officers' time in meetings</i>	<i>Cabinet before Covid</i>	<i>Cabinet Covid Era</i>	<i>Committee</i>
	<i>Hours</i>	<i>Hours</i>	<i>Hours</i>
Cabinet	159	253	0
Overview & Scrutiny Committees	215	291	0
Constitution Committee	46	100	0
Service Committees	0	0	247
Total	420	644	247
Meeting hours / day	1.00	1.54	1.60
Annualised Total	366	561	585

## Appendix 2

### Feedback Summary

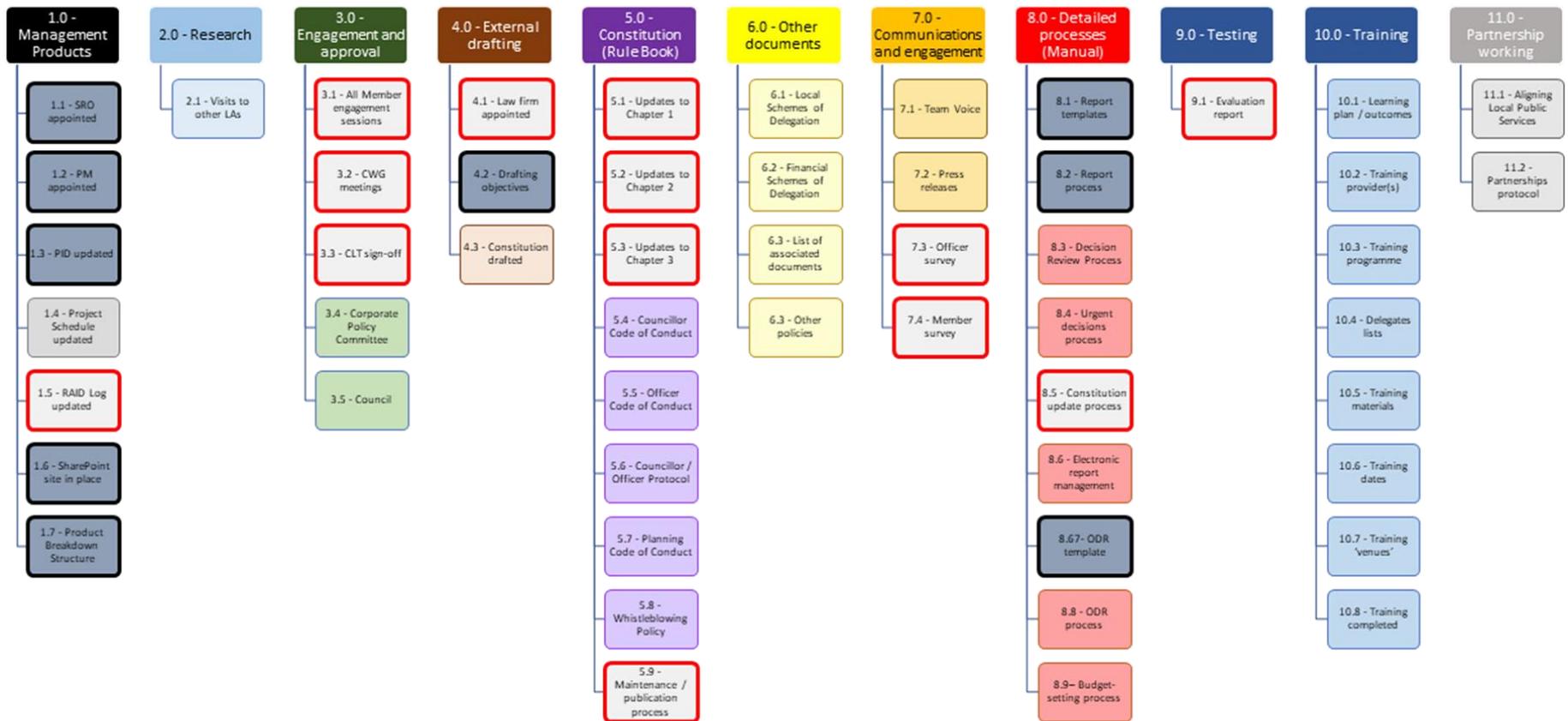
Officers generally considered that Member engagement and briefing was positive and working well.

Cross group support in committee can be beneficial to projects.

#### Areas of additional comment:

1. General perception of greater officer time servicing committees and more officer time spent in formal engagement with members. This is reported across all service areas. Although no additional resources officers are coping well but the workload does appear to be higher than before.
2. Pre-Committee briefings work well but late substitution of unbriefed members can be problematic. Perception that substitutes or unbriefed members are generating a high number of questions.
3. Proposed amendments to recommendations which are put forward in committee without notice cause difficulty. Advance notice of proposals would allow officers to prepare and be able to answer questions about the impact of any proposed change.
4. Member requests for additional information/noting reports. This was linked with a suggestion for increased member training to increase subject area knowledge. Important to give members a wider context under which they are making decisions which may impact on residents, and the impact of decisions or not making a decision.
5. Additional officer training on the new system, and on writing concise reports.
6. Duplication of functions in strategies that cross age ranges in social care. Suggestion that the new system is more complex for cross cutting decisions.
7. Length and complexity of some technical reports puts members under time pressure to read and understand and/or request additional information.

8. Acceptance of Grants process unhelpful and creates potential delay. Raised by social care, education, and place. The £1m limit is too low in terms of delay and delivery. Note. This is not a product of the committee system, but an issue carried forward from the Cabinet system.
9. The process for applying for bids and authorisation of the funds should be made simpler, due to the time it takes to progress a Committee report,
10. Volume of noting and information papers was raised across all services. Reports to committee need to focus on core strategic issues.
11. A need for committee officers to feel empowered to bring to the attention of meetings, those matters which are in need of advice.
12. Procedural consistency, training for committee chairs and members. Procedural issues are treated differently at different meetings. The rules are set out in the Constitution, but are not always followed e.g., length of time allowed for speaking/ repeat speakers etc. Difficult for officers to advise across committees.
13. Clarification of definition of a 'significant decision'.



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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 on 6 April
06.05.21	6	D Brown	Updated 19/4 Council comments and proposals for 22/6
25.05.21	7	V Barman BB	Updated to include Constitution Committee on 29 April
14.07.21	8	V Barman BB	Approved Full Council 22 June
24.08.21	9	V Barman BB	Updated to include Glossary terms to be shown in bold.

EDITION: June 2021

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## Contents

Chapter	Title	Contents
1	<a href="#">Introduction, Summary and Explanation</a>	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	<a href="#">Responsibility for Functions</a>	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: <ol style="list-style-type: none"> <li>1. Diagrammatic explanation of Councillor decision making bodies</li> <li>2. Council</li> <li>3. Committees</li> <li>4. Officer delegations (including a diagram of the officer structure/ Council management)</li> </ol>
3	<a href="#">Procedure Rules</a>	This Chapter sets out the procedural rules relating to all Council activities grouped into the following parts: <ol style="list-style-type: none"> <li>1. Procedure Rules governing meetings and decisions:               <ul style="list-style-type: none"> <li>• Full Council Meetings</li> <li>• Committees and Sub-Committee Meetings</li> <li>• Scrutiny Procedure Rules</li> <li>• General Provisions relating to Procedure Rules</li> </ul> </li> <li>2. Access to Information Procedure Rules</li> <li>3. Finance Procedure Rules (FPRs)</li> <li>4. Contract Procedure Rules (CPRs)</li> <li>5. Employment Procedure Rules</li> </ol>

Chapter	Title	Contents
4	<a href="#">Codes and Protocols</a>	<p>This Chapter sets out codes and protocols covering Councillor and Officer conduct, including:</p> <ol style="list-style-type: none"> <li>1. Councillor Code of Conduct</li> <li>2. Officer Code of Conduct</li> <li>3. Councillor/Officer Protocol</li> <li>4. Planning Code of Conduct</li> <li>5. Whistleblowing Policy</li> </ol>
5	<a href="#">Councillors' Allowance Scheme</a>	This is the list of Councillors' Allowances.
6	<a href="#">Glossary</a>	The Glossary explains some of the key terms used throughout this document.
7	<a href="#">List of associated documents</a>	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. Defined terms are included in the Glossary in Chapter 6. They are shown in bold 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](mailto: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 the Council appoints a Deputy Mayor.
- 10 There are three different types of **full 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 **full 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 of Significant Decisions** 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 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, 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**
- 39 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**

- 40 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
20.04.21	5	J Barnes BB	Updated following Council on 19 April – amended re staffing appeals
18.05.21	6	D Brown CEC	Update for 22.06.21
25.05.21	7	V Barman BB	Updated to include Constitution Committee on 29 April
14.07.21	8	V Barman BB	Approved Full Council 22 June
24.08.21	9	V Barman BB	Updated to include defined Glossary terms in bold, to reflect separation of DCS and DAS and updated ED Place delegations
22.09.21	10	V Barman BB	Updated following Constitution Committee meetings of 15 and 22 September 2021

EDITION: May 2021

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## Chapter 2

## Responsibility for Functions

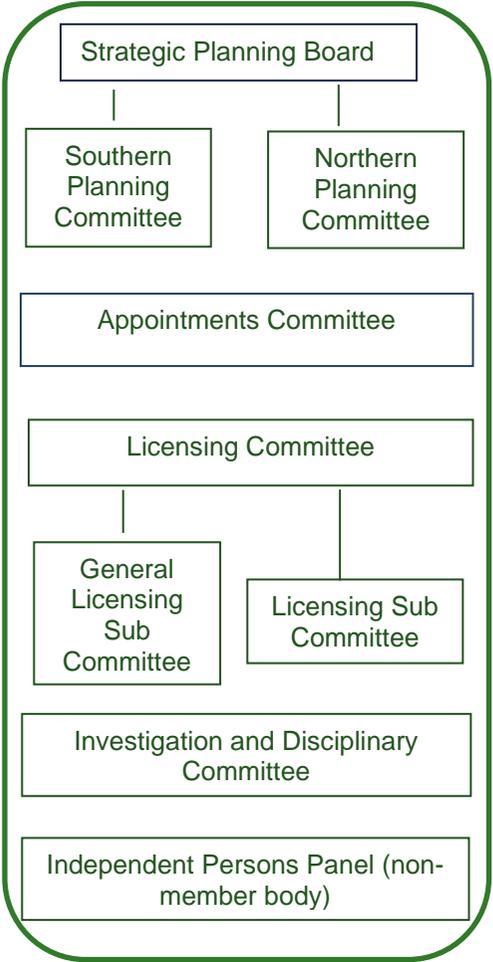
Part	Title	Contents
1	<a href="#">Explanation of Decision Making</a>	This part shows a diagram of the Committee Structure
2	<a href="#">Introduction to Decision Making</a>	This part sets out an introduction to who makes decisions in the Council
3	<a href="#">The Full Council</a>	This part sets out: 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

Part	Title	Contents
		<ul style="list-style-type: none"> <li>• <a href="#">Strategic Planning Board</a> <ul style="list-style-type: none"> <li>○ <a href="#">Northern Planning Committee</a></li> <li>○ <a href="#">Southern Planning Committee</a></li> </ul> </li> <li>• <a href="#">Licensing Committee</a></li> <li>• <a href="#">General Licensing Sub-Committee</a></li> <li>• <a href="#">Licensing Sub-Committee</a></li> <li>• <a href="#">Appointments Committee</a></li> <li>• <a href="#">Investigation and Disciplinary Sub-Committee</a></li> <li>• <a href="#">Independent Persons Panel</a></li> <li>• <a href="#">Audit and Governance Committee</a></li> <li>• <a href="#">Hearing Sub-Committee</a></li> <li>• <a href="#">Independent Remuneration Panel</a></li> <li>• Joint Arrangements <ul style="list-style-type: none"> <li>○ <a href="#">Shared Services Joint Committee</a></li> <li>○ <a href="#">Cheshire Police and Crime Panel</a></li> <li>○ <a href="#">Cheshire Fire Authority</a></li> </ul> </li> </ul>
5	<a href="#">Officer Delegations</a>	<p>This part sets out the <a href="#">Scheme of Officer Delegation</a> 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>

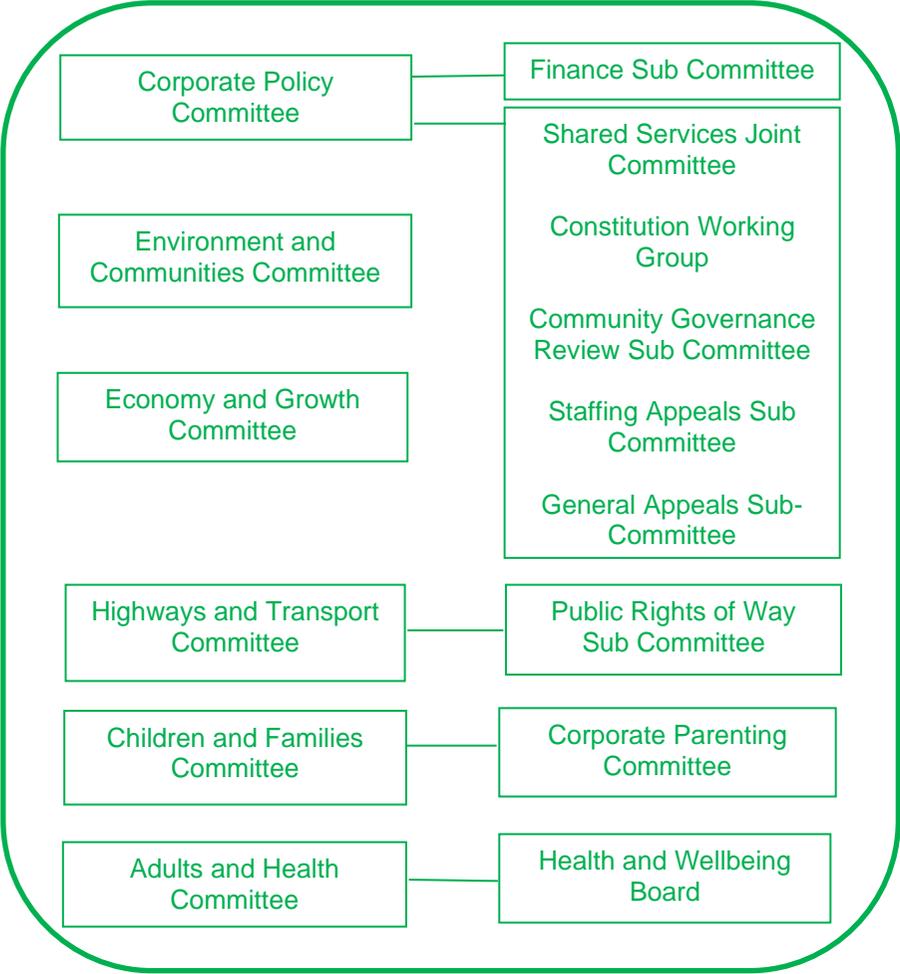
**Chapter 2 – Part 1: Committee Structure**

**Council**

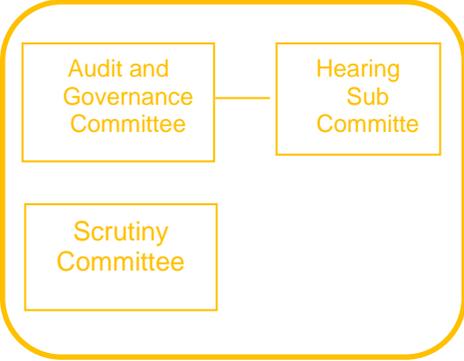
**Regulatory and other Committees**



**Service Committees**



**Oversight Committees**



## 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 **full 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 **full 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 **full 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** are likely to be taken by Committees and may therefore appear on the [Council's Forward Plan](#).

## Chapter 2 – Part 3

### The Full Council

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#### Functions of the Full Council

- 1 The following functions are the responsibility of the **full 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~~ elect the Deputy Leader
    - 1.4.4 appoint Chairs and Vice-Chairs to Committees and Sub-Committees; and
    - 1.4.5 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 Administrators** 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 includes:
  - 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 service delivery organisations including companies 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 with a minimum number of three 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 and their Chairs and Vice-Chairs 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/ Group Administrator ~~Whip~~ notification to the Head of Governance and Democratic Services).

#### Corporate Policy Committee

##### Membership: 13 Councillors

With the **Leader** of the Council as 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:
  - 2.1 formulation, co-ordination and implementation of the Corporate Plan and
  - 2.2 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.

- 2.3 Human Resources, Organisational Development and Health and Safety matters affecting the Council; including adopting HR policies and practices and assurance in relation to staffing related matters;
- 2.4 making recommendations to **full Council** in relation to the annual Pay Policy Statement and any amendments to such statement.
- 2.5 making recommendations to **full 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.
- 2.6 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 **full Council** and central Government if required.
- 2.7 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.
- 2.8 determining key cross-cutting policies and key plans that impact on more than one service committee.
- 2.9 determining policy matters not otherwise allocated to any other **C**ommittee.
- 2.10 determining any matter of dispute or difference between any **C**ommittees.
- 2.11 a co-ordinating role across all other committees and exercising a corporate view of outcomes, performance, budget monitoring and risk management.
- 2.12 determining any matter that has a major impact on a number of Council services or the Council as a whole.
- 2.13 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.
- 2.14 reviewing considering amendments to the Council's Constitution and the recommendation of any changes to **full Council for**

approval except where specifically delegated to the **Monitoring Officer**;

- 2.15 considering recommendations and an Annual Report of the Council's involvement in **ASDVs**;
  - 2.16 appointing representatives to serve on outside bodies and organisations (including education bodies and establishments) and reviewing the process for considering appointments to outside organisations;
  - 2.17 appointing Lay Members (who shall not be **Councillors**) to serve on the Independent Admissions and Exclusion Appeals Panel as required under the relevant legislation; and
  - 2.18 approving the payment of a reasonable and proper allowances and expenses for the work undertaken by the Council's Independent Persons
- 3 Oversight, scrutiny, reviewing outcomes, performance, budget monitoring and risk management of the Directorates of Finance & Customer Services; Governance & Compliance Services and Transformation including the following functions: Legal, Governance and Compliance; Audit and Risk; Transactional Services; Transformation; Business Change; B4B/ERP; Human Resources, ICT; together with Strategic Partnerships and shared services.
- 4 The Corporate Policy Committee shall be entitled to exercise: any function of the full 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 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; and
  - 2.7 making decisions as Shareholder or owner, reviewing and approving Business plans, including risk registers and commissioning services.
- 3 Oversight, scrutiny and budgetary review of the following functions: Land and Property; Central Budgets; Pensions; Grants; Council Tax; Business Rates; Reserves; and Other 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 for **political balance ~~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 **staff officers** 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 for **political balance ~~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 that are not reserved to full Council or delegated to Officers.

### **Constitution Working Group**

**Membership: No more than 8 Councillors**

### **Functions**

- 1 The Constitution Working Group will make recommendations to the Corporate Policy Committee and Council on:

- 1.1 the Council's administrative business, including electoral matters; administrative boundaries and support for Councillors;
- 1.2 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;
- 1.3 reviewing the Council's Constitution and recommending any changes to the Monitoring Officer (where not significant), or Corporate Policy Committee and Council;
- 1.4 recommending to Council or Corporate Policy Committee, as appropriate, the appointment of Councillors to Committees and Sub-Committees (including any co-opted Members);
- 1.5 overseeing and monitoring the Councillors' Allowances budget and keeping under review the scheme for the payment of allowances;
- 1.6 making recommendations to the Council on civic issues, including those affecting the Mayoralty, Honorary Freemen 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 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 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;
  - 2.4 Regulatory functions including external health and safety good practice and enforcement including instituting proceedings and prosecutions;

- 2.5 determination of policies and making decisions, in relation to waste collection and disposal, recycling, fly tipping, parks and green spaces, community strategy and community hub, leisure, libraries 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; and
  - 2.6 compulsory purchase of land to support the delivery of schemes and projects promoted by the Committee.
- 3 Oversight, scrutiny, reviewing outcomes, performance, budget monitoring and risk management of the Directorate of Environment and Neighbourhood, including: the Planning Service; Environmental Services; Regulatory Services; Neighbourhood Services and Emergency Planning.

### **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;
  - 2.3 development and delivery of the Council's estates, land and physical assets policies;
  - 2.4 determination of policies and making decisions in relation to the rural and cultural economy; and
  - 2.5 compulsory purchase of land to support the delivery of schemes and projects promoted by the Committee.
- 3 Oversight, scrutiny, reviewing outcomes, performance, budget monitoring and risk management of the Directorate of Growth and Enterprise including: Facilities Management; Assets; Farms; Economic Development; Housing; Rural and Cultural Management; Tatton Park; Public Rights of Way; Cultural Economy; Countryside; and the Visitor Economy.

## 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; local transport authority; parking authority; and lead local flood authority
  - 2.4 determination of policies and making decisions in relation to flooding and accessibility, in co-ordination with the Scrutiny Committee;
  - 2.5 compulsory purchase of land to support the delivery of schemes and projects promoted by the Committee; and
- 3 Oversight, scrutiny, reviewing outcomes, performance, budget monitoring and risk management of the Directorate of Highways and Infrastructure including: Transport Policy; Transport Commissioning; Car-parking; Highways; 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:
  - 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 Schools Forum.
  - 2.4 support to and maintenance of relationships with schools in relation to raising standards of attainment.
  - 2.5 the Council's role as Corporate Parent.
  - 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; and
  - 2.9 provision and commissioning of domestic violence support services and quality assurance.
- 3 Oversight, scrutiny, reviewing outcomes, performance, budget monitoring and risk management of the Directorates of Prevention and Support, Education and 14-19 Skills and Children's Social Care including: Children's mental health, Prevention and early help, Children's transport, , Children Service Development and Children's Partnerships, Commissioning of support for children, Cared for Children and Care Leavers, Child in Need and Child Protection, Children with Disabilities and Fostering, Children's Safeguarding, Education Infrastructure and Outcomes, Education Participation and Pupil Support, Inclusion and SEND.

### **Corporate Parenting Committee**

#### **Membership: 12 Councillors**

Additionally the Committee is informed by representative young people from 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 community welfare, 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:
  - 2.1 promotion of the health and well-being of residents and others;
  - 2.2 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;
  - 2.3 adult safeguarding, adult mental health, physical health, older people and learning disabilities and lifelong learning;
  - 2.4 determination of policies and making decisions in relation to Public Health in coordination with the Health and Wellbeing Board and the Scrutiny Committee;
  - 2.5 oversight of the Communities Strategy;
  - 2.6 provision and commissioning of domestic violence support services and quality assurance; and
  - 2.7 prevent reporting and Channel Panel counter terrorism oversight.
- 3 Oversight, scrutiny, reviewing outcomes, performance, budget monitoring and risk management of the Directorates of Adult Social Care Operations; Commissioning and Public Health including: Public Health, lifelong learning, health improvement and intelligence, Adult social care and safeguarding, Adult Mental Health and Learning Disability, 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 Councillor who cannot attend the training must submit their apologies in advance to the event organiser. If a Councillor fails to attend, they must undertake refresher training, in line with the Committee training programme.

Any Councillor (including planning pool Councillors) involved in the exercise of Planning and Development Control functions shall observe the **Planning Code of Conduct**.

### 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, any document which forms part of or linked to the Local Plan and upon the effectiveness of existing policies employed in development control decisions.
  - 2.8 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 for **political ~~balance~~ ~~proportionality~~** under section 15 of the Local Government and Housing Act 1989 is waived in relation to a sub-committee established under the above sub-paragraphs.
- 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 Public Space Protection 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 **C**ommittee 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 it by **officers** (with the exception of matters under the Licensing Act 2003/Gambling Act 2005) shall be determined by the General Licensing Sub-Committee 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 hackney carriage fares and tariffs
    - 8.10 power to set fees for sex establishments
    - 8.11 power to designate streets as consent streets, licence streets or prohibited streets.
    - 8.12 power to set fees in relation to street trading
    - 8.13 power to approve policy in relation to the Scrap Metal Dealers Act 2013
    - 8.14 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; Adults, Health and Integration; Children Services 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 disciplinary 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/ Group Administrator ~~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 **Monitoring Officer 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 **Councillor 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:
    - 6.1 Whether no further formal action under this procedure is required,
    - 6.2 To appoint an Independent Investigator ("II") to investigate the issue and to commission reports from an II;
    - 6.3 Whether it is appropriate to reach agreement with the DSO on a formal sanction (short of dismissal) without the need to appoint an II;
    - 6.4 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;
    - 6.5 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:
  - 1.1 an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards;
  - 1.2 independent review of the Council's governance, risk management, control frameworks and oversees the financial reporting and annual governance processes; and
  - 1.3 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***

- ~~12~~ 13 To approve the internal audit charter.
- ~~14~~ 13 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~~14 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~~15 To approve significant interim changes to the risk-based internal audit plan and resource requirements.

~~17~~16 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~~17 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~~18 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~~19 To consider summaries of specific internal audit reports as requested.

~~24~~20 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~~21 To oversee the process by which the Council's external auditor is appointed.

~~23~~22 To consider specific reports as agreed with the external auditor.

~~24~~23 To commission work from internal and external audit.

~~25~~24 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**

2625 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.

2726 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

2827 Monitor management actions in response to issues raised by the external auditor

**Related Functions**

2928 Subject to the requirements set out below, to consider findings of the Local Government and Social Care Ombudsman, including reports resulting in a finding of maladministration against the Council, and to make recommendations as to actions that may be necessary 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 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.

3029 To oversee the operation of the Contract Procedure Rules and provide assurance in respect of procurement and significant partnerships or collaborations.

**Standards Arrangements**

3130 The Committee is responsible for the Council's standards arrangements to:

- (a) promote high standards of ethical behaviour.
- (b) develop, maintain and update Codes of Conduct and protocols
- (c) Training Audit and Governance Committee

3231 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.

3332 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.

- 3433 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.
- 3534 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.
- 3635 To respond on behalf of the Council to national reviews and consultations on standards related issues.
- 3736 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.
- 3837 To review, advise, monitor and report to Full Council on member training.
- 3938 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**
- 4039 Council on 14<sup>th</sup> 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

- 4140 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.
- 4241 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 political group to any subject member. Where practicable the Vice Chair will be from a different political group from the Chair.
- 4342 An Independent Person is invited to attend all meetings of the Hearing Sub-committee and his/her views will be 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.
- 4443 The requirement for **political balance** ~~proportionality~~ under section 15 of the Local Government and Housing Act 1989 is waived in relation to the sub-committee.

4544 Before a **Councillor** can attend a meeting and participate in the business of the meeting, the determination of any Code of Conduct matter, the Councillor must attend a suitable training course dealing with the quasi-judicial nature of the role of the Sub-Committee.

4645 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.

### **Independent Remuneration Panel**

**Membership: 4 Independent Members** (the minimum is 3 Members)

#### ***Functions***

- 1 To make recommendations to the **full 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~~ **3 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 **full Council**.

19. The Core Members will keep under review the Membership of the CEHWB and if appropriate will make recommendations to **full 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 of the Joint Committee shall serve upon the Joint Committee for as long as he or she is appointed to the Joint Committee by the relevant Council but a Member shall cease to be a Member of the Joint Committee if he or she ceases to be a Member of the Council appointing him or her or if the relevant Council removes him or her as a Member of the Joint Committee.
- 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**

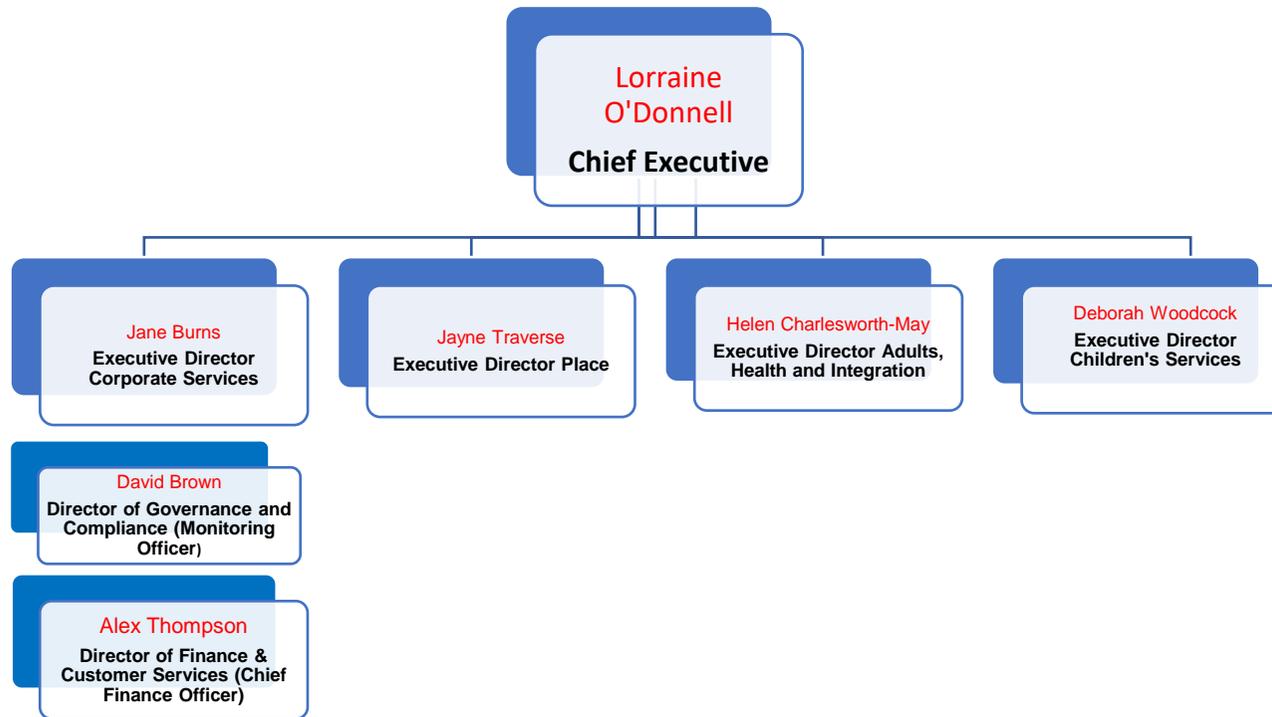
- 1 This part of the Constitution sets out the ways in which the officers of the Council can make decisions and which decisions they have the power to make. It is called the "Scheme of Delegation."
- 2 This Scheme of Delegation is set out as follows:

Title	Contents
Introduction	Sets out what this Part of the Constitution (the "Scheme of Delegation") covers and relevant definitions. This part contains a diagram of the senior officer structure at the Council.
<u>General Principles Relating to Officer Delegation</u>	Sets out the general principles which apply to all decision making by officers
<u>General Delegations to all Directors</u>	Sets out the delegations which apply to all officers called " <i>Directors</i> "
<u>Delegations to the Chief Executive/Head of Paid Service</u>	Sets out the delegations which apply to this officer
<u>Delegations to the Executive Director (Adults, Health &amp; Integration)</u>	Sets out the delegations which apply to this officer
<u>Delegations to the Executive Director (Adults, Health &amp; Integration)</u>	Sets out the delegations which apply to this officer
<u>Delegations to the Executive Director (Place)</u>	Sets out the delegations which apply to this officer
<u>Delegations to the Executive Director (Corporate Services)</u>	Sets out the delegations which apply to this officer
<u>Delegations to the Chief Finance Officer</u>	Sets out the delegations which apply to this officer

Title	Contents
<a href="#">Delegations to the Monitoring Officer</a>	Sets out the delegations which apply to this officer
<a href="#">Arrangements for Statutory and Proper Officer functions</a>	Sets out the legal requirements for "proper officers"

- 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.

# CHESHIRE EAST COPORATE LEADERSHIP TEAM



## 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 **full 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 Officer decisions 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 exercising the delegated authority.~~~~
- 13 All Local Schemes of Delegation (and any changes to them) must be agreed by the relevant 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, with the exception of those statutory functions delegated exclusively to the Council's **Chief Finance Officer** or the **Monitoring Officer**.
- 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 **full Council**, a Committee or the **Chief Executive** decides to whom to allocate responsibility for the new legislation.
- 22 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.

- 23 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**

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

#### *Urgent action*

- 25 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. A decision will be urgent where any delay would seriously prejudice the legal or financial position of the Council or the interests of the residents of Cheshire East. This delegation is subject to the conditions that any urgent action:

- 25.1 shall be reported to the appropriate Committee
- 25.2 shall take account of advice of the **Monitoring Officer** and the **Chief Finance Officer**
- 25.3 shall be exercised in consultation with the Chair of the appropriate Committee.

#### *Implementation of decisions*

- 26 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*

- 27 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*

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

#### *Finance*

- 31 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.
- 32 To enter into contracts and incur expenditure.
- 33 To determine a Pricing Strategy that articulates 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 ~~in accordance with the budget and Medium Term Financial Strategy~~.
- 34 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*

- 35 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.
- 36 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:
- 36.1 involves the loss of more than one post not currently vacant
- 36.2 involves re-grading of posts or the grading of new posts
- 36.3 involves changes to existing National or Local Agreements and policies
- 36.4 cannot be achieved within the delegated powers in respect of budgets.
- 37 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*

- 38 To manage land, premises, vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture appliances and uniforms necessary for the provision of services.
- 39 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.

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

*Legal authorisation and enforcement*

- 41 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
- 42 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.
- 43 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*

- 44 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**

- 45 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.
- 46 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** with the exception of those statutory functions delegated exclusively to the Council’s **Chief Finance Officer** or the **Monitoring Officer**.
- 47 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.

- 48 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:
- 48.1 To be the Council's principal officer representative and to promote its good image and reputation
  - 48.2 To lead and direct the strategic management of the Council
  - 48.3 To appoint other officers as **Proper Officers** for the purposes of any specific Council service area or function
  - 48.4 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
  - 48.5 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
  - 48.6 To discharge emergency planning and civil protection functions;
  - 48.7 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
  - 48.8 To sign settlement agreements for employees/ex-employees, in consultation with the Chair of the Corporate Policy Committee
  - 48.9 To approve the pay, terms and conditions of service and training of any employee except where 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
  - 48.10 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.
  - 48.11 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 (**Adults, Health & IntegrationPeople**)

- 49 The Executive Director (**Adults, Health & IntegrationPeople**) ~~and post-holders within the Directorate~~ holds the statutory role for the Council of the Director of Adult **Social** Services (required by Section 6 of the Local Authority Social Services Act 1970.

- 50 The Executive Director (Adults, Health & Integration 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:

### **Adult Social Care ~~and Health~~ Operations**

- Adult Social Care Services – Community Teams
- Adult Social Care – Hospital Teams
- 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 and the Wider Determinants of Health

### **Commissioning**

- Integrated commissioning - Communities and Public Health commissioning, contract management and quality assurance
- Integrated commissioning - Children's commissioning, contract management and quality assurance
- Integrated commissioning – Adult Social Care commissioning, contract management and quality assurance
- Adult Social Care Business Support and Finance
- ~~Contract management and quality~~
- ~~Support and Finance~~

### **Public Sector Transformation Programme**

- Delivery of the Public Sector Transformation Programme

### **Delegations to the Executive Director (Children's Services)**

- 51 The Executive Director (Children's Services) holds the statutory role for the Council of the Director of Children's Services (required by Section 18 of the Children Act 2004).

- 52 The Executive Director (Children's Services~~People~~) ~~and the Director of Children's Services~~ are 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
- Children with Disabilities and Fostering

#### **Education and 14-19 Skills**

- Education Infrastructure and Outcomes
- Education Participation and Pupil Support
- ~~Special Educational Needs and Disability, Quality development and specialist services~~
- Inclusion

#### **Children's Prevention and Support**

- Prevention and Early Help Services
- Children's service development and partnerships

#### **Delegations to the Executive Director (Place)**

- 53 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 Planning Services
- Development Management
- Planning Enforcement
- Community Infrastructure Levy and s106 Agreements
- Building Control
- Waste Management
- Greenspace Management

- Bereavement Services
- Energy and Carbon Strategy
- Environmental Regulation and Protection
- Food Safety
- Animal Health and Welfare
- Licensing
- Trading Standards
- Libraries
- Leisure Services
- Anti-social Behaviour and Community Enforcement
- CCTV
- Emergency Planning
- HS2 Schedule 17 Applications

#### **Infrastructure and Highways**

- Strategic Transport Planning and Local Transport Plan
- Public Transport including local bus and rail services
- Walking, Cycling and Active Travel
- Parking Services - Operations and Enforcement
- Infrastructure Traffic Management
- Highways Asset Management and Maintenance
- Highways Service Contract Operations Management
- Highways and Transport Capital Programme
- Flood Risk Management
- HS2 Crewe Hub Redevelopment
- HS2 Line of Route
- HS2 Schedule 4 approvals and consents

#### **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 (ASDV) / ESAR)**

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

**Business Management**

- Policy and Partnerships
- Business Support

**Delegations to the Executive Director Corporate Services**

- 54 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

55 The **Chief Finance Officer** is:

- 55.1 The financial adviser to the Council, Committees and Officers
- 55.2 The Authority's 'responsible financial officer', and
- 55.3 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.

56 "Proper Administration" is not defined but shall also include responsibilities for compliance with the statutory requirements for accounting and internal audit.

56.57 The **Chief Finance Officer** shall have the following delegated powers and responsibilities:

- 56.457.1 \_\_\_\_\_ To carry out the functions and responsibilities which are detailed in the Finance Procedure Rules.
- 56.257.2 \_\_\_\_\_ 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.
- 56.357.3 \_\_\_\_\_ To take all action necessary to ensure the safeguarding of assets by maintaining and administering appropriate insurance and approving requests to postpone legal charges.
- 56.457.4 \_\_\_\_\_ 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.

~~56.5~~57.5 To take all necessary action in respect of the Council's role in relation to the administration and operation of the Cheshire Pension Fund

~~56.6~~57.6 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~~

~~56.7~~ 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

~~57~~58 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:

~~57.1~~58.1 the lawfulness and fairness of the decision making of the Council

~~57.2~~58.2 the Council's compliance with its legal responsibilities and requirements, and

~~57.3~~58.3 matters relating to the conduct of Councillors (including Parish Councillors).

~~58~~59 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**.

~~59~~60 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.

~~60~~61 The **Monitoring Officer** shall have the following delegated powers and responsibilities:

~~60.1~~61.1 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~~£100,000. Settlements above £100,000 and below £500,000 shall be determined by the Monitoring Officer in consultation with the Chair of the Finance Sub-Committee and the Executive Director (Corporate Services), ~~(which after settlement shall be reported to the relevant Committee).~~

~~60.2~~ ~~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 in accordance with the Financial Procedure Rules.~~

~~60.361.2~~ To prosecute, defend, make application, serve any notice or appear on behalf of the Council in any Court, Tribunal or hearing on any criminal, civil or other matter (including appeals).

~~60.461.3~~ To institute legal proceedings for any offences under any local Byelaws or Orders in force within the Council's area.

~~60.561.4~~ To lodge objections to any proposal affecting the Council's interests.

~~60.661.5~~ To determine applications for the display of the crest or logo of the Council.

~~60.761.6~~ To take all action including the completion of agreements, the service of notices, giving of directions, obtaining or issuing orders, authorising the execution of powers of entry, and the institution and defence of legal proceedings necessary or desirable to protect and advance the interests of or discharge the roles, functions and responsibilities of the Authority.

~~60.861.7~~ To make discretionary payments under Land Compensation Act 1973 on the recommendation of the District Valuer.

~~6162~~ In accordance with the Council's approved policy to monitor the integrity of the operation of the Regulation of Investigatory Powers Act 2000 by:

~~61.162.1~~ Ensuring compliance with all relevant legislation and with the Codes of Practice.

~~61.262.2~~ 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.

~~61.362.3~~ Monitoring authorisations and conducting a quarterly review of applications, authorisations and refusals, and reviewing renewals and cancellations.

~~6263~~ To make Orders for the Temporary Closure of Highways and Regulation of Traffic.

~~6364~~ To attest the affixing of the Council's seal to all documents approved for sealing.

~~6465~~ To authorise appropriate Officers to administer formal cautions in respect of criminal offences.

~~6566~~ To determine whether a particular claim for payment under the *Councillors Allowances Scheme* is appropriate.

~~6667~~ 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.

~~6768~~ To prove debts owed to the Authority in bankruptcy and liquidation proceedings.

~~6869~~ In consultation with the Chair and Vice-Chair of the Corporate Policy 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:

~~68.469.1~~ \_\_\_\_\_ amounting to routine revisions

~~68.269.2~~ \_\_\_\_\_ to provide appropriate clarity

~~68.369.3~~ \_\_\_\_\_ to correct typographical and other drafting errors

~~68.469.4~~ \_\_\_\_\_ to reflect new legislation

~~68.569.5~~ \_\_\_\_\_ to correct inconsistencies in drafting

~~68.669.6~~ \_\_\_\_\_ to reflect new officer structures and job titles, properly approved through Council processes.

~~6970~~ \_\_\_\_\_ 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:

~~69.470.1~~ \_\_\_\_\_ 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;

~~69.270.2~~ \_\_\_\_\_ 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;

~~69.370.3~~ \_\_\_\_\_ if it is considered that granting the dispensation is in the interests of persons living in the authority's area; or

~~69.470.4~~ \_\_\_\_\_ if it is considered that it is otherwise appropriate to grant a dispensation.

### Arrangements for Statutory and Proper Officer functions

72 Many legislative provisions require the appointment of a **Statutory Officer or Proper Officer** to undertake formal responsibilities on behalf of the Council.

73 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:

- 73.1 such designation is given by the Council to any other officer, or
- 73.2 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.

74 The Scheme of Delegation to Officers and table below outlines the designated Statutory Officer and Proper Officer functions for the Council and those officers (or where necessary, their substitute) shall undertake the specific responsibilities entailed. Proper Officer shall maintain a Proper Officer Register which shall record all Proper Officer appointments.

75 Statutory provisions and regulations are from time to time amended, replaced or re-enacted. When a statutory provision or regulation is amended, replaced or re-enacted, the appointments in the table below shall be effective in relation to the corresponding new provision.

76 Substitutes are identified to act where the Proper Officer is absent or otherwise unable to act.

77 In the event of any officer (and their substitute) identified in the Scheme of Delegation to Officers or in the table below being for any reason absent or unable to act and the officer/substitute has not made any other arrangements for the exercise of the relevant duties, the Director of Governance & Compliance (Monitoring Officer) shall nominate an officer to act in their stead.

## STATUTORY OFFICERS

STATUTORY REQUIREMENT	ALLOCATED TO	SUBSTITUTE
Local Government and Housing Act 1989 Section 4 Head of Paid Service	Chief Executive	<a href="#">Relevant Executive Director</a>
Representation of the People Act 1983 Section 8 Electoral Registration Officer	Chief Executive	Head of Democratic Services and Governance
Representation of the People Act 1983 Section 28 Acting Returning Officer (Parliamentary)	Chief Executive	Head of Democratic Services and Governance
Representation of the People Act 1983 Section 35 Returning Officer (Local Elections)	Chief Executive	Head of Democratic Services and Governance
Weights and Measures Act 1985 Section 72 Chief Inspector of Weights and Measures	Trading Standards and Community Protection Manager	Senior Enforcement

		Officer, Trading Standards
Local Authority Social Services Act 1970 Section 6 Director of Adult Social Services	Executive Director Adults, Health & Integration	Director Adults Social Care <a href="#">Operations</a>
Local Government Act 1972 Section 151 Chief Finance Officer	Director of Finance & Customer Services (Chief Finance Officer)	Head of Financial Services (Deputy Chief Finance Officer)
Local Government Act 2000 Section 9FB Scrutiny Officer	Head of Governance and Democratic Services	<a href="#">Democratic Services Manager-</a>
Local Government and Housing Act 1989 Section 5 Monitoring Officer	Director of Governance & Compliance (Monitoring Officer)	Legal Team Manager(s) and Deputy Monitoring Officer (s)
Children Act 2004 Section 18 <a href="#">Director of Children's Services</a>	Executive Director Children's Services	<a href="#">Relevant Service Director</a>
<a href="#">Children Act 1989 Section 22 and 23ZZA Virtual School Headteacher</a>	<a href="#">Head of Service Inclusion</a>	<a href="#">Deputy Virtual School Headteacher</a>
National Health Service Act 2006 Section 73A	Director of Public Health	<a href="#">Corporate Manager Health Improvement</a>

**PROPER OFFICERS****Chief Executive**

To act as the Authority's Proper Officer in respect of the following statutory functions:

STATUTORY PROVISION	FUNCTION/DUTY	SUBSTITUTE
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Any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or any instrument made before 26 October 1972	Reference to Town Clerk or Clerk to the Council is to be construed as reference to the Proper Officer of the Council	Executive Director Corporate Services
Local Government Act 1972 S13(3)	Formation of 'the Parish Trustees' with the chairman of parish meeting when no separate parish council	Head of Democratic Services and Governance
Local Government Act 1972 S88(2)	Convening a Council meeting to fill casual vacancy in office of chairman	Head of Democratic Services and Governance
Representation of the People Act 1983 S67	Receipt of notice of appointment of election agent	Head of Democratic Services and Governance
Representation of the People Act 1983 S82 and S89	Receipt and retention of election expense declarations and returns	Head of Democratic Services and Governance
Representation of the People Act 1983 S131	Provision of accommodation for election court	Head of Democratic Services and Governance
Local Government Act 1972 S210(6) and (7)	Exercise of certain residual functions relating to charities	Executive Director Corporate Services
Local Government Act 1972 S248	Keeping roll of persons admitted to the freedom of a city or town.	Head of Democratic Services and Governance
Local Government Act 1972 S99 & Schedule 12 para 4	Signature of summons to Council meetings and receipt of notices regarding address to which summons to meeting is to be sent	Head of Democratic Services and Governance
Local Government Finance Act 1988 S116(1)	Notifying the external auditor of arrangements for a meeting to consider a report of the Chief Finance Officer	Director of Finance & Customer Services (Chief Finance Officer)

Local Government and Housing Act 1989 S2	Receipt of list of politically restricted posts.	Executive Director Corporate Services
Local Government and Housing Act 1989 S3A	Determine applications for exemption from the list of politically restricted posts	Executive Director Corporate Services
Local Government and Housing Act 1989 S15	Receipt of notices relating to political groups.	Head of Democratic Services and Governance
Local Government and Housing Act 1989 S16	Receipt of notice of wishes of political groups as to appointments to committees and sub committees and termination of appointments	Head of Democratic Services and Governance
Local Government & Housing Act 1989 S18	Receipt of notice in writing that a Councillor wishes to forego any part of entitlement to an allowance	Head of Democratic Services and Governance
Local Government (Committee & Political Groups) Regulations 1990	Receipt of notice of formation and membership of a political group	Head of Democratic Services and Governance
Data Protection Act 2018	Data Protection Officer/Senior Information Risk owner.	Data Protection Officer
Local Elections (Principal Areas) (England and Wales) Rules 2006 Schedules 2 and 3, Rule 50	Receipt from Returning Officer of the names of persons elected to the Council	Director of Governance & Compliance (Monitoring Officer)
Terrorism Act 2000 Part 3	Nominated officer to receive disclosures on suspected terrorist property	Executive Director Adults, Health and Integration
Local Government Act 2000 Local Authorities (Referendums)(Petitions) Regulations 2011	Verification number (5% of local government electors for validating petitions) and publication of the number.	Head of Democratic Services and Governance

Reg 4 and 5		
Local Government Act 2000 Local Authorities (Referendums)(Petitions) Regulations 2011 Reg 7	Steps to be taken in relation to post announcement and post direction petitions.	Head of Democratic Services and Governance
Local Government Act 2000 Local Authorities (Referendums)(Petitions) Regulations 2011 Reg 8	Amalgamation of petitions.	Head of Democratic Services and Governance
Local Government Act 2000 Local Authorities (Referendums)(Petitions) Regulations 2011 Reg 11	Procedure on receipt of a petition.	Head of Democratic Services and Governance
Local Government Act 2000 Local Authorities (Referendums)(Petitions) Regulations 2011 Reg 13	Publicity for valid petitions.	Head of Democratic Services and Governance
Local Authorities (Conduct of Referendums) (England) Regulations 2012	Proper Officer functions in relation to referendums	Head of Democratic Services and Governance

### Director of Finance & Customer Services (Chief Finance Officer)

To act as the Authority's Proper Officer in respect of the following statutory functions:

STATUTORY PROVISION	FUNCTION	SUBSTITUTE
Any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or any instrument made before 26 October 1972	Reference to the Treasurer is to be construed as reference to the Chief Finance Officer of the Council	Head of Financial Services (Deputy Chief Finance Officer)
Local Government Act 1972 – S115(2)	Receipt of monies due from officers	Head of Financial Services (Deputy

		Chief Finance Officer)
Local Government Act 1972 – S146(1)(a) and (b)	Declarations and certificates relating to securities to enable transfer	Head of Financial Services (Deputy Chief Finance Officer)
Local Government Act 1972 – S228(3)	Making accounts available to inspection by Members of the Authority	Head of Financial Services (Deputy Chief Finance Officer)
Local Government Finance Act 1988 S114, S114A, S115	Responsibility for Chief Finance Officer Reports	Head of Financial Services (Deputy Chief Finance Officer)
Proceeds of Crime Act 2002 Part 7	Nominated officer to receive disclosures of suspected money laundering	Head of Financial Services (Deputy Chief Finance Officer)

### Executive Director Place

To act as the Authority's Proper Officer in respect of the following statutory functions:

STATUTORY PROVISION	FUNCTION	SUBSTITUTE
Local Land Charges Act 1975 Land Registration Act 2002	Local Registrar within the meaning of the Acts who shall register any matters specified by these Acts affecting land situated within the district	Head of Planning
Rent Act 1977 S63	Appointment of Rent Officers under a scheme	Head of Estates
Rent Act 1977 Sched 15, Part IV, para 7	Certification of provision of suitable alternative accommodation	Head of Estates
Housing Act 2004 S4	Receipt and inspection of complaints of category 1 and 2 hazards on residential premises	Head of Estates

Food Safety Act 1990 S5	“Authorised Officer” to act in matters arising under the Act	Head of Regulatory Services
Agriculture Act 1970 S67	Appointment of agricultural inspectors and an agricultural analyst	Head of Regulatory Services
Highways Act 1980 S37(5)	Receipt of certificates approving dedication of highways to be maintainable at public expense and making certificates available for inspection	Head of Highways
<u>Highways Act 1980 S38</u>	<u>Power to adopt the highway by agreement</u>	<u>Head of Infrastructure</u>
Highways Act 1980 S205(3) and (5)	Duties in relation to street works in private streets	Head of Highways
Highways Act 1980 S210(2)	Certification of document giving details of any amendments to estimate of costs and provisional apportionment of costs of street works in private streets	Head of Highways
Highways Act 1980 S211(1), 212(4), 216(2) and (3)	Making a final apportionment of costs of street works under the private street works code	Head of Highways
<u>Highways Act 1980 S278</u>	<u>Agreements for the execution of works</u>	<u>Head of Infrastructure</u>
Highways Act 1980 S295	Issuing of notice to require owners to remove materials from streets in which works are due to take place	Head of Highways
Highways Act 1980 S321	Signature and authentication of notices, consents, approvals, orders, demands, licences, certificates or other documents	Head of Highways
Local Government (Miscellaneous Provisions) Act 1982	Entertainments, licensing control of sex shops	Head of Regulatory Services

Licensing Act 2003 Gambling Act 2005	Licensing and gambling functions	Head of Regulatory Services
Local Government Act 1972 S191(2)	Receipt of applications under section 1 Ordnance Survey Act 1841	Head of Planning
Building Act 1984 S61	Receive notification of, and having free access to, repairs of drains	Head of Planning
Building Act 1984 and Building Regulations	Authentication of Documents and issue of notices	Head of Planning
Building Act 1984	(a) Various purposes with regard to drainage, water supply, sanitary accommodation.  (b) Purposes relating to building control other than those comprised in (a) above  (c) authorise action in relation to dangerous structures under Section 78	Head of Planning
Planning (Consequential Provisions) Act 1990 Schedule 3, para 3	Receipt of deposit of list of protected buildings – S54(4) Town & Country Planning Act 1971	Head of Planning
Countryside and Rights of Way Act 2000 S1	Access to the Countryside	Head of Planning
Food Safety Act 1990 S5	“Authorised Officer” to act in matters arising under the Act	Head of Regulatory Services
Food Safety Act 1990 S27	Nomination of Public Analyst	Head of Regulatory Services

Food Safety Act 1990 S49	Signature of any document authorised or required by or under the Act	Head of Regulatory Services
Environmental Protection Act 1990 S149 - 151	Discharging the functions in this section for dealing with stray dogs	Head of Regulatory Services
Public Health Acts 1936 and 1961 Control of Pollution Act 1974 Housing Acts 1957 and 1988 Local Government Act 1989 Local Government (Miscellaneous provisions) Act 1976 Prevention of Damage by Pests Act 1948 Environmental Protection Act 1990	Authentication of Documents and issue of notices	Head of Regulatory Services
Public Health (Control of Disease) Act 1984 S48	Certification that it would be a health risk to retain a body in a building	Head of Regulatory Services
Public Health (Control of Disease) Act 1984 S61	Powers to enter premises for certain purposes under the Act	Head of Regulatory Services
Public Health (Control of Disease) Act 1984 S62	Supplementary provisions in relation to entry of premises	Head of Regulatory Services

### Director of Public Health

To act as the Authority's Proper Officer in respect of the following statutory functions:

STATUTORY PROVISION	FUNCTION	SUBSTITUTE
Public Health (Control of	Signature and authentication of notices, orders or other documents	Lead for Health Protection and the Wider

Disease) Act 1984 S59		Determinants of Health
Health Protection (Notification) Regulations 2010 Regulation 2	Receipt of notice from medical practitioner of suspected disease, infection or contamination in patients	Lead for Health Protection and the Wider Determinants of Health
Health Protection (Notification) Regulations 2010 Regulation 3	Receipt of notice from medical practitioner of suspected disease, infection or contamination in dead persons	Lead for Health Protection and the Wider Determinants of Health
Health Protection (Notification) Regulations 2010 Regulation 6	Duty to disclose information to Public Health England and others	Lead for Health Protection and the Wider Determinants of Health

### Director of Governance & Compliance (Monitoring Officer)

To act as the Authority's Proper Officer in respect of the following statutory functions:

STATUTORY PROVISION	FUNCTION	SUBSTITUTE
Local Government Act 1972 S83	Receipt of declaration of acceptance of office by chairman, vice-chairman or Councillor	Head of Democratic Services and Governance
Local Government Act 1972 S84(1)	Receipt of notice of resignation of office	Head of Democratic Services and Governance
Local Government Act 1972 S86	Declare any vacancy in office	Head of Democratic Services and Governance
Local Government Act 1972 S89  Local Elections (Parishes and Communities) (England and Wales) Rules 2006/3305	Receipt of notice of casual vacancy of Councillor (Also for Parish and Community Councils)	Head of Democratic Services and Governance
Local Government Act 1972 S100B(2)	Exclusion of whole or part of reports from public inspection	Legal Team Manager(s) and

		Deputy Monitoring Officer(s)
Local Government Act 1972 S100B(7)(c)	Supply of documents to the press	Legal Team Manager(s) and Deputy Monitoring Officer(s)
Local Government Act 1972 S100C(2)	Written summary of proceedings where minutes would disclose exempt information	Legal Team Manager(s) and Deputy Monitoring Officer(s)
Local Government Act 1972 S100D(5)	Identification of background papers	Legal Team Manager(s) and Deputy Monitoring Officer(s)
Local Government Act 1972 S100F(2)	Exclusion from production to Members of the Authority documents disclosing exempt information	Legal Team Manager(s) and Deputy Monitoring Officer(s)
Local Government Act 1972 S223(1) Also S60 County Courts Act 1984	Authorisation of any member or officer of the Authority to conduct, prosecute, defend or appear in proceedings before a magistrates court	Legal Team Manager(s) and Deputy Monitoring Officer(s)
Local Government Act 1972 S225	Receipt and retention of documents deposited with the Authority	Legal Team Manager(s) and Deputy Monitoring Officer(s)
Local Government Act 1972 S229(5)	Certification of photographic copies of documents	Legal Team Manager(s) and Deputy Monitoring Officer(s)
Local Government Act 1972 S234 (1) and (2)	Signature of any notice, order or other document on behalf of the Authority, any document purporting to bear the signature of the proper officer shall be deemed as duly given, made or issued by the Authority	Legal Team Manager(s) and Deputy Monitoring Officer(s)

Local Government Act 1972 S236 (10)	Sending copies of byelaws to parish councils or parish meetings	Legal Team Manager(s) and Deputy Monitoring Officer(s)
Local Government Act 1972 S238	Certification of copy of byelaws	Legal Team Manager(s) and Deputy Monitoring Officer(s)
Local Government Act 1972 Schedule 14, para 25(7)	Certification of resolutions	Legal Team Manager(s) and Deputy Monitoring Officer(s)
Local Government (Miscellaneous Provisions) Act 1976 S41	Certification of copies of resolutions, orders, reports and minutes and other documents	Legal Team Manager(s) and Deputy Monitoring Officer(s)
Freedom of Information Act 2000 – S36(2) & (5)	Decision of whether information is exempt from disclosure to the public arising from the prejudice to the conduct of public affairs	Monitoring Officer/Executive Director Corporate
Localism Act 2011 S29	Establish and maintain a register of member's and co-opted members' interests	Legal Team Manager(s) and Deputy Monitoring Officer(s)
Localism Act 2011 S31	Receipt of notice of members' disclosable pecuniary interests and entering such interests in the Authority's register	Head of Democratic Services and Governance
Localism Act 2011 S32	Consideration whether a member's interest is a sensitive interest	Legal Team Manager(s) and Deputy Monitoring Officer(s)
Localism Act 2011 S33	Determination of written requests from members for dispensations where they have a pecuniary interest	Legal Team Manager(s) and Deputy Monitoring Officer(s)
Local Government Act 1974 S30(5)	Publication of Local Commissioner (Ombudsman) reports	Legal Team Manager(s) and Deputy

		Monitoring Officer(s)
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### Head of Democratic Services and Governance

STATUTORY PROVISION	FUNCTION	SUBSTITUTE
Registration Service Act 1953 S9 (1) and (2)	Appointment of interim superintendent registrars and registrars	Civic and Registration Services Manager
Registration Service Act 1953 S13 (2)(h) and (3)(b)	Powers under the local scheme of organisation	Civic and Registration Services Manager
Registration Service Act 1953 S20	Proper Officer to be subject to regulations made by the Registrar General	Civic and Registration Services Manager
Marriage Act 1949 Marriage Act 1994 Civil Partnership Act 2004	Determination of applications for approval of premises, exercise of registration functions	Civic and Registration Services Manager
Local Authorities Cemeteries Order 1977 Article 12	Responsibility for storage and charge of cemetery records	Civic and Registration Services Manager
Local Authorities Cemeteries Order 1977 Schedule 2	Responsibility for the signature of grants and granting of permission for various matters	Civic and Registration Services Manager

### Miscellaneous

To act as the Authority's Proper Officer in respect of the following statutory functions:

STATUTORY PROVISION	FUNCTION	PROPER OFFICER	SUBSTITUTE

Local Government Act 1972 S100D(1)	Compilation of lists of background papers, identification of background papers	In the case of any report the name of the Officer at Corporate Leadership Team level who has responsibility for the subject matter of the report and in the case of the joint report the first named Officer	The relevant <u>Director/</u> Head of Service/Manager below the Corporate Leadership Team Officer.
Local Government (Miscellaneous Provisions) Act 1976 S16	Service of notices requiring details of any interests in land.	Chief Executive or other Officer at Corporate Leadership Team level	The relevant <u>Director/</u> Head of Service/Manager below the Corporate Leadership Team Officer.
Regulation of Investigatory Powers Act 2000 S27, 28 and 29	Authorising Officer & Designated person for the use of surveillance and the acquisition and disclosure of communications data	Chief Executive or other Officer at Corporate Leadership Team level	The relevant <u>Director/</u> Head of Service/Manager below the Corporate Leadership Team Officer.
Freedom of Information Act 2000 S36	Determination of exemptions apart from those relating to s.36 prejudice to conduct of public affairs	All Officers at Corporate Leadership Team level	The relevant <u>Director/</u> Head of Service/Manager below the Corporate Leadership Team Officer.
Anti-Social Behaviour Act 2003 and Anti-Social Behaviour Crime and Policing Act 2014	Proper Officer functions anti-social behaviour and community protection	Relevant Director	Relevant Head of Service

Any	Any other provisions for which arrangements are not made above or in the scheme of delegation to officers (whether made before or after this last was last updated) requiring a proper officer or authorised officer from time to time - either to nominate a proper officer or to exercise the functions.	Chief Executive	Relevant Director
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# 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
20.04.21	5	J Barnes BB	Updated following Council on 19 April – removal of length of meetings
18.05.21	6	D Brown CEC	Update for 22 June 2021
25.05.21	7	V Barman BB	Updated to include Constitution Committee on 29 April – added SOs re budget meeting voting as required by 2001 Regs
14.07.21	8	V Barman BB	Updated following approval at Full Council 22 June – amendments to Council Procedure Rules
22.09.21	9	V Barman BB	Updated following Constitution Committee meetings of 15 and 22 September 2021
13.10.21	10	V Barman BB	Updated following Constitution Committee meetings of 6 and 13 October 2021

EDITION: April 2021

## Chapter 3

### Procedure Rules

This part of the Constitution covers the following areas:

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

Part	Title	Contents
5	<a href="#">Contract Procedure Rules (CPRs)</a>	<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"> <li>1. General Rules</li> <li>2. Rules which apply to ALL contracts</li> <li>3. Contracts below the Public Procurement Threshold</li> <li>4. Contracts at or above the Public Procurement Threshold</li> <li>5. Procedures for ALL Requests for Quotation and Invitations to Tender</li> <li>6. Contracts and Post Procurement Requirements</li> <li>7. Waiver and Breach</li> </ol>
6	<a href="#">Employment Procedure Rules</a>	<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

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#### 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 model agendas for Council meetings – these are for guidance only as follows:

**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
- ~~Appointment 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 from Councillors and members of the Public 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.

~~1.211.20~~ ~~All questions must be sent in writing to the Monitoring Officer at least 3 clear working days before the meeting.~~

~~1.221.21~~ 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.

~~1.231.22~~ 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.~~

~~1.251.23~~ Questions in writing will not be read out at Council meetings.

~~1.261.24~~ All Questions will be brief, clear and focussed.

~~1.271.25~~ 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.

~~1.281.26~~ 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.

4.291.27 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.

4.301.28 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.

4.311.29 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 1.22 – 1.28 above will also apply to public question time.

### ***Notices of Motion***

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

4.331.31 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.

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

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

4.361.34 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***

4.371.35 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***

- 4.381.36 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***

- 4.391.37 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***

- 4.401.38 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.

- 4.411.39 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.

- 4.421.40 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***

**4.431.41** 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***

**4.441.42** 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***

**4.451.43** 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***

**4.461.44** 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.

**4.471.45** 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***

**4.481.46** 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***

4.491.47 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***

4.501.48 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***

4.511.49 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***

4.521.50 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***

4.531.51 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***

**4.541.52** 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***

**4.551.53** 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***

**4.561.54** 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***

4.571.55 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***

4.581.56 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***

4.591.57 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.

4.601.58 Such a motion may be moved if:

4.60.11.58.1 it is recommended by a Committee, or

4.60.21.58.2 notice of such motion has been given under paragraph 1.33 and signed by at least 8 Councillors.

***Voting***

4.611.59 Voting will be by a show of hands.

4.621.60 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.

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

4.641.62 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.

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

4.661.64 A Councillor may, immediately after the item of business is voted upon, request that a lost motion or amendment be recorded in the minutes.

4.671.65 Where there are equal votes cast for a motion or amendment the Mayor or the person presiding shall have a second or casting vote.

**Voting at Budget meetings**

4.681.66 Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

4.691.67 In paragraph 1.68

(a) “budget decision” means a meeting of the authority at which it—

- (i) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992; or
- (ii) issues a precept under Chapter 4 of Part 1 of that Act, and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting;

(b) references to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

**Offices and Appointments**

4.701.68 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.

4.741.69 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**

4.721.70 The Chairs and Vice-Chairs of the Council’s committees and sub-committees shall be appointed ~~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 Administrators 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.

4.731.71 A Councillor appointed as Chair or Vice-Chair must be a member of the relevant Committee or Sub-Committee.

4.741.72 Where a vacancy occurs in the office of Chair or Vice-Chair, the relevant Group Leader or Group Administrator Whip shall nominate a replacement.

**4.751.73** 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.

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

## **Urgent Decisions Taken Outside of Meetings**

### ***Definition of an urgent decision***

**4.771.75** 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***

**4.781.76** 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~~ Group Lead Members 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 The Council's 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 1.26 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, having first consulted with the relevant Chair and lead Director, 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, and is, subject to the Chair's discretion, not excluded as follows:

- any matter relating to a planning decision;
- any matter relating to a licensing decision;
- any matter relating to a person in respect of which that person has a right of recourse to a review or right of appeal.

2.412.42 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.

2.422.43 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.

2.432.44 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) and is not excluded as follows:

- any matter relating to a planning decision;
- any matter relating to a licensing decision;
- any matter relating to a person in respect of which that person has a right of recourse to a review or right of appeal; or
- any matter that is inappropriate, frivolous, derogatory, offensive, vexatious or otherwise improper.

**Committee and Sub-Committee Agenda – Urgent Items of Business**

2.442.46 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.

2.452.47 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***

2.462.48 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.

2.472.49 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.

2.482.50 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.

2.492.51 The Councillor has no right to vote and may speak only with the consent of the Chair of the meeting.

2.502.52 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***

2.512.53 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 ~~Group Administrator Party Whip~~**

- 3.12. It is generally accepted that the ~~Group Administrator 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 ~~Group Administrator party whip~~, the Councillor must declare the existence of ~~the Whip~~<sup>this</sup>, 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 and 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, [together with the Council's Petition Scheme](#), can be found on the Council's website.

## APPENDIX

**Public Speaking and Questions**

- 1 There will ~~a period of up to 30 minutes for~~ public questions at meetings of the full Council. ~~During this time members of the public may for a total period of up to 30 minutes and the ability to~~ ask questions regarding items of business at Committee meetings.
- 2 ~~There will a period of up to 15 minutes for public questions 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 m~~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/they~~ considers it appropriate, ~~and t~~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 meetings of the full 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

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- 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
<p>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.</p> <p>“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</p>	<p>interest in maintaining the exemption outweighs the public interest in disclosing the information</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>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</p>
<p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p>	<p>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</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	<p>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</p>
<p><b>EXCEPT THAT</b></p> <p>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.</p>	
<p>7A. Information which is subject to any obligation of confidentiality.</p>	<p>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</p>
<p>7B. Information which relates in any way to matters concerning national security.</p>	<p>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</p>
<p>7C. Information presented to a Panel or Sub-committee of the Audit and Governance</p>	<p>Information is exempt if and so long, as in all the circumstances of the case, the public</p>

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

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- 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 Crime and Disorder Reduction Strategy
  - 11.3 Local Transport Plan
  - 11.4 Local Development Plan and Development Plan Framework documents
  - 11.5 Licensing Authority Policy Statement
  - 11.6 Gambling Statement of Principles
  - 11.7 Equality and Diversity Strategy
  - 11.8 Environment Strategy 2020-24
  - 11.9 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"> <li>• up to £100,000; or</li> <li>• above £100,000 and below £500,000 in consultation with the Finance Sub-Committee Chair and the Executive Director (Corporate Services)</li> </ul> (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"> <li>• the write off of losses; or</li> <li>• disposals, of obsolete or surplus equipment, materials, vehicles or stores</li> </ul> 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.
	Chapter 3, Part 4, Section 4	Acquisition and disposal of land and property	Over £2 million is the responsibility of the Finance Sub-Committee; and below £2m is a member of the Corporate Leadership Team in

## Budget and Policy Framework Procedure Rules

Page	Reference	Area	Financial Limit
			consultation with the Chief Finance Officer and the Executive Director Place.
	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

Page	Reference	Area	Financial Limit
			that has not been involved in the tender in question
	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, in consultation with the Chief Finance Officer that are 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	Relevant Heads 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"> <li>• £1,000,000 revenue; or</li> <li>• £5,000,000 capital</li> </ul>	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"> <li>• £1,000,000 revenue; or</li> <li>• £5,000,000 capital</li> </ul> (where virement is within budget and policy framework)	Finance Sub-Committee

### Virement from Reserves or Contingencies

Council may approve that specific earmarked reserves for contingencies are allocated within the Budget Control Total of a Committee. The Committee may vire such funds only in consultation with the Chief Finance Officer.

Virement Amount	From 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	Finance Sub-Committee
Over £1,000,000	Council with recommendation from Finance Sub-Committee

### Supplementary Estimates

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.~~ approval must be sought for a supplementary estimate in accordance with the tables below. Approval can only be given where full funding is identified (for example through additional specific grant allocations or developer contributions). The Chief Finance Officer must be consulted in all cases.

~~Directors may make applications for grants, where the application does not create a commitment, financial or otherwise, in consultation with the Chief Finance Officer. However, if the application is for a grant in excess of £1m, or if any match funding will be required, then the CLT must be consulted in advance.~~ Directors may make applications for grants, where the application does not create a commitment, financial or otherwise, in consultation with the Chief Finance Officer. However, if the application is for a grant in excess of £1m, or if any match funding will be required, then the **Corporate Leadership Team** must be consulted in advance.

~~Successful grant applications will require a supplementary estimate to incur spending, in line with the approval limits set out in the table below.~~ Successful grant applications will require a supplementary estimate to incur spending, in line with the approval limits set out in the table below.

~~If grant application or receipt commits expenditure outside of the Budgetary Framework then a Virement or other Supplementary Estimate will also be required.~~ If grant application or receipt commits expenditure outside of the Budgetary Framework then a Virement or other Supplementary Estimate will also be required.

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### 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
Over £1,000,000	Council <del>with recommendation from Committee</del>

### Funded from ~~Additional Grants~~

~~Directors may make applications for grants, where the application does not create a financial or any other commitment, in consultation with the Chief Finance Officer. However, if the application is for a grant in excess of £1m, or if any match funding will be required, then CLT must be consulted in advance.~~

~~Successful grant applications will require a supplementary estimate to incur spending, in line with the approval limits set out in the table below.~~

~~If grant application or receipt commits expenditure outside of the Control Totals then a Virement or Other Supplementary Estimate will also be required.~~

<del>Amount of grant to be received</del>	<del>Approval Level</del>
<del>Up to and including £100,000</del>	<del>Officers</del>
<del>Between £100,000 and £500,000</del>	<del>Relevant Member of CLT in consultation with Chair of the relevant Committee and Chair of Finance Sub-Committee</del>
<del>£500k and up to £1m</del>	<del>Committee</del>
<del>£1m and above</del>	<del>Council</del>

~~2019~~ 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.

~~2120~~ 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 to 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 Chief Finance Officer, 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 annual 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. The Council may determine specific virement responsibilities for such recurring programmes.
- 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. The Chief Finance Officer may provide written delegation to other officers to approve the write off of debt up to and including £5,000.

## 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	2.51m	2.51m
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.
- 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

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#### 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:

	<b>Supply, Services<sup>1</sup> and Design Contracts</b>	<b>Works &amp; Concession Contracts<sup>2</sup></b>	<b>Social and Other Specific Services<sup>3</sup></b>
Other public sector Contracting authorities	£189,330 (€214,000)	£4,733,252 (€5,350,000)	£663,540 (€750,000)

<sup>1</sup> 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).

<sup>2</sup> Except for subsidised works contracts specified under Article 13.

<sup>3</sup> 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).
- 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 Arrangements**

### Framework 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 kept on the contract management system..

## **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 as set out in the commissioning framework.
  - 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 retained in the contract management system..

**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 Finder Tender or 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 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 6.5 must be followed.

## **7. Waiver and Breach**

### **Waiver**

## Waiver Process

- 7.1 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
- 7.2 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:
- 7.2.1 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.
  - 7.2.2 The waiver of these Rules and the reason(s) for waiver shall be clearly recorded and reported to CLT.
  - 7.2.3 All notices of waiver shall be published retrospectively for information on the next Audit and Governance Committee agenda.
- 7.3 Exemptions from the above requirements may be agreed for instances of:
- 7.3.1 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.
  - 7.3.2 Significant reputational risk or where such an exemption is required to ensure continuity or to safeguard the Councils interests.
  - 7.3.3 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.
  - 7.3.4 The selection of a supplier whose usage is a condition of a Grant funding approval.
  - 7.3.5 The selection of a supplier on the instruction of a third party,

providing the whole of the funding is met by the third party.

- 7.4 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**

- 7.5 No Officer or Councillor may seek to actively avoid the application of these Rules.
- 7.6 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.
- 7.7 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

- 7.8 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.
- 7.9 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.
- 7.10 Any such breaches will be reported to CLT 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 shall be published retrospectively for information on the next Audit and Governance Committee agenda.
- 7.11 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.
- 7.12 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

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#### 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 Appointments Committee and Corporate Policy Committee**

- 12 In addition to these rules, the responsibilities of the Appointments Committee, the Corporate Policy Committee and the Staffing Appeals Sub-Committee are set out in the Committee Terms of Reference in **Chapter 2** of this Constitution.
- 13 Subject to the provisions of these Rules, the Staffing Appeals Sub-Committee is responsible for hearing and determining appeals as set out in the terms of reference and the Council's employment-related policies. In determining employment matters the Corporate Policy 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 (and the Investigation and Disciplinary Committee will be responsible for 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 Appointments Committee will oversee the arrangements for filling the vacancy.
- 16 The Appointments 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.



# 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	
08.04.21	4	J Barnes BB	Updated following receipt of councillor comments and Constitution Committee on 6 April
01.05.21	5	J Barnes BB	Updated following Constitution Committee on 29 April and Officer comments
24.08.21	6	V Barman BB	Updated Glossary at Chpt 6, inclusion of current Members' Allowances Scheme at Chpt 5
09.09.21	7	V Barman BB	Updated to include revised Chpt 7 drafted by CEC Democratic Services Manager , inclusion of current Members' Allowances Scheme at Chpt 5
22.09.21	8	V Barman BB	Updated following Constitution Committee meetings of 15 and 22 September
13.10.21	9	V Barman BB	Updated following Constitution Committee meetings of 6 and 13 October

EDITION: May 2021

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## Chapter 4

### Codes and Protocols

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This part of the Constitution covers the following areas:

Part	Title	Contents
1	<a href="#">Councillor Code of Conduct</a> <del>Councillor Code of Conduct</del>	This part sets out the ways in which Councillors must conduct themselves. It covers such things as: <ul style="list-style-type: none"> <li>• General obligations</li> <li>• Registering and declaring interests</li> <li>• Pre-determination and bias</li> </ul>
2	Officer Code of Conduct	This part sets the ways in which all employees of the Council must conduct themselves. It covers such things as: <ul style="list-style-type: none"> <li>• The Values of the Council</li> <li>• The Council's Core Principles</li> <li>• The Council's Core Standards</li> <li>• Additional standards relevant to particular groups of employees</li> <li>• Guidance on compliance with the Code</li> <li>• Associated forms and referral points</li> </ul>
3	<a href="#">Councillor / Officer Protocol</a> <del>Councillor / Officer Protocol</del>	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.
4	Planning Code of Conduct	An additional Code of Conduct for Councillors on Planning matters
5	Whistleblowing Policy	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.

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## Chapter 4 – Part 1

### Councillor Code of Conduct

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- 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) bully<sup>1</sup> 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, except<sup>2</sup> 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.

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<sup>1</sup> "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.

<sup>2</sup> 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

<b><i>Subject</i></b>	<b><i>Prescribed description</i></b>
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

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1. [Core Principles](#)~~Core Principles~~
2. [Core Standards](#)
3. [3. Code of Conduct Standards – Guidance](#)~~Code of Conduct Standards – Guidance~~
4. [Associated Forms and Referral Points](#)~~Associated Forms and Referral Points~~
5. [Code of Conduct – Matrix of Regulations and Standards Relevant to Specific Directorates](#)~~Code Of Conduct – Matrix Of Regulations and Standards Relevant to Specific Directorates~~
6. [Cheshire East Core Values “FIRST Framework”](#)~~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**

<ul style="list-style-type: none"> <li>• <b>Compliance with the Code and Confidential Reporting</b></li> </ul>
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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

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#### 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. Should a Councillor have any concerns about the Council's Chief Executive, the Councillor should raise these with the Monitoring Officer.

- 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 Administrator ~~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:
  - 53.1 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. Fettering your discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- **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**

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The Council has a [Whistleblowing Policy](#) in place.

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## Chapter 5

## Scheme of Councillors' Allowances

## CHESHIRE EAST COUNCIL

## SCHEME OF MEMBERS' ALLOWANCES 2021/2022

The Council is required to make a scheme of allowances for its elected members. It must also have in place an Independent Remuneration Panel to make recommendations to Council about the scheme.

The following scheme has been adopted by Cheshire East Council in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003.

In making this scheme, the Council has considered the recommendations of the Independent Remuneration Panel and Corporate Policy Committee contained in the report submitted to Council on 22 June 2021.

**Indexation of Allowances**

The Local Authorities (Members' Allowances) (England) Regulations 2003 enables Councils to make provision for the annual adjustment of allowances by reference to an index, which may apply for a period of no longer than four years.

Having deferred an increase for 2021, with effect from 1 April 2022, any uplift applied to the allowances set out in the scheme<sup>3</sup> will be in line with the National Joint Council for Local Government Services ('the NJC') officer pay award. This means that the annual pay award (if applicable) agreed for officers, will also apply to the corresponding year's allowances scheme, up to 2026.

**Submission of Claims**

Claims are required to be submitted to Democratic Services for processing no later than **three months** after the performance of an approved duty (schedule

<sup>3</sup> Excluding car mileage rates which are linked to the NJC casual user officer rates.

3). Any person requiring reimbursement of expenses which has not been submitted within this time limit will have the right of appeal to the Head of Democratic Services and Governance.

### **Basic and Special Responsibility Allowances**

#### **Basic**

Each elected member of the Borough Council receives a sum of **£12,351** per annum (**£1029.25** monthly) which is paid in arrears. If, during this period, the term of office of a Member begins or ends, the entitlement to payment is calculated based on calendar days served per month.

The basic allowance includes an amount to cover the cost of telephone calls made during council business and the cost to the Member of using their own broadband connection for council business. The Council will provide help and advice and, where appropriate, small grants to purchase equipment for Members who need to instal broadband.

#### **Special Responsibility**

Special responsibility allowances (SRA's) are paid in accordance with schedule 1 of this scheme. Where an elected member holds two or more positions on Cheshire East Council which attract an SRA payment, the highest amount only is paid.

Payment of special responsibility allowances is monthly in arrears. If during this period a member takes up or relinquishes such responsibilities as entitles them to an SRA, the entitlement to payment is calculated based on calendar days served per month.

Elected members appointed as a company director to one of the wholly owned Cheshire East alternative service delivery vehicles (ASDVs) may receive payment for this role. Where the Director of Governance and Compliance, in consultation with the Council's political Group Leaders, determines that the member's roles are not comparable, the member may elect, in writing to the Chief Executive (or an officer appointed by them in writing) to receive both their SRA and director's remuneration in full.

To ensure that councillors do not benefit twice when performing comparable roles, the value of the company payment is offset against their SRA so that the

elected member only receives the residual payment from Cheshire East Council.

### **Approved Duties**

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

#### **Travel and Subsistence: Elected members**

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

#### **Travel and Subsistence: Parent Governors/School Appeal Panelists**

Parent Governor co-opted members and School Appeal Panelists may claim reasonable travel expenses in accordance with the scheme for attendance at the Cheshire Association of Governing Bodies meetings and school appeals meetings respectively.

School Appeal Panelists may also be reimbursed for any loss of earnings incurred as a direct result of the performance of their duties when attending appeal meetings or associated training up to a maximum of **£50** per four hour session (or part thereof) on receipt of proof of the loss from their employer.

#### **Meeting allowance: A&G co-optees/Independent Persons/IRP**

The Independent co-opted members of the Audit and Governance Committee and the Independent Persons, appointed to the same Committee to discharge its standards function, are entitled to claim a meeting allowance of **£75** for meetings of less than 4 hours and **£150** for meetings of between 4 – 8 hours, unless there is a good reason not to make such a payment.

Members of the Independent Remuneration Panel (IRP) are also entitled to claim a meeting allowance of **£75** for meetings of less than 4 hours and **£150**

for meetings of between 4 – 8 hours, unless there is a good reason not to make such a payment.

### **Dependants' Carers' Allowance**

A Dependants' carers' allowance will be paid to elected members for the cost of providing care for a dependant (i.e. a child, spouse/partner or parent) incurred whilst undertaking the duties specified in the Local Authorities (Members' Allowances) (England) Regulations 2003 as set out in schedule 3 of this scheme.

The allowance (together with reasonable expenses) can be claimed only if the elected member is the carer and has to pay for the care of their dependant whilst undertaking an approved duty. Claims will not be considered when the care is provided by an immediate family member.

The maximum total amount which may be claimed is **£6410** per calendar year on the production of receipts and satisfactory evidence of the care provided, where required.

## Associated allowances/other elements of the scheme

### Civic Allowances

**£14,000** per annum is paid to the Worshipful the Mayor of the Borough of Cheshire East for the purpose of meeting the expenses of the officer holder; the Deputy Mayor of the Borough of Cheshire East receives **£5,600** per annum.

Although included in the scheme for completeness, civic payments are not considered to be special responsibility allowances in accordance with Section 3(5) and 5(4) of the Local Government Act 1972.

### Elected Member Surgeries

Elected members may claim up to **£34** per month for room hire when conducting monthly surgeries, subject to the submission of receipts and a maximum of twelve claims per annum.

Where occasional surgeries are held, the actual cost of the room hire may be claimed on the submission of a receipt, provided that the accrued claims per annum do not exceed **£408** (equal to 12 payments of £34).

### Variation of Allowances

Elected members may request in writing to the Chief Executive (or an officer appointed by them in writing) that payment of their basic allowance and/or special responsibility allowance be paid at such intervals, in arrears, as they may specify but in any event within one month of the end of the financial year.

A member may, by notice in writing to the Chief Executive (or an officer appointed by them in writing), forgo all or part of their entitlement. The request must be made in writing and clearly state the period for which the reduction is to be applied. If no end date is provided, the adjustment will be applied from the date the request is received, up to the end of the financial year within which the request was submitted.

**Local Government Pension Scheme**

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

**Revocation of Previous Scheme**

The previous Scheme of Members' Allowances is revoked with effect from 22 June 2021.

## Schedule 1

<b>Schedule of Allowances 2021/2022</b>
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Post	Amount payable per annum
Leader of the Council	28,371
Deputy Leader of the Council	17,128
Corporate Policy Committee Chair	12,000
Corporate Policy Committee Vice Chair	6,000
Economy and Growth Committee Chair	12,000
Economy and Growth Committee Vice Chair	6,000
Environment and Communities Committee Chair	12,000
Environment and Communities Committee Vice Chair	6,000
Highways and Transport Committee Chair	12,000
Highways and Transport Committee Vice Chair	6,000
Children and Families Committee Chair	12,000
Children and Families Committee Vice Chair	6,000
Adults and Health Committee Chair	12,000
Adults and Health Committee Vice Chair	6,000
Finance Sub-Committee Chair	12000
Finance Sub-Committee Vice Chair	6,000
Scrutiny Committee Chair	7,650
Audit and Governance Committee Chair	7,650
Strategic Planning Board Chair	7,650
Southern Planning Committee Chair	7,650
Northern Planning Committee Chair	7,650
Licencing Committee Chair	7,650
Appointments Committee Chair	4,200
Public Rights of Way Sub-Committee Chair	4,200

*Scheme of Councillors' Allowances*

Main Opposition Group Leader	10,000
Main Opposition Group Deputy Leader	5,000
Joint Administration Deputy Group Leaders	5,000
Leader of any other group with 4+ members	5,000
Group Administrator (group membership of 10+)	3,825
Group Administrator (group membership of 4 to 9)	1,766
The Worshipful the Mayor	14,000
Deputy Mayor	5,600

Basic allowance (82 members) 12,351

## Schedule 2

**TRAVEL AND SUBSISTANCE****Mileage Rates**

[These may be amended from time to time to reflect the officer rates for travel and subsistence.](#)

Cars:

[Mileage rate for all vehicles \(including electric\): HR Revenues and Customs approved tax free mileage rate of 45p per mile.](#)

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

Each member is required to agree with Democratic Services, standard mileages from their home to the Council's main offices and, where applicable, other regularly travelled routes.

Bicycles/Motorcycles:

Elected members who travel by bicycle when attending approved duties may claim a mileage rate of 20 pence per mile, equivalent to that payable to Cheshire East employees. For motorcycles, the rate is 24 pence per mile.

**Other Travel Expenses**Rail Fares:

The cost of train travel is reimbursed up to the open standard rail fare for the journey undertaken. Any expenses incurred must be at the minimum cost to achieve the purpose of the journey.

First class rail travel is permitted only in the most exceptional circumstances to fulfil a business need, following the submission of a business case to the Head of Democratic Services and Governance supported by the member's group leader.

Financial savings can be achieved by use of an applicable rail card which reduces the cost of all train journeys by one third. Eligible members who

regularly travel by train on council business and who wish to purchase a card may claim back the cost on the production of a receipt.

Occasional expenses:

The actual amount incurred can be claimed in respect of:

- Air travel
- Car parking fees
- Ferry
- Overnight parking/garaging
- Taxi fares
- Tolls

**Subsistence**

The cost limitations on reimbursement are:

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

Claim Rate Limits

No more than

Breakfast allowance for a duty of more than 4 hours concluding before 12 noon	£8
Lunch allowance for a duty of more than 4 hours concluding after 12 noon	£11
Dinner allowance for a duty of more than 4 hours concluding after 6 p.m.	£17
Dinner allowance (London and abroad) for a duty of more than 4 hours concluding after 6 p.m.	£37
Overnight accommodation outside London (to include breakfast)	£124

Overnight accommodation in London (to include breakfast)	£149
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[Note: The rate applicable to subsistence claims for dinner made in respect of attendance at the Local Government Association (LGA) Annual Conference will be the dinner allowance (London and abroad) irrespective of where in the United Kingdom the event is held.]

## Schedule 3

<b>LIST OF APPROVED DUTIES</b>
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A	<p>Attendance at meetings to which the member is appointed or is attending as a substitute (by invitation of the responsible officer) of:</p> <ul style="list-style-type: none"> <li>▪ Council</li> <li>▪ Committees and sub-committees</li> <li>▪ Overview and scrutiny committee</li> <li>▪ Panels and boards</li> <li>▪ Working groups and task and finish groups</li> </ul> <p>Or where the member is contributing to a meeting listed above in the following capacity i.e.</p> <ul style="list-style-type: none"> <li>▪ Local ward member in attendance for an agenda item</li> <li>▪ Having registered to speak/ask a question at a meeting</li> <li>▪ Being required to give evidence at a meeting</li> </ul>
B	Attendance at site visits/building inspections arranged by the bodies listed above
C	Attendance at briefings authorised and called by officers of the council on matters of council business (e.g. service committee briefings)
D	Duties undertaken by the Council Leader, Deputy Council Leader, group leaders and deputy leaders, group administrators, chairs, vice chairs and member champions in line with their roles
E	Attendance at meetings of outside bodies on which Cheshire East Council is invited to be represented
F	Attendance at meetings of outside bodies, where the member is representing Cheshire East Council and Council/Corporate Policy Committee has make the appointment (excluding school governing bodies)
G	Attendance at parish council meetings, as a representative of Cheshire East Council, within own electoral ward
H	Official visits undertaken by the chair/vice chair of service committees (and, where agreed with Democratic Services, other nominated members) and sub-committees/task and finish groups appointed by the parent committee
I	Members who are required, or nominated to represent Cheshire East Council in an official capacity to attend at official openings, open days, events, award ceremonies, presentations, meetings

	with VIP's, receptions etc. which take place outside of the ward (excluding attendance as the ward member)
J	Where all members are invited to a formal council service as their constituents' representative
K	Attendance at conferences/seminars, where the booking has been made by Cheshire East Council and the place funded by the council
L	Attendance at: <ul style="list-style-type: none"> <li>▪ authorised member training and development events held outside of the borough</li> <li>▪ mandatory, statutory, and developmental training sessions (including seminars/briefings) provided as part of Cheshire East's member training and development programme</li> <li>▪ authorised training sessions identified specifically for a member in line with their committee appointment or their personal development</li> </ul>
M	Duties undertaken on behalf of the council in pursuance of any procedure rule under Section 135 of the Local Government Act 1972 requiring an elected member to be present whilst tender documents are opened

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## Chapter 6

### Glossary

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**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.

**Budget and Policy Framework** – The full Council is responsible for setting the Budget and Policy Framework. The Budget and Policy Framework sets out the Council's key policies and agreed budget for each year. All decisions must be taken in accordance with these agreed documents. Only full Council can change the Budget and Policy Framework.

**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** – also known as the Section 151 Officer, this 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-Adult Services, Childrens Services](#) 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~~ [The Executive Directors are](#) accountable to the Chief Executive for leading the Services within ~~his or her~~[their](#) 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.

**Data Protection Legislation** – means all privacy laws applicable to personal data including the Data Protection Act 2018 and regulations made under it and the General Data Protection Regulation (Regulation (EU) 2016/679); together with all codes of practice and other statutory guidance issued by the Information Commissioner's Office

**Deputy Leader or Deputy Leader of the Council** – The position of Deputy Leader of the Council is a choice of Council rather than a legal requirement. The Deputy Leader is empowered to act in place of the Leader. The Deputy Leader is empowered to represent the Council on any external body, as agreed with the Leader, and to make decisions and vote on behalf of the Council at meetings of such bodies. The Deputy Leader is elected by the full 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 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** – The Forward Plan is a public document which is prepared and published by the Leader of the Council, listing all significant decisions, as set out in **Chapter 3 Part 2**.

**Full Council** – Means all 82 elected Members of the Council.

**Group Administrator** – A Member approved as a Group Administrator by a political group.

**Group Lead Member** - A Group Lead Member is a position that is held by members of each of the political groups on the Council in relation to each Committee. Group Lead Members will be expected to work with the Committee Chair to facilitate the efficient and timely conduct of the committee business, and to inform, discuss and where appropriate agree with the Chair 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.

**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 position of Leader of the Council is a choice of Council rather than a legal requirement. The Leader will be the political head of the Council, the focus for policy direction and community development, and the chief advocate and ambassador for the Borough. 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.

**Political Group** – two or more Councillors who notify the Head of Paid Service that they have formed a group

**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:

	<b>Supply, Services<sup>1</sup> and Design Contracts</b>	<b>Works Contracts<sup>2</sup></b>	<b>Social and Other Specific Services<sup>3</sup></b>
Other public sector Contracting authorities	£189,330 (€214,000)	£4,733,252 (€5,350,000)	£663,540 (€750,000)

<sup>1</sup> 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).

<sup>2</sup> With the exception of subsidised works contracts specified under Article 13.

<sup>3</sup> 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)

**Schemes of Financial 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.

**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.

**Significant decision** – a decision which is likely to result in the Council incurring non-routine expenditure which is, or the making of non-routine savings which are, significant having regard to the Council's budget for the service or function to which the decision relates, and/or is likely to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the Council. For these purposes, savings and expenditure are "significant" if they are equal to or greater than £1 million, unless the context requires otherwise. For clarification, no decision previously approved by the Finance Sub-Committee, and no treasury management decision, shall constitute a Significant Decision.

**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.

**Treasury Management** – Treasury management functions are those functions carried out in accordance with the approved Treasury Management Strategy. The Chief Finance Officer is responsible for the Treasury Management Strategy.

**Third Party Fund(s)** – Funds provided by outside bodies or individuals in support of Council activities, establishments or clients, 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. Can sometimes be known as trust funds.

**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.

**Note that:**

- Copies of Acts, Orders and Regulations are available at: [legislation.gov.uk](http://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 status and ownership:

Document	Owned by	Page
<a href="#">Local Ward Member Protocol</a>	Corporate Policy Committee	Chapter 3 Page 38
Role of Chairs	Corporate Policy Committee	Chapter 1 Page 8
<a href="#">Whistleblowing Policy</a>	Audit and Governance Committee	Chapter 4 Page 52
Public Speaking and Questions	Corporate Policy Committee	Chapter 1 Page 7
Protocol on Public Speaking Rights at Strategic Planning Board and Planning Committees	Strategic Planning Board	Chapter 3 Page 22
<a href="#">Mayorality Code of Practice</a>	Corporate Policy Committee	Chapter 1 Page 9
<a href="#">Joint Scrutiny Protocol</a>	Corporate Policy Committee	Chapter 3 Page 23
<a href="#">Role of Leader and Deputy Leader</a>	<a href="#">Corporate Policy Committee</a>	
Petition Scheme	Corporate Policy Committee	Chapter 3 Page 30

~~Tier 1~~

## List of Associated Documents

Document	Owned by	Page
<a href="#">Local Ward Member Protocol<sup>4</sup></a>	Corporate Policy Committee	
<a href="#">Scheme of Members' Allowances</a>	Council	

*Tier 2*

Document	Owned by	Page
<a href="#">Job Description of Committee Chairs</a>	Corporate Policy Committee	
<a href="#">Whistleblowing Policy</a>	Audit and Governance Committee	
<a href="#">Planning Protocol of Conduct in relation to the Determination of Planning Matters</a>	Strategic Planning Board	
<a href="#">Protocol on Public Speaking Rights at Strategic Planning Board and Planning Committees</a>	Strategic Planning Board	
<a href="#">Mayoralty Code of Practice</a>	Corporate Policy Committee	

*Tier 3*

Document	Owned by	Page
<a href="#">Election Schedule</a>	The Council	
<a href="#">List of Council Wards</a>	The Council	
<a href="#">List of Councillors</a>	The Council	
<a href="#">Political Composition of the Council</a>	The Council	
<a href="#">Register of Members' Interests</a>	Democratic Services	
<a href="#">Council Senior Management Structure</a>	Chief Executive	
<a href="#">Complaint Form</a>	Chief Executive	

<sup>4</sup>— Although not required by law, this is being treated as a Tier 1 Hyperlink.

## List of Associated Documents

Document	Owned by	Page
<u>Ombudsman Complaint Form</u>	Chief Executive	
<u>Forward Plan</u>	Democratic Services	
<u>Local and Regional Organisations</u>	Chief Executive	
<u>Specific Delegation Register</u>	Monitoring Officer	
<u>IDC Handbook</u>	Monitoring Officer	
<u>Governance, Risk and Control</u>	Executive Director (Corporate Services)	
<u>Financial Reporting</u>	Executive Director (Corporate Services)	
<u>Accountability Arrangements</u>	Executive Director (Corporate Services)	
<u>Complaints</u>	Executive Director (Corporate Services)	
<u>Ombudsman</u>	Executive Director (Corporate Services)	
<u>Cheshire Police and Crime Panel Terms of Reference</u>	Cheshire Police and Crime Panel	
<u>Cheshire Fire Authority Terms of Reference</u>	Cheshire Fire Authority	
<u>Proper Officer Register</u>	Chief Executive	
<u>List of Local Schemes of Delegation</u>	Monitoring Officer	
<u>Joint Scrutiny Protocol</u>	Corporate Scrutiny Committee	
<u>ASDV Framework</u>	Executive Director (Corporate Services)	
<u>Social Value Policy</u>	Chief Executive	
<u>List of Dispensations</u>	Chief Executive	

List of Associated Documents

<u>Declaration of Interests Form</u>	Chief Executive	
<u>External gifts / Hospitality / Sponsorship Form</u>	Chief Executive	
<u>Reimbursement of Costs Form</u>	Chief Executive	
<u>Register of Politically Restricted Postholders</u>	Democratic Services	

**Petitions of 5000 plus signatures (petition for debate)**

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 service 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.

The petition organiser must register the petition with the Head of Democratic Services and Governance. 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.
- substantially the same as any notice of motion' submitted to a meeting of Council during the preceding 6 months.

**If the petition is accepted**

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'.

Each signature must be supported with a clear indication that the signatory is a resident of the Borough and on the electoral register, and the requisite number of signatures was achieved within 6 months.

It will stand referred to the relevant committee for consideration. The petition organiser will be permitted to speak at the committee for 3 minutes to outline the background to the petition. If the Petitioner is unable to present the petition in person, they may appoint a spokesperson to present on their behalf.

The Committee can choose to:

- note the petition or
- write to the petition organiser outlining the Council's views

If the Committee feels no further action should be taken, this will be the end of the matter.

The Committee can also request that an officer report on the matter be submitted to the Committee at a later date.

If the Committee decides the petition is of significant importance to the whole borough, the committee may decide the petition should be debated at Full Council.

The petition must be considered at Full Council if the Committee recommends any action which may amend the budgetary or policy framework of the Council's Constitution.

If the requisite number of signatures are not achieved within 6 months, the petition will not be accepted for debate, but will be sent to the relevant service committee chair, service department and kept on file.

# The Role of Committee Chair

## 1. Appointment

1.1 The annual appointments made by the Council include Vice Chairs for each Committee and Sub-Committee, which are generally able to exercise the powers vested in their Chairs if the Chairs are unavailable.

1.2 Appointments should will be based on relevant skills, knowledge, experience and suitability.

1.3 As further explained below, the role of Chair has some aspects which are formally recognised by law and relate to the conduct of meetings.

## 2. Fulfilling the Role of Chair

The Council expects that its Chairs will:

2.1 Have a working knowledge of the functions, policies, practices, procedures, services and budgets of the Committee or Sub-Committee which they chair.

2.2 Attend all training sessions as required.

2.3 Lead in the development of the work of the Committee or Sub-Committee which they chair. This should take into account the wider vision, such as corporate, cross-service and partnership issues; lead in service delivery and the implementation of policies approved by the Council where these relate to the Committee or Sub-Committee which they chair.

2.4 Be the spokesperson for the Committee or Sub-Committee in relation to external affairs and communications.

2.5 Progress the Committee's or Sub-Committee's objectives with officers and Members and, as appropriate, other people, groups and organisations.

2.6 Represent and pursue the interests of the Committee or Sub-Committee which they chair in the community and if appropriate at regional and wider levels.

2.7 Promote and uphold high standards of ethical conduct by Members and the Council's equalities policies.

2.8 In accordance with the Council's Constitution ensure that:

(a) the meetings of the Committee or Sub-Committee which they chair are properly conducted and

(b) reports of proceedings are forwarded on as necessary, for example to full Council.

2.9 Maintain professional working relationships and establish mutual respect with all Members and officers.

2.10 From ~~time to time~~ time-to-time Vice Chairs will be required to step in or support the role of chair and all these issues apply equally to them when acting as the Vice Chair.

### 3. Preparation for the meeting

3.1 To ~~inform himself/herself~~ be informed of the business and objects of the meeting, ~~familiarising himself/herself~~ be familiar with the content of reports and, in all other respects, ensuring that ~~he/she is~~ they are properly prepared for the meeting.

3.2 To be familiar with the rules of debate, as contained in the Council's Constitution.

3.3 To guide officers in the administration of committee business e.g. where meeting arrangements need to change, such as time and venue changes.

### 4. During the meeting

4.1 Regulation of the conduct of the meeting ~~he/she~~ they -chairs, including by adopting measures to aid debate:

- (a) To make the business of the meeting efficient and effective.
- (b) Encouraging members of the committee not to repeat points already made in debate.
- (c) Ensuring that all those participating keep to their allocated speaking time and are succinct in making contributions, always ensuring that appropriate opportunity is given for those entitled to speak to do so.
- (d) Taking appropriate advice from officers prior to, and in attendance at, the meeting.

4.2 To confine discussion to ensure that it is within the scope of the meeting and within reasonable limits of time.

4.3 To decide whether proposed motions and amendments are in order, taking legal advice where necessary.

4.4 To formulate for discussion and decision, questions that have been moved for consideration of the meeting.

4.5 To decide points of order and other incidental questions that require decision at the time.

4.6 To ascertain the sense of the meeting by putting relevant questions to the meeting and taking a vote thereon.

4.7 Where appropriate, to summarise the outcome of the debate.

4.8 To declare the result of each vote.

4.9 To determine when to take a vote upon the proposed adjournment of the meeting when circumstances justify or require that course.

4.10 To exercise a second or casting vote where there is an equality of votes cast.

## **5. Preserving order at the meeting**

5.1 To call upon any disorderly person to behave properly and to ask that person to withdraw from the meeting if they fail to do so.

5.2 To direct that such person be removed from the meeting, provided that only such force as is reasonable may be used in doing so.

5.3 To determine whether to call for the meeting to be suspended or adjourned in circumstances where there is disorder.

5.4 To determine whether to propose that a Member “be not further heard” in circumstances of misconduct and, where such misconduct continues after the vote:

(a) to propose that the Member “do leave the meeting”.

(b) to order that such Member be removed from the meeting, provided that only such force as is reasonable may be used in doing so.

5.5 To determine whether to order, where general disturbance occurs, that the appropriate part of the meeting room be cleared.

## **6. Legal powers and Duties**

6.1 The responsibility of a Chair for the proper conduct of meetings is formally recognised in law. There are provisions in the Local Government Act 1972 which apply to the holding and chairing of meetings, but much of the detail is supplied in the Council’s Procedure Rules, which are standing orders made under powers in the 1972 Act. For any eventuality not covered in the legislation or the Procedure Rules, it may be possible to turn to the body of common law which the Courts have developed in relation to meetings.

6.2 The following are specific functions which a Chair has under the Local Government Act 1972:

- A power to exercise a second (casting) vote in the event of an equality of votes on any matter.
- A duty to sign the minutes of the previous meeting.
- A power to agree the addition of a late item of business to the agenda, if the Chair is of the opinion that it should be considered at the meeting as a matter of urgency.

6.3 To help the Committee or Sub-Committee which they chair make effective decisions, Chairs will not only ensure that the procedural rules applying to their Committee or Sub-Committee are observed, but also that any decisions made are sound in law. With assistance from officers as necessary, Chairs will ensure that the Committee or Sub-Committee:

- (a) Observes any particular legal duties relevant to a proposed decision and
- (b) Has regard as necessary to any general duties such as:
  - compliance with the Human Rights Act 1998.
  - equalities.
  - the general fiduciary duties to its Council Taxpayers to act with financial prudence.

6.4 Finally, the Chair will ensure that the Committee or Sub-Committee reaches its decisions rationally, taking into account relevant factors and disregarding those which are irrelevant, including advice taken from the Monitoring Officer and Section 151 Officer.

## 7. Powers and Duties under the Council's Constitution

Under the Council's constitution, the role and powers of Chairs and, in their absence, Vice Chairs, are recognised in a number of ways, including the following:

7.1 Appointment as Chair: Under the Council's Procedure Rules Chairs will ~~normally~~ be appointed at the Council's annual general meeting.

7.2 Setting the Agenda: Chairs have power to direct that items of business be placed on the agenda of their Committee or Sub-Committee and the order in which business is arranged on the agenda.

7.3 Conducting the meeting: Under the Procedure Rules the Chair controls the proper conduct of meetings of his or her Committee or Sub-Committee. The Chair has discretion to depart from the formality of the Rules of Debate applicable to full Council meetings and such discretion is regularly exercised.

7.4 Reserve Power to call special Meetings: The Council's Procedure Rules permit a Chair to call a special meeting of ~~his or her~~ their Committee or Sub Committee at any time.

7.5 Reporting to full Council: It usually falls to Chairs to present any reports which need approval of full Council.

7.6 Duty to be available for Questions: The Council's Procedure Rules permit any Member of the Council to ask questions of any Chair at full Council meetings. Also, a Chair can be questioned about any report which ~~they are he or she is~~ putting before the Council.

7.7 Right to be consulted: Under the Council's Scheme of Delegations to Officers, a number of delegated powers can only be exercised by officers after consultation with the relevant Chair.

7.8 Special Responsibility Allowance: In recognition of the role played by Chairs, Schedule 1 of the Council's Members Allowances Scheme allocates

differing levels of special responsibility allowance payment to Chairs, the levels of payment being based on the levels responsibility.

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## **Role and Powers of the Leader and Deputy Leader of the Council**

### **Appointment and General Role**

The Annual Meeting of the Council will appoint the Leader and the Deputy Leader of the Council for the forthcoming municipal year.

The Councillors appointed will hold these offices until:

- (a) The next Annual Meeting of the Council; or
- (b) The Leader or the Deputy Leader resigns from the office; or
- (c) The Leader or the Deputy Leader is no longer a Councillor; or
- (d) The Leader or the Deputy Leader is removed from the office by resolution of the Council requiring a simple majority, in respect of which the motion has been fully set out in the agenda for the meeting.

A notice of motion must be submitted to a Council meeting, if it is proposed to remove the Leader or Deputy Leader from this office and must be submitted 7 clear working days before the meeting.

If the Council meeting resolves to remove the Leader/Deputy from office but fails to appoint a successor, then an item to appoint a new Leader/Deputy must be included on the next and successive Council agendas until a replacement Leader has been appointed.

Where there is a vacancy in the office of Leader, the Deputy Leader will assume the responsibilities of the Leader until the next meeting of the Council.

Where both the Leader and Deputy Leader cease to hold office at the same time, the Council's Mayor shall call a meeting of the Full Council as soon as possible, to appoint a new Leader.

The role of the Leader/Deputy is not a formal legal role, but in practice, is the political head of the Council, and the Member with greatest responsibility for driving forward the broad policies of the Council.

### **Fulfilling the Role of Leader**

The Council expects that the Leader will:

- be the political (rather than ceremonial) leader of the Council, for the benefit of all the Borough's communities - its citizens, taxpayers, businesses, public bodies and other public authorities;
- lead and work with the Council, particularly the Chairs of its Committees and Sub-Committees:

- in the development of the Council's vision for the future, policy framework, budgets and strategies;
- in overseeing service delivery and the implementation of policies approved by the Council;
- represent and pursue the interests of the Council in the community and at international, national and regional levels;
- Serve as Chair of the Corporate Committee
- fulfil the role of Leader at full Council
- lead in providing policy direction and guidance to the Chief Executive and Chief Officers;
- meet regularly to progress the Council's objectives with Committee Chairs, the Chief Executive and Chief Officers, Leaders of other political groups on the Council, partner organisations, stakeholders, community representatives, government representatives, local Members of Parliament etc.

The Leader shall be recognised in the following ways:

- Chair Corporate Policy Committee: the Leader shall be appointed at the Council's Annual Meeting as Chair of the Council's Corporate Policy Committee.
- Attend and speak at any meeting of a Committee or Sub-Committee of the Council, provided that they will only be entitled to vote if appointed as a voting member of that Committee or Sub-Committee.
- Be available to respond to questions at Full Council meetings.
- Establish policy direction, and the Council's priorities, and to facilitate discussion thereon.
- Be principal ambassador for the Borough and the Council (recognising the role of the Mayor).
- Represent the Council on external bodies, as considered appropriate, and to make decisions and vote on behalf of the Council at meetings of such bodies.
- Be involved in arrangements around major emergencies. The Leader and Deputy Leader must be informed if an emergency is likely to take place or has been declared under the Council's emergency planning or business continuity procedures.
- Promote and uphold high standards of ethical conduct by Members and the Council's equalities policies.

### **Legal Powers and Duties**

As the Council operates a committee system, the Leader/Deputy have no formal legal powers and duties vested in them under the Local Government Act 1972, or the Local Government Act 2000.

However, in practice, all local authorities need to appoint to this office, and each will hold the most significant elected Member role within the Council. This office will act as the political/elected head of the Council; will be the focus

for policy direction and community development; and will be the chief advocate and ambassador for the Borough.

### **Deputy Leader**

The Annual Meeting of the Council will appoint a Councillor to be the Deputy Leader of the Council for that municipal year.

The Deputy Leader may be appointed as the Vice Chair of the Corporate Policy Committee of the Council.

The Deputy Leader is empowered to act in place of the Leader.

The Deputy Leader is empowered to represent the Council on any external body, as agreed with the Leader, and to make decisions and vote on behalf of the Council at meetings of such bodies.

### **Note**

In the case of a joint administration, the Council will expect the Leader and Deputy Leader to share responsibilities between them and determine how the matters are divided between them.

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**COUNCIL MEETING – 15<sup>TH</sup> DECEMBER 2021****COUNCIL TAX SUPPORT SCHEME 2022/23****RECOMMENDATION**

That the Council Tax Support Scheme for 2022/23 be amended as follows:

- Increase the cap on the maximum award from Band B to Band D (those living in a property banded higher than a D will receive the same amount those living in a Band D)
- Increase the maximum award for those passported to 100% from 75%. Passporting covers those in receipt of Jobseeker's Allowance (Income-based), Employment and Support Allowance (Income-related) or Income Support. Also increase the maximum for other groups in the lowest income bands to 80% from 75%, and revise the bands as follows and continue to increase the income levels by CPI each year:

Single	Couple	Couple / lone parent with 1 child	Couple / lone parent with 2 or more children	Maximum award
£0 - £97	£0 - £140	£0 - £200	£0 - £290	<b>80%</b>
£97.01-£115	£140.01-£170	£200.01-£230	£290.01-£320	<b>60%</b>
£115.01-£140	£170.01-£200	£230.01-£260	£320.01-£350	<b>45%</b>
£140.01-£165	£200.01-£230	£260.01-£290	£350.01-£380	<b>30%</b>
£165.01-£190	£230.01-£260	£290.01-£320	£380.01-£410	<b>15%</b>

*1 Income bands, categories, and awards for 2022/23*

- Disregard Industrial Injuries Disablement benefit and Industrial Death benefit in full
- Deduct from earnings for child-care costs from those working and in receipt of Universal Credit: maximum of £175 for one child or £300 for two or more children each week
- Increase the fixed non-dependant deductions from £8 to £9 per week and increase each year in line with CPI (the same as the income bands)
- Reduce the earnings disregard for single people and couples without children to £20 instead of £25 per week
- Re-write the regulations in a clearer way and allow for more general disregards of new one-off grants.

Extract from the Minutes of the Corporate Policy Committee meeting on 2<sup>nd</sup> December 2021

## 52 COUNCIL TAX SUPPORT SCHEME 2022/23

The Committee considered a report on proposed amendments to the Council Tax Support Scheme for 2022/23 following public consultation. Council was required to approve the Scheme each year.

Officers advised that there were mechanisms in place to monitor progress with the operation of the Scheme.

### RESOLVED (unanimously)

That Council be recommended to amend the Council Tax Support Scheme for 2022/23 as follows:

- Increase the cap on the maximum award from Band B to Band D (those living in a property banded higher than a D will receive the same amount those living in a Band D)
- Increase the maximum award for those passported to 100% from 75%. Passporting covers those in receipt of Jobseeker's Allowance (Income-based), Employment and Support Allowance (Income-related) or Income Support. Also increase the maximum for other groups in the lowest income bands to 80% from 75%, and revise the bands as follows and continue to increase the income levels by CPI each year:

Single	Couple	Couple / lone parent with 1 child	Couple / lone parent with 2 or more children	Maximum award
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£165.01-£190	£230.01-£260	£290.01-£320	£380.01-£410	<b>15%</b>

*2 Income bands, categories, and awards for 2022/23*

- Disregard Industrial Injuries Disablement benefit and Industrial Death benefit in full
- Deduct from earnings for child-care costs from those working and in receipt of Universal Credit: maximum of £175 for one child or £300 for two or more children each week
- Increase the fixed non-dependant deductions from £8 to £9 per week and increase each year in line with CPI (the same as the income bands)
- Reduce the earnings disregard for single people and couples without children to £20 instead of £25 per week
- Re-write the regulations in a clearer way and allow for more general disregards of new one-off grants.



*Working for a brighter future together*

## **Corporate Policy Committee**

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<b>Date of Meeting:</b>	2 December 2021
<b>Report Title:</b>	Council Tax Support Scheme 2022/23
<b>Report of:</b>	Alex Thompson, Director of Finance and Customer Services
<b>Report Reference No:</b>	CP/25/21-22
<b>Ward(s) Affected:</b>	All

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### **1. Executive Summary**

- 1.1.** Further to Central Government's welfare reform changes, Council Tax Benefit was abolished and from April 2013 has been replaced by a localised Council Tax Support Scheme. Full Council must approve the scheme each year.
- 1.2.** The current income-banded scheme was approved by Council on 19 December for 2020/21 and has been unchanged since, other than the income bands increased by Consumer Price Index (CPI) in April 2021.
- 1.3.** The Council's scheme only affects those of working age; pensioners are protected and MHCLG maintains this scheme, which mirrors the former Council Tax Benefit. Details of the Council's current scheme can be found at: [Council Tax Support \(cheshireeast.gov.uk\)](http://cheshireeast.gov.uk/council-tax-support)
- 1.4.** The Medium-Term Financial Strategy set out Council Tax increases for Cheshire East Council of 4.99% in 2021/22 and subsequent annual increase of 1.99%. Locally the Council has seen large increases in claims for support, particularly related to people affected by the pandemic. The Council Tax increases were important to provide financial stability and support essential services. In agreeing the MTFS, a commitment was made to review the Council Tax Support Scheme to see how households on low incomes could be protected and the proposals have been developed to ensure the MTFS is not adversely affected.

- 1.5. A consultation has been undertaken, following agreement by Corporate Policy Committee on 6 July 2021, to inform the decision making and the results support the recommended changes to the scheme.

## 2. Recommendations

- 2.1. That Council be recommended to amend the Council Tax Support Scheme for 2022/23 as follows:

- 2.1.1. Increase the cap on the maximum award from Band B to Band D (those living in a property banded higher than a D will receive the same amount those living in a Band D)
- 2.1.2. Increase the maximum award for those passported to 100% from 75%. Passported covers those in receipt of Jobseeker's Allowance (Income-based), Employment and Support Allowance (Income-related) or Income Support. Also increase the maximum for other groups in the lowest income bands to 80% from 75%, and revise the bands as follows and continue to increase the income levels by CPI each year:

Single	Couple	Couple / lone parent with 1 child	Couple / lone parent with 2 or more children	Maximum award
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£115.01-£140	£170.01-£200	£230.01-£260	£320.01-£350	45%
£140.01-£165	£200.01-£230	£260.01-£290	£350.01-£380	30%
£165.01-£190	£230.01-£260	£290.01-£320	£380.01-£410	15%

*1 Income bands, categories, and awards for 2022/23*

- 2.1.3. Disregard Industrial Injuries Disablement benefit and Industrial Death benefit in full
- 2.1.4. Deduct from earnings for child-care costs from those working and in receipt of Universal Credit: maximum of £175 for one child or £300 for two or more children each week
- 2.1.5. Increase the fixed non-dependant deductions from £8 to £9 per week and increase each year in line with CPI (the same as the income bands)
- 2.1.6. Reduce the earnings disregard for single people and couples without children to £20 instead of £25 per week
- 2.1.7. Re-write the regulations in a clearer way and allow for more general disregards of new one-off grants.

### **3. Reasons for Recommendations**

- 3.1.** The caseload for Council Tax Support has increased during the pandemic (see **table 3** at **5.6**). As part of a package of financial support to local authorities MHCLG provided a grant of £3.37m (The Local Council Tax Support Schemes grant) to assist with the additional pressures households are facing. In setting the MTFS the Council disregarded this grant for two reasons; to recognise the risk of the increasing caseload and to provide potential flexibility to review the scheme and increase overall levels of support.
- 3.2.** Under the current scheme all working age customers must contribute a minimum of 25% towards their Council Tax liability but the level is capped to that of a Band B property in their area. The 4.99% increase in Council Tax for 2021/22 disproportionately affected those on lower income.
- 3.3.** The proposed changes to the Council Tax Support scheme can ensure the most vulnerable are supported whilst recognising the financial challenges the Council faces.
- 3.4.** The recommendations are supported following a public consultation (see **para 6**).

### **4. Other Options Considered**

- 4.1.** The scheme could remain unchanged, without any requirement for consultation, subject to the annual approval required by full Council (income bands will increase by CPI).
- 4.2.** The income bands could be widened so that maximum awards could be increased, however this would exceed the funding available, reducing the tax base further and unbalance the current MTFS.
- 4.3.** A further option would be to consider an award of a set amount to each household in receipt of Council Tax Support similar to the Council Tax Covid-19 Hardship Fund. Under that fund those in receipt of Council Tax Support during 2020/21 were awarded up to an additional £150 on top of their normal award. This fund was based on a specific response to the pandemic. The future local scheme should remain sustainable and consistent with the accessibility of the current scheme and does not therefore consider 'lump sum' or 'set amount' payments.

### **5. Background**

- 5.1.** Council Tax Benefit was abolished as part of Central Government's welfare reform changes. This was replaced in April 2013 by a local Council Tax Support Scheme approved by full Council each year.

- 5.2.** The Council's scheme only affects those of working age. This means pensioners are not affected by the changes proposed. MHCLG maintain the scheme for pensioners at a national level, which mirrors the former Council Tax Benefit.
- 5.3.** The local scheme was last fully reviewed in 2019, and changes were made for 2020/21 following a public consultation, approved by Council on 19 December 2019. This change introduced a 'banded scheme', that is reviewed annually in line with the Consumer Price Index for September of the preceding year.
- 5.4.** The current bands for 2021/22 are as follows:

Single		Couple		Family – one child		Family – two or more children		Maximum Council Tax Support
0.00	90.45	0.00	140.70	0.00	201.00	0.00	291.45	<b>75%</b>
90.46	115.58	140.71	170.85	201.01	231.15	291.46	321.60	<b>60%</b>
115.59	140.70	170.86	201.00	231.16	271.35	321.61	361.80	<b>45%</b>
140.71	165.83	201.01	231.15	271.36	301.50	361.81	391.95	<b>30%</b>
165.84	190.95	231.16	261.30	301.51	321.60	391.96	411.05	<b>15%</b>

*2 Council Tax Support income bands 2021/22*

- 5.5.** In addition, the following are considered when determining entitlement:
- Disregard the first £40 of weekly income for those households where the claimant, partner or child are classed as disabled (under the former Council Tax Benefit legislation)
  - Fully disregard Carer's allowance, child benefit, maintenance payments for children, Personal Independence Payment or Disability Living Allowance, Armed Forces Independence Payments, charitable payments, Fostering Allowance and Guardian's Allowance
  - Housing Costs are disregarded from Universal Credit income (remainder of Universal Credit income is taken into account)
  - Disregard the first £25 of combined earnings of the claimant and partner (if applicable)
  - Deduction from earnings for child- care costs from those working (not in receipt of Universal Credit): maximum of £175 for one child or £300 for two or more children each week
  - Capital is not considered but those with £6,000 or more are not entitled
  - A fixed weekly deduction is made for other adults in the household of £8 per week
  - There is a minimum award of £2 per week (nothing is awarded if less than this amount)
  - Claims can be backdated up to 1 year where continuous good reasons are shown for the delay
- 5.6.** The working age caseload has increased during the pandemic with more households facing financial difficulties:

Date	Pensioners	Working age	Combined
Sep 2021	7,892	12,329	20,221
Mar 2021	8,058	13,042	21,100
May 2020	8,273	12,145	20,418
Feb 2020	8,383	9,549	17,932
May 2019	8,720	9,306	18,026

*3 Council Tax Support caseload*

## 6. Consultation and Engagement

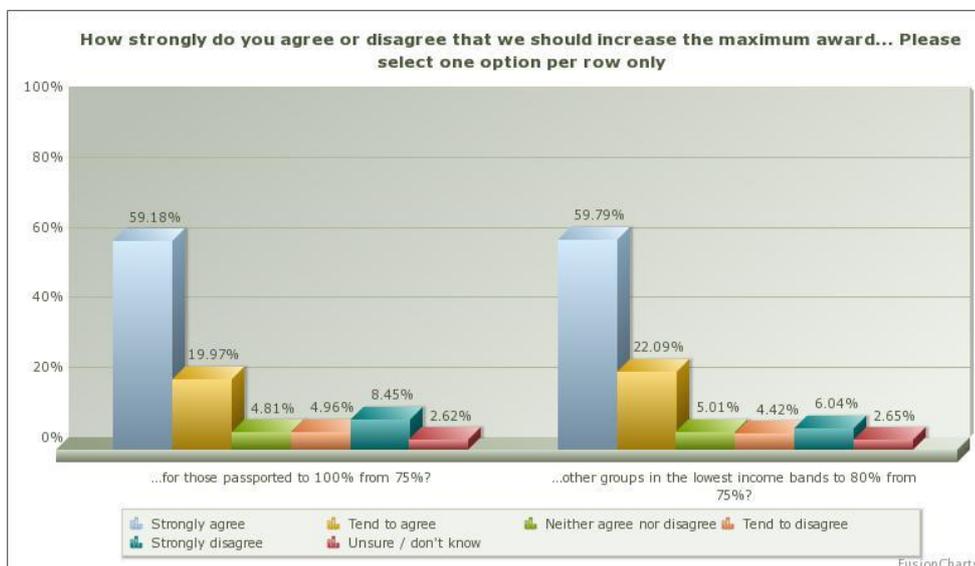
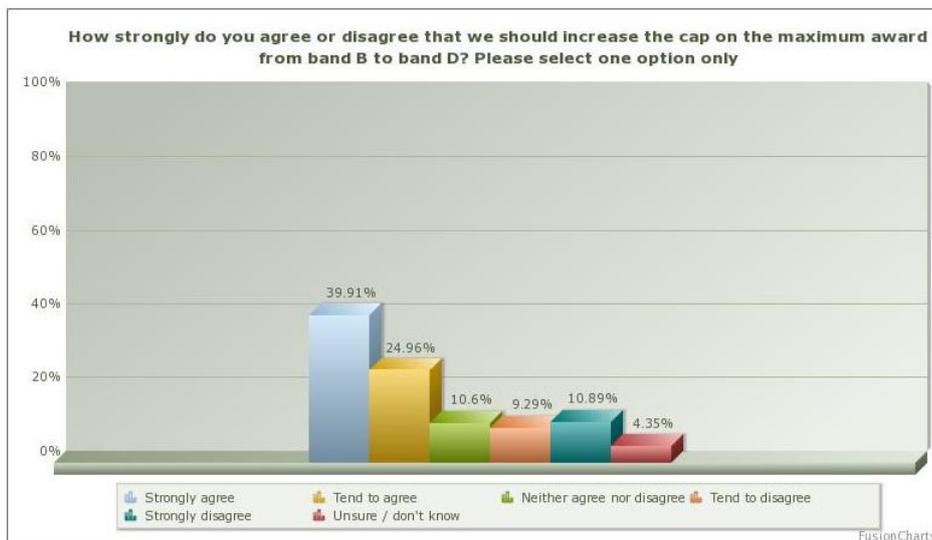
- 6.1.** A formal public consultation took place from 19 July 2021 to 19 September 2021.
- 6.2.** This was promoted on the Council's web site, social media channels and with key stakeholders including the major precepting authorities. Details were provided for customers during contact about Council Tax Support during this period by telephone, email and letter and an email was sent to over 9,000 current recipients inviting them to express their views.
- 6.3.** A total of 694 completed response were received. The respondents covered a wide range of:
- Ages
  - Gender
  - Council Tax recipients and non-recipients
  - Postcode areas across Cheshire East
  - All household compositions
  - Ethnic origins
  - Religious beliefs
  - Carers
  - Those with day-to-day activities limited because of a health problem or disability
  - 6 responses on behalf of organisations
- 6.4.** Most respondents supported the changes proposed as follows:

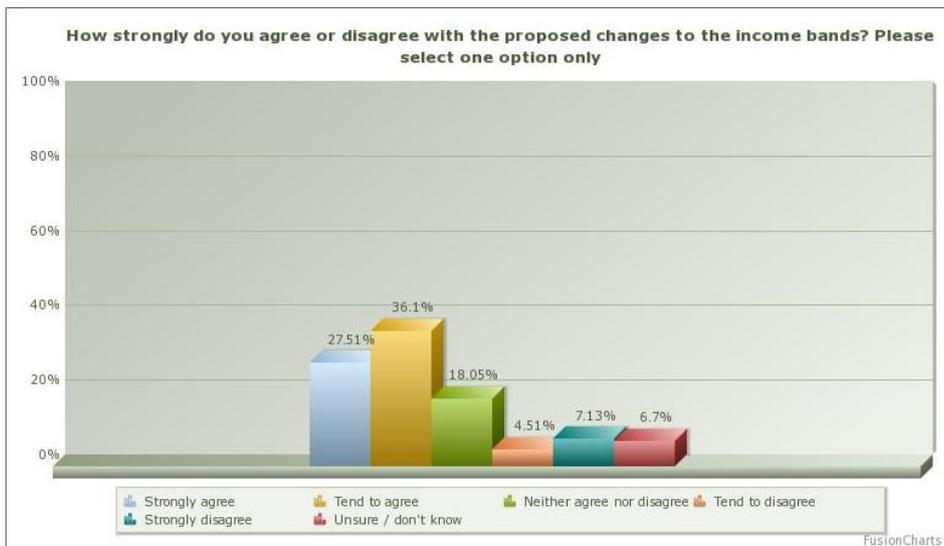
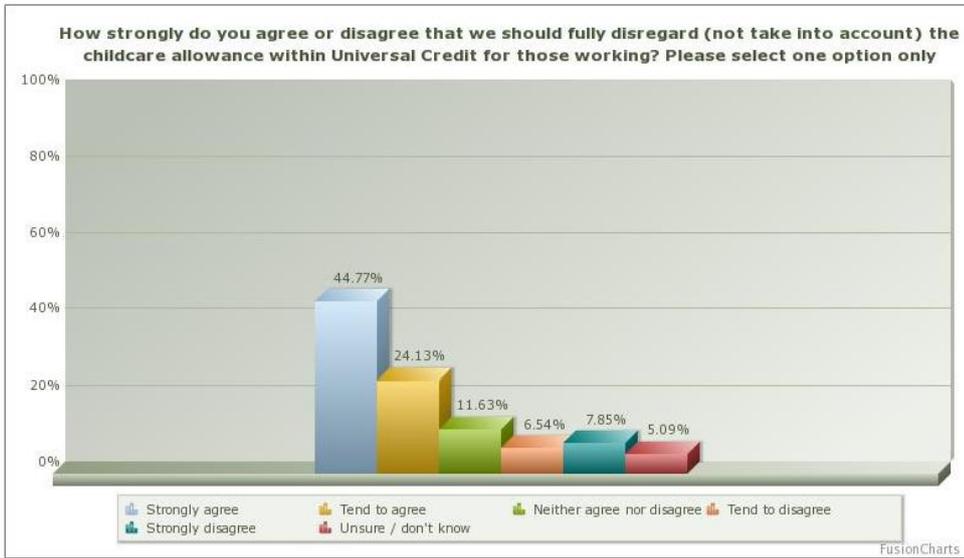
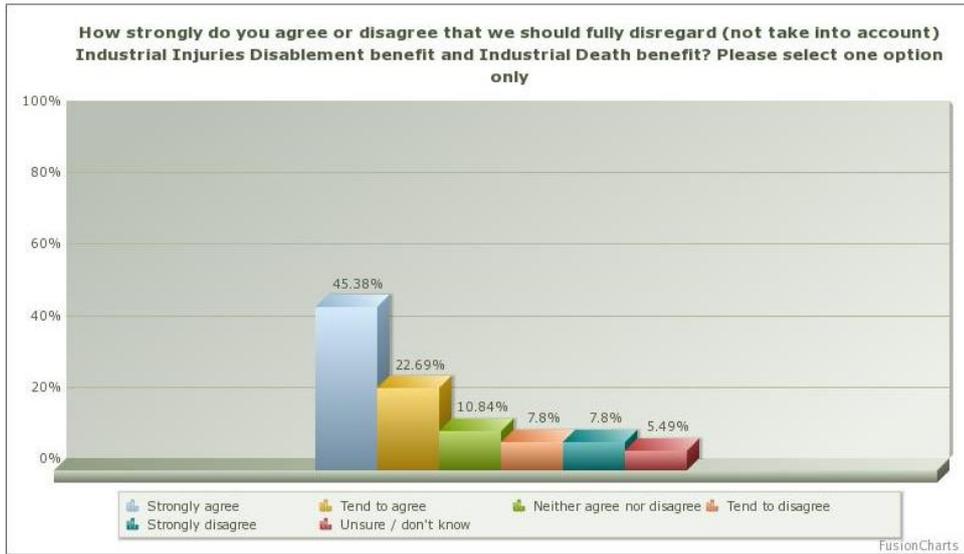
Proposal	Strongly agree	Tend to agree	Total % in agreement
Increase the cap from band B to Band D	39.9%	25%	64.9%
Increase the maximum award for passported customers to 100%	59.2%	20%	79.2%
Increase the maximum awards for other groups in the lowest bands to 80%	59.8%	22.1%	81.9%
Fully disregard Industrial Injuries Disablement benefit and Industrial Death benefit	45.4%	22.7%	68.1%
Disregard the childcare allowance within Universal Credit for those working	44.8%	24.1%	68.9%
Changes to the income bands	27.5%	36.1%	63.6%
Increase the non-dependant deduction to £9 per week	34.3%	18.1%	52.4%

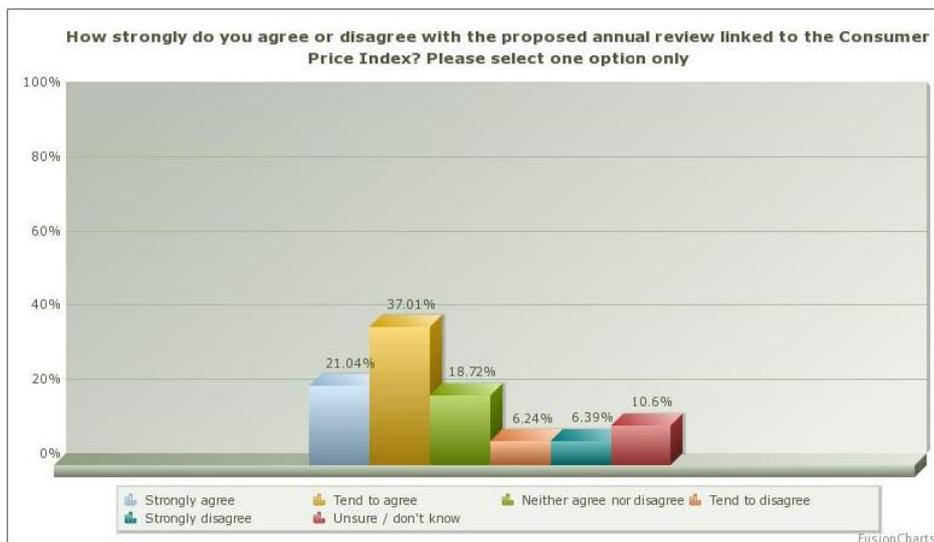
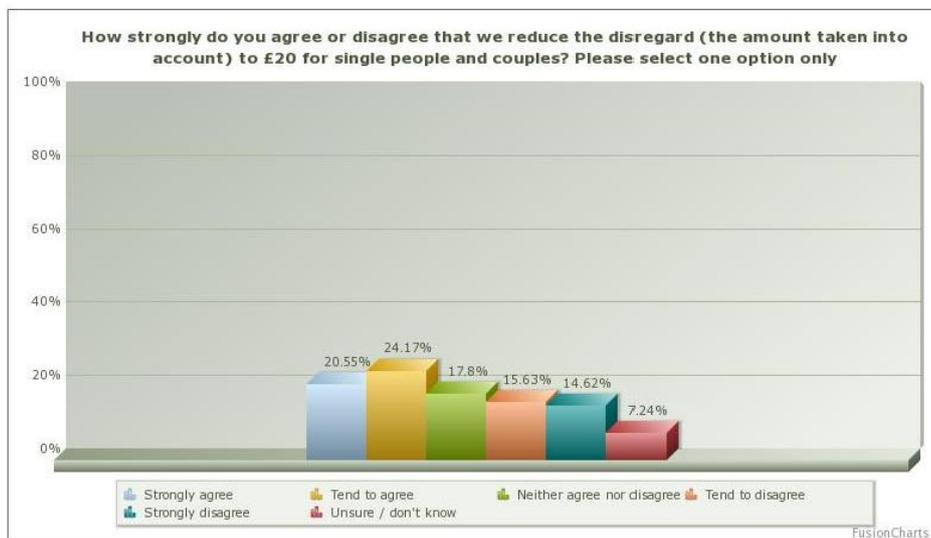
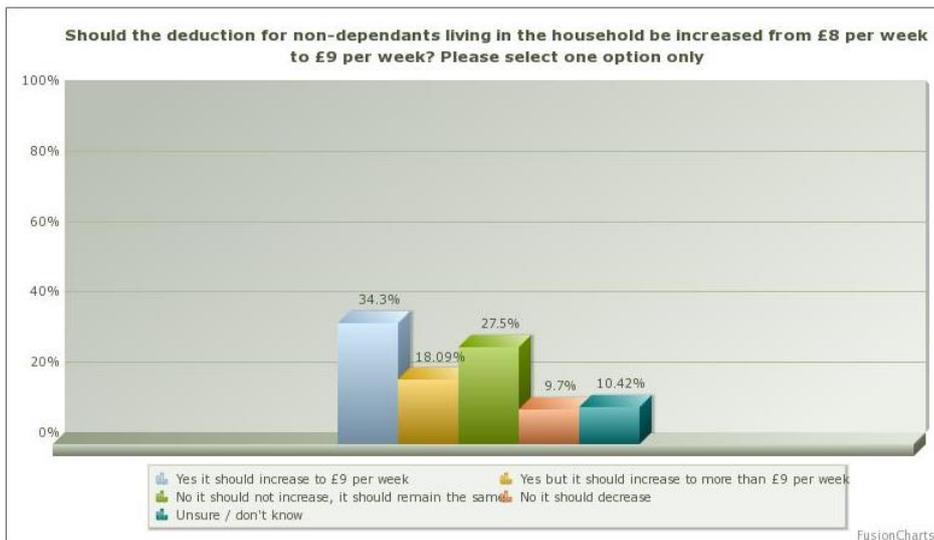
Proposal	Strongly agree	Tend to agree	Total % in agreement
Reduce the earnings disregard for single people and couples to £20 per week	20.5%	24.2%	44.7%
Link the annual review of income bands and non-dependant deductions to Consumer Price Index	21%	37%	58%

4 Summary of consultation response on proposals

6.5. The more detailed summary of the responses to the questions is shown in the following graphs:







## 7. Implications

### 7.1. Legal

- 7.1.1.** Section 13A of the Local Government Finance Act 1992 (as amended) places a duty on the Council to make a scheme specifying the reductions to Council Tax for those:
- Persons whom the Council considers to be in financial need, or
  - Persons in classes consisting of persons whom the Council considers to be, in general, in financial need
- 7.1.2.** Schedule 1A of the Local Government Finance Act 1992 sets out what a Council must include in its Council Tax Reduction Scheme, including the basis upon which any reduction under the scheme may be awarded. The schedule also requires that the Council conducts a consultation in respect of the proposed scheme.
- 7.1.3.** Before making a scheme, the authority must (in the following order)—
- (a) consult any major precepting authority which has power to issue a precept to it,
- (b) publish a draft scheme in such manner as it thinks fit, and
- (c) consult such other persons as it considers are likely to have an interest in the operation of the scheme.
- 7.1.4.** The scheme must be approved by full Council before the start of the financial year it relates to. Once approved by Council the authority must publish the scheme in such manner as it thinks fit.

### 7.2. Finance

- 7.2.1.** The Council Tax Support Scheme has an impact on the Council Tax base as it reduces the amount of Council Tax billed to eligible households.
- 7.2.2.** The tax base reflects assumptions around the Council Tax Support Scheme. Since it was introduced the cost has been monitored and an allowance for risk was added. The risks include uncertainty over the economy including the risk of a major rise in caseload. The proposed scheme has been modelled and costed to fall within the budget proposed for 2022/23.
- 7.2.3.** The recommendations to Council will consider use of the Local Council Tax Support Schemes grant of £3.37m from MHCLG. This can be used to cover some reduction in the tax base resulting from the potential new scheme, but also recognising the additional pressures as more households are facing financial difficulties because of the Covid pandemic.

**7.2.4.** By modelling against the available grant and feedback received, the proposals ensure the current MTFS is not adversely affected. The modelling reflects on how the scheme remains sustainable, without creating a 'cliff edge' when the grant funding has been fully spent.

**7.2.5.** The cost of the proposals is currently:

<b>Item</b>	<b>Cost / Saving (-ve)</b>	<b>Cumulative</b>	<b>Note</b>
Increasing the cap from band B to band D	£200,372	£200,372	
Increase the maximum for other groups in the lowest income bands to 80% from 75% & passported to 100%	£1,201,529	£1,401,901	
Disregard Industrial Injuries Disablement benefit and Industrial Death benefit	£5,314	£1,407,215	
Deduction from earnings for child-care costs from those working and in receipt of Universal Credit	NA	£1,407,215	Will require manual data collection
Small reductions in the income levels of the bands for those not on the lowest income	£130,454	£1,537,669	
Increase the fixed non-dependant deductions from £8 to £9	-£97,039	£1,440,630	
Reduce the earnings disregard for single people and couples without children to £20	-£8,235	£1,432,392	
Simplifying the regulations	-£650	£1,431,742	Annual charge for preparing

*5 Estimated cost of the proposals*

**7.2.6.** This will be regularly reviewed as the caseload changes. Following the end of the £20 per week uplift in Universal Credit, most claimants will see an increase in their Council Tax Support as their income reduces. The effects of this change can be fully modelled by December.

### **7.3. Policy**

**7.3.1.** The change to the scheme supports the following strategic priority:

- An open and enabling organisation

### **7.4. Equality**

**7.4.1.** The equality impact assessment on the Council Tax Support Scheme has been updated to include the options being considered see **Appendix 1**.

**7.5. Human Resources**

- 7.5.1. There are no staffing implications; the scheme will continue to be managed by the existing officers in the Benefits Section

**7.6. Risk Management**

- 7.6.1. As the scheme is demand led, there is a risk that a large increase in demand will inflate the cost of the Council Tax Support scheme.
- 7.6.2. To mitigate this, the tax base reflects assumptions around the caseload and an allowance for risk is added. Regular monitoring is undertaken and the proposed scheme has been modelled against the current caseload where possible.
- 7.6.3. The Council can review the scheme on an annual basis, presenting the opportunity to reflect on the impact of any changes and whether subsequent amendments are necessary.
- 7.6.4. The risk environment around COVID-19 remains dynamic. Risk registers have been maintained as part of the Council's response to date and the plans for recovery.

**7.7. Rural Communities**

- 7.7.1. There are no direct implications for rural communities

**7.8. Children and Young People/Cared for Children**

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

**7.9. Public Health**

- 7.9.1. There are no direct implications for public health. Those classed as disabled under the scheme (see 5.5) are treated more favourably.

**7.10. Climate Change**

- 7.10.1. The Council Tax Support Scheme is fully digital; applications are made on-line and supporting evidence can be uploaded or submitted via email. Customers are encouraged to sign up to receive all the information in their online portal: [Cheshire East account](#)

<b>Access to Information</b>	
Contact Officer:	Liz Rimmer, Benefits Manager <a href="mailto:Liz.rimmer@cheshireeast.gov.uk">Liz.rimmer@cheshireeast.gov.uk</a> 01270 371448
Appendices:	Appendix 1 – Equality Impact Assessment
Background Papers:	Information on the current Council Tax Support Scheme: <a href="http://cheshireeast.gov.uk">Council Tax Support (cheshireeast.gov.uk)</a>

# EQUALITY IMPACT ASSESSMENT

**TITLE: Council Tax Support Scheme – Consultation and Revision**

## VERSION CONTROL

<b>Date</b>	<b>Version</b>	<b>Author</b>	<b>Description of Changes</b>
15.6.21	1 DRAFT	Alison Edwards	
1.7.21	2	Alison Edwards	<b>Corrections</b>
7.7.21	3	Alison Edwards	<b>E&amp;D suggestions</b>
12.7.21	4	Alison Edwards	<b>Updated E&amp;D</b>
26.10.21	5	Alison Edwards	<b>Updated following consultation</b>

EQUALITY IMPACT ASSESSMENT

**CHESHIRE EAST COUNCIL - EQUALITY IMPACT ASSESSMENT**

Stage 1 Description: Fact finding (about your policy / service /

Department	Corporate		Lead officer responsible for assessment		Alison Edwards	
Service	Benefits		Other members of team undertaking assessment			
Date	15.6.21		Version		1	
Type of document (mark as appropriate)	Strategy	Plan	Function	Policy	Procedure	Service
Is this a new/ existing/ revision of an existing document (please mark as appropriate)	New		Existing		Revision	
<p>Title and subject of the impact assessment (include a brief description of the aims, outcomes, operational issues as appropriate and how it fits in with the wider aims of the organisation)</p> <p>Please attach a copy of the strategy/ plan/ function/ policy/ procedure/ service</p>	<p>Council Tax Support Scheme</p> <p>The Cheshire East CTS scheme for working age residents is intended to help those on low income/low earnings meet their Council Tax liability, reducing debt and poverty.</p> <ul style="list-style-type: none"> <li>To incentivise those who can work to do so</li> <li>To reward those who are in work, on a low wage</li> <li>For those with capital to meet the liability</li> <li>To encourage those on low income to downsize and move to more affordable housing (lower banded)</li> </ul> <p>The original scheme came into place on 1 April 2013 and was revised from 1 April 2020 following review and consultation</p> <p>Further changes are proposed for 2022/23 onwards and consultation will be shared with partners, stakeholders, and residents in July 2021.</p> <p>The changes proposed are:</p> <ul style="list-style-type: none"> <li>Increase the cap on the maximum award from band B to band D</li> <li>Increase the maximum award to 100% for passported benefit recipients and 80% for those on lowest income bands</li> <li>Disregard as income, Industrial Injuries Disablement benefit and Industrial Death benefit</li> </ul>					

## EQUALITY IMPACT ASSESSMENT

	<ul style="list-style-type: none"> <li>• Allow deductions from Universal Credit for childcare awards</li> <li>• Adjust the income bands</li> <li>• Increase non-dependent deduction</li> <li>• Reduce earnings deduction</li> </ul> <p>The purpose of these proposals is to provide more support to those on low income or who are struggling to balance financially in the aftermath of the pandemic. We aim to mitigate these changes by making our awards more generous within the boundaries of the council budgets.</p> <p>No public engagement has been undertaken prior to the consultation taking place. The proposals have gone before committee for debate. Full details of the proposals can be found in the minutes of the corporate policy committee meeting 06/07/21.</p>
<p><b>Who are the main stakeholders and have they been engaged with? (e.g. general public, employees, Councillors, partners, specific audiences, residents)</b></p>	<p>The proposals for the changes to the scheme are to be consulted on with all our stakeholders and partners. General public, Councillors, Welfare Groups, employees, local charities.</p>
<p><b>What consultation method(s) did you use?</b></p>	<p>The consultation was available online and as a paper survey form.</p> <p>It was shared with the community via the Cheshire East website, the Cheshire East Digital Panel Consultation and via the Partnerships Team in the Connected Community Centres.</p> <p>Partners and stakeholders were invited to participate via meetings and direct contacts.</p> <p>Members of the Welfare Rights Forum discussed the consultation at the meeting on 14.7.21 and were able respond with their individual views direct. The Gypsy, Roma community and Body Positive were asked to support in sharing the consultation with their contacts/supporters.</p> <p>Direct invitation was made by email to current recipients of Council Tax Support.</p> <p>Face to face consultation was unable to take place due to the current restrictions of Covid 19.</p>

EQUALITY IMPACT ASSESSMENT

Stage 2 Initial Screening

<p><b>Who is affected and what evidence have you considered to arrive at this analysis? (This may or may not include the stakeholders listed above)</b></p>	<p>The proposals will only affect those of working age resident within Cheshire East who have a Council Tax liability. 12,827 claims as at 31.5.21, caseload has been rising as the effects of the pandemic hit.</p>
<p><b>Who is intended to benefit and how?</b></p>	<p>The scheme is designed to benefit those of working age who have low income or low earnings. Due to the impact of the pandemic, the make-up of our service users has changed considerably. Not only are those in low income housing in receipt of support, previous higher earners who have suffered financial loss due to changes in employment, furlough or job losses are affected. The consultation will be shared as widely as possible to ensure that feedback is received from a broad section of the population, residents who receive CTS and those who don't. Anyone paying Council Tax to Cheshire East has the potential of becoming a recipient of this support due to a change of circumstance. The effects of the changes proposed are modelled against the current CTS caseload to provide an insight into the benefits to our residents and the cost to the council. There is no targeted take up of the support and applications are open to all.</p>
<p><b>Could there be a different impact or outcome for some groups?</b></p>	<p>Some groups may be affected differently – specific assistance is being targeted towards those in receipt of disability benefits, Carer's allowance and working – proposal to improve support for recipients of Industrial Injury benefits and working parents who have to pay for child care.</p>
<p><b>Does it include making decisions based on individual characteristics, needs or circumstances?</b></p>	<p>Each CTS decision is made specifically on the circumstances of the individual claimants.</p>
<p><b>Are relations between different groups or communities likely to be affected? (e.g. will it favour one particular group or deny opportunities for others?)</b></p>	<p>It is unlikely that this scheme will have any effect on relationships between different groups or communities. The scheme is open to any resident in the borough with a council tax liability and is assessed on their household income.</p>
<p><b>Is there any specific targeted action to promote equality? Is there a history of unequal outcomes (do you have enough evidence to prove otherwise)?</b></p>	<p>The scheme will consider the household income of those applying for support. Each claim is considered based on its own merits. There is no history of unequal outcomes and the individual characteristics of a claimant do not impact the decision to award support. The only recognisable characteristics from the CTS application form are age, gender (as stated) marriage/civil partnership and disability if in receipt of relevant benefits. There is no targeted take up of the support and</p>

## EQUALITY IMPACT ASSESSMENT

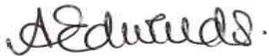
	<p>applications are open to all.</p> <p>It is acknowledged that some protected characteristic groups are often found within low-income households. For example, the 2019 LGBT national survey concluded that trans people are more likely to be out of work and therefore have low income and require additional financial support such as CTS.</p> <p>Whilst an individual's characteristics do not impact the levels of support, they may form a higher than other cohort of applicants. Their support will be met in the same way as any other applicant based on actual household income.</p> <p>The consultation questionnaire will include a section with equality monitoring specific questions. This area will be reviewed throughout the consultation period to ensure we receive a fair and equitable response. If areas of misrepresentation are highlighted, we will be able to specifically target them with the help and support from the Equality, Diversity and Inclusion and Research teams.</p>
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**Is there an actual or potential negative impact on these specific characteristics? (Please tick)**

<b>Age</b>	<b>Y</b>	<b>N</b>	<b>Marriage &amp; civil partnership</b>	<b>Y</b>	<b>N</b>	<b>Religion &amp; belief</b>	<b>Y</b>	<b>N</b>
<b>Disability</b>	<b>Y</b>	<b>N</b>	<b>Pregnancy &amp; maternity</b>	<b>Y</b>	<b>N</b>	<b>Sex</b>	<b>Y</b>	<b>N</b>
<b>Gender reassignment</b>	<b>Y</b>	<b>N</b>	<b>Race</b>	<b>Y</b>	<b>N</b>	<b>Sexual orientation</b>	<b>Y</b>	<b>N</b>

<b>What evidence do you have to support your findings? (quantitative and qualitative) Please provide additional information that you wish to include as appendices to this document, i.e., graphs, tables, charts</b>							<b>Consultation/ involvement carried out</b>	
<b>No negative impact on any group, there are positive impacts for age and disability – working age group receive the assistance through this scheme – additional disregards from income for those in receipt of disability benefits.</b>							<b>Yes</b>	<b>No</b>
<b>Age</b>	The scheme only affects working age residents – pension age applicants are still protected under the original national Council Tax Benefit scheme					<b>Yes</b>		
<b>Disability</b>	There are specific disregards against disability benefits in the current scheme, the proposals are expanding the support to those receiving Industrial Injuries benefits which in turn is promoting a positive impact to residents in this category					<b>Yes</b>		
<b>Gender reassignment</b>	No affect in relation to gender reassignment					<b>Yes</b>		

**EQUALITY IMPACT ASSESSMENT**

<b>Marriage &amp; civil partnership</b>	No direct affect in relation to marriage or civil partnership – scheme considers single, lone parents and couples and their specific income		<b>Yes</b>	
<b>Pregnancy &amp; maternity</b>	No affect in relation to pregnancy or maternity		<b>Yes</b>	
<b>Race</b>	No affect in relation to race – decisions not impacted by race		<b>Yes</b>	
<b>Religion &amp; belief</b>	No affect in relation to religion/belief – decisions not impacted by either		<b>Yes</b>	
<b>Sex</b>	No affect in relation to sex – the income of single applicants regardless of sex is used		<b>Yes</b>	
<b>Sexual orientation</b>	No affect in relation to sexual orientation – this information has no impact to an application		<b>Yes</b>	
<b>Proceed to full impact assessment? (Please tick)</b>	<b>Yes</b>	<b>No</b>	<b>Date</b> 15.6.21	
<b>Lead officer sign off</b>		<b>Date</b> 13.7.21		
<b>Head of service sign off</b>		<b>Date</b> 14.07.2021		

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If yes, please proceed to Stage 3. If no, please publish the initial screening as part of the suite of documents relating to this issue

## EQUALITY IMPACT ASSESSMENT

### Stage 3 Identifying impacts and evidence

This section identifies if there are impacts on equality, diversity and cohesion, what evidence there is to support the conclusion and what further action is needed

Protected characteristics	<p>Is the policy (function etc....) likely to have an adverse impact on any of the groups?</p> <p>Please include evidence (qualitative &amp; quantitative) and consultations</p> <p>List what negative impacts were recorded in Stage 1 (Initial Assessment).</p>	<p>Are there any positive impacts of the policy (function etc....) on any of the groups?</p> <p>Please include evidence (qualitative &amp; quantitative) and consultations</p> <p>List what positive impacts were recorded in Stage 1 (Initial Assessment).</p>	<p>Please rate the impact taking into account any measures already in place to reduce the impacts identified</p> <p><b>High:</b> Significant potential impact; history of complaints; no mitigating measures in place; need for consultation</p> <p><b>Medium:</b> Some potential impact; some mitigating measures in place, lack of evidence to show effectiveness of measures</p> <p><b>Low:</b> Little/no identified impacts; heavily legislation-led; limited public facing aspect</p>	<p>Further action (only an outline needs to be included here. A full action plan can be included at Section 4)</p> <p>Once you have assessed the impact of a policy/service, it is important to identify options and alternatives to reduce or eliminate any negative impact. Options considered could be adapting the policy or service, changing the way in which it is implemented or introducing balancing measures to reduce any negative impact. When considering each option you should think about how it will reduce any negative impact, how it might impact on other groups and how it might impact on relationships between groups and overall issues around community cohesion. You should clearly demonstrate how you have considered various options and the impact of these. You must have a detailed rationale behind decisions and a justification for those alternatives that have not been accepted.</p>
Age				
Disability				
Gender reassignment				
Marriage & civil partnership				
Pregnancy and				

**EQUALITY IMPACT ASSESSMENT**

<b>maternity</b>				
<b>Race</b>				
<b>Religion &amp; belief</b>				
<b>Sex</b>				
<b>Sexual orientation</b>				
<b>Is this change due to be carried out wholly or partly by other providers? If yes, please indicate how you have ensured that the partner organisation complies with equality legislation (e.g. tendering, awards process, contract, monitoring and performance measures)</b>				

## EQUALITY IMPACT ASSESSMENT

**Stage 4 Review and Conclusion**

<b>Summary: provide a brief overview including impact, changes, improvement, any gaps in evidence and additional data that is needed</b>			
<b>Specific actions to be taken to reduce, justify or remove any adverse impacts</b>	<b>How will this be monitored?</b>	<b>Officer responsible</b>	<b>Target date</b>
<b>Please provide details and link to full action plan for actions</b>			
<b>When will this assessment be reviewed?</b>			
<b>Are there any additional assessments that need to be undertaken in relation to this assessment?</b>			
<b>Lead officer sign off</b>		<b>Date</b>	
<b>Head of service sign off</b>		<b>Date</b>	

Please publish this completed EIA form on the relevant section of the Cheshire East website

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**COUNCIL MEETING – 15<sup>TH</sup> DECEMBER 2021****DOMESTIC TAXBASE 2022/23****RECOMMENDATION**

**That In accordance with the Local Authorities (Calculation of Taxbase) Regulations 1992, the amount to be calculated by Cheshire East Council as its Council taxbase for the year 2022/23 is 156,607.48 for the whole area.**

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Extract from the Minutes of the Corporate Policy Committee meeting on 2<sup>nd</sup> December 2021

**53 DOMESTIC TAXBASE 2022/23**

The Committee considered a report on the Council taxbase calculation 2022/23 for recommendation to full Council.

Members congratulated the officers in maintaining a high collection rate.

Members also noted the reduction in the number of empty properties in the Borough and the increase in the number of empty houses that were being brought back into use. The Chair asked that a press release be issued, giving the figures for the reduction in the number of empty homes largely as a result of the increase in charges for long-term empty properties.

The Head of Customer Services confirmed that the numbers of new-build houses forecast for the 12 month period were also taken into account.

The Head of Customer Services undertook to provide for members of the Committee a breakdown of the figures for new homes and homes being brought back into use.

**RESOLVED (unanimously)**

That Council be recommended that:

In accordance with the Local Authorities (Calculation of Taxbase) Regulations 1992, the amount to be calculated by Cheshire East Council as its Council taxbase for the year 2022/23 is 156,607.48 for the whole area.

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*Working for a brighter future together*

## **Corporate Policy Committee**

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<b>Date of Meeting:</b>	2 December 2021
<b>Report Title:</b>	Domestic Taxbase 2022/23 Report
<b>Report of:</b>	Alex Thompson – Director of Finance and Customer Services (Section 151 Officer)
<b>Report Reference No:</b>	CP/26/21-22
<b>Ward(s) Affected:</b>	All

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### **1. Executive Summary**

- 1.1.** This report sets out the Council taxbase calculation 2022/23 for recommendation from Corporate Policy Committee to Council.
- 1.2.** The calculation sets out the estimates of new homes less the expected level of discounts and the level of Council Tax Support (CTS). This results in a band D equivalent taxbase position for each Town and Parish Council.
- 1.3.** The taxbase reflects an increase of £2.1m (1.8%) on the 2021/22 budgeted position which is higher than the 1% forecast increase reported in February 2021, highlighting the positive changes locally despite the ongoing pandemic situation. Additional new homes and more properties brought back into use over the last twelve years, have increased the taxbase by 18.3% since 2010/11.

### **2. Recommendations**

#### **Corporate Policy Committee recommends to Council that:**

- 2.1.** In accordance with the Local Authorities (Calculation of Taxbase) Regulations 1992, the amount to be calculated by Cheshire East Council as its Council taxbase for the year 2022/23 as 156,607.48 for the whole area.

### **3. Reasons for Recommendations**

- 3.1. In accordance with the Local Authorities (Calculation of Taxbase) Regulations 1992 Cheshire East Council is required to agree its taxbase before 31st January 2022.

### **4. Other Options Considered**

- 4.1. None.

### **5. Background**

- 5.1. Cheshire East Council is required to approve its taxbase before 31st January 2022 so that the information can be provided to the Cheshire Police and Crime Commissioner and Cheshire Fire Authority for their budget processes. It also enables each Town and Parish Council to set their respective budgets. Details for each parish area are set out in **Appendix A**.
- 5.2. The taxbase for the area is the estimated number of chargeable dwellings expressed as a number of band D equivalents, adjusted for an estimated number of discounts, exemptions and appeals plus an allowance for non-collection. A reduction of 1% is included in the taxbase calculation to allow for anticipated levels of non-collection.
- 5.3. Processes to collect Council Tax locally continue to be effective and collection rates of 99% continue to be achieved over two years. Changes to Council Tax discounts, specifically the introduction and subsequent amendments to the CTS scheme are being managed and the forecast level of non-collection at Cheshire East has been maintained at 1% for 2022/23.
- 5.4. The taxbase has been calculated in accordance with the Council's local policy to offer no reduction for empty properties except that Discretionary reductions of up to 100% for up to four weeks will continue to be allowed, for landlords, under Section 13A of the Local Government Finance Act 1992.
- 5.5. Analysis of recent trends in new homes, and homes being brought back into use, suggest an increase of nearly 4,650 homes is likely between the setting of the 2022/23 taxbase in October 2021 and the 31st March 2023. The impact of this growth is affected by when properties may be available for occupation and the appropriate council tax banding and this is factored into the taxbase calculation.
- 5.6. In common with most Billing Authorities, Cheshire East Council charges a Council Tax premium of 100% on property that has been empty for 2 years or more in order to encourage homes to be brought back into use. The Local Government Finance Act 1992 (amended) enables Councils to charge a premium on empty properties.

- 5.7.** The Autumn Budget 2017 allowed Councils to increase the premium from 100% to 200% with effect from April 2020. This change was implemented with effect from 1st April 2020. There was further flexibility granted for properties over 10 years old by allowing a 300% charge to be levied from April 2021. Cheshire East implemented this change also from April 2021.
- 5.8.** The taxbase also reflects assumptions around CTS payments. The Cheshire East CTS scheme was introduced in 2013/14 and subsequently amended following consultations in 2016/17, 2020/21 and due to be amended again for 2022/23 to make the scheme more supportive in the light of funding being made available from central government (£3.3m) to be able to further assist the pandemic recovery.
- 5.9.** The funding for this Local Council Tax Support grant was received in 2020/21 and transferred to the Collection Fund Earmarked reserve. The funding will be used over the medium term to support the revenue budget to compensate for suppressed council tax levels as a result of higher Council Tax Support payments.
- 5.10.** Changes to the Council Tax Support Scheme for 2022/23, as set out in a separate report to Council, are included within the calculations of this taxbase report.
- 5.11.** The taxbase and subsequent collection of council tax is subject to overall risks from a variety of sources, such as inaccuracies within:
- Numbers of new homes forecast
  - Levels of discounts and premium charges estimated
  - Under collection rate

Risks particularly associated with Council Tax Support levels include:

- Challenges over the medium-term economic position
  - The risk of a major employer leaving the area.
  - The risk of delay in the significant development projects delaying employment opportunities.
  - The prospect of a greater number of residents becoming of pensionable age and potentially becoming eligible for CTS.
  - The risk of increased non-collection due to the increasing demand on non-protected residents.
  - Further increase in caseload as a result of the COVID-19 pandemic resulting in reductions in earnings and increased redundancies.
- 5.12.** Risks are managed throughout the year and regular monitoring and reporting takes place to ensure that preceptors are made aware of any possible shortfalls in the Collection fund.

## **6. Consultation and Engagement**

6.1. The calculation of the taxbase is not subject to consultation.

## **7. Implications**

### **Legal**

7.1.1. In accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended and Chapter 4 of the Council's Constitution, the calculation of the Council taxbase is a matter for full Council following a recommendation by Corporate Policy Committee.

### **7.2. Finance**

7.2.1. The calculation of the taxbase provides an estimate that contributes to the calculation of overall funding for Cheshire East Council in each financial year.

### **7.3. Policy**

7.3.1. None.

### **7.4. Equality**

7.4.1. None.

### **7.5. Human Resources**

7.5.1. None.

### **7.6. Risk Management**

7.6.1. Consideration and recommendation of the taxbase for 2022/23 to Council ensures that the statutory requirement to set the taxbase is met.

7.6.2. Estimates contained within the Council taxbase calculation, such as the loss on collection and caseload for Council Tax Support, will be monitored throughout the year. Any significant variation will be reflected in a surplus or deficit being declared in the Collection Fund which is then shared amongst the major precepting authorities.

### **7.7. Rural Communities**

7.7.1. This report provides details of taxbase implications across the borough

### **7.8. Children and Young People/Cared for Children**

7.8.1. None.

**7.9. Public Health**

**7.9.1.** None.

**7.10. Climate Change**

**7.10.1.** None.

<b>Access to Information</b>	
Contact Officer:	Alex Thompson, Director of Finance and Customer Services Alex.thompson@cheshireeast.gov.uk
Appendices:	Appendix A – Taxbase 2022/23
Background Papers:	None

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## APPENDIX A

## COUNCIL TAX - TAXBASE 2022/23

CHESHIRE EAST	BAND D EQUIVALENTS	TAX BASE 99.00%
Acton	232.72	230.40
Adlington	642.24	635.82
Agden	71.97	71.25
Alderley Edge	2,715.70	2,688.54
Alpraham	222.89	220.66
Alsager	5,181.57	5,129.76
Arclid	215.11	212.96
Ashley	162.29	160.66
Aston by Budworth	200.92	198.91
Aston-juxta-Mondrum	89.40	88.51
Audlem	1,085.23	1,074.37
Austerson	48.90	48.41
Baddiley	131.17	129.85
Baddington	62.42	61.79
Barthomley	102.82	101.79
Basford	91.60	90.69
Batherton	29.35	29.06
Betchton	290.15	287.25
Bickerton	132.67	131.35
Blakenhall	72.23	71.50
Bollington	3,225.35	3,193.10
Bosley	217.71	215.53
Bradwall	88.68	87.80
Brereton	815.37	807.22
Bridgemere	69.48	68.79
Brindley	66.45	65.78
Broomhall	88.28	87.40
Buerton	245.53	243.08
Bulkeley	143.71	142.28
Bunbury	694.76	687.82
Burland	298.69	295.70
Calveley	144.89	143.44
Checkley-cum-Wrinehill	49.17	48.67
Chelford	822.19	813.97
Cholmondeley	94.88	93.93
Cholmondeston	86.60	85.73
Chorley	291.56	288.64
Chorley (Crewe)	62.79	62.16
Chorlton	511.01	505.90
Church Lawton	922.88	913.65
Church Minshull	222.25	220.03
Congleton	10,824.81	10,716.56
Coole Pilate	38.48	38.10
Crnage	696.12	689.16
Crewe	14,320.18	14,176.97
Crewe Green	95.04	94.09
Disley	2,101.90	2,080.88
Dodcott-cum-Wilkesley	217.56	215.38
Doddington	19.08	18.89
Eaton	406.34	402.27
Edleston	364.01	360.37
Egerton	37.32	36.95
Faddiley	85.05	84.20
Gawsworth	837.37	828.99
Goostrey	1,083.69	1,072.85
Great Warford	448.07	443.59
Handforth	2,393.02	2,369.09
Hankelow	187.94	186.06
Haslington	2,906.85	2,877.78
Hassall	111.21	110.10
Hatherton	188.70	186.81
Haughton	106.95	105.88
Henbury	377.77	373.99
Henhull	387.07	383.20
High Legh	916.10	906.94
Higher Hurdfield	331.94	328.62
Holmes Chapel	2,850.47	2,821.96
Hough	345.82	342.36
Hulme Walfield & Somerford Booths	291.73	288.82
Hunsterson	81.27	80.45
Hurleston	36.20	35.83

## COUNCIL TAX - TAXBASE 2022/23

CHESHIRE EAST	BAND D EQUIVALENTS	TAX BASE 99.00%
Kettleshulme	168.44	166.76
Knutsford	5,891.71	5,832.80
Lea	23.20	22.97
Leighton	1,962.13	1,942.51
Little Bollington	86.90	86.04
Little Warford	39.55	39.16
Lower Peover	74.68	73.93
Lower Withington	330.52	327.21
Lyme Handley	72.24	71.51
Macclesfield	19,091.98	18,901.07
Macclesfield Forest/Wildboarclough	118.85	117.66
Marbury-cum-Quoisley	134.44	133.10
Marton	121.41	120.19
Mere	470.62	465.91
Middlewich	5,001.62	4,951.61
Millington	103.15	102.11
Minshull Vernon	122.64	121.41
Mobberley	1,485.30	1,470.45
Moston	455.99	451.43
Mottram St Andrew	427.23	422.96
Nantwich	5,389.71	5,335.82
Nether Alderley	612.81	606.68
Newbold Astbury-cum-Moreton	361.97	358.35
Newhall	439.42	435.03
Norbury	105.46	104.41
North Rode	128.62	127.33
Odd Rode	2,026.85	2,006.58
Ollerton with Marthall	328.56	325.27
Over Alderley	274.05	271.31
Peckforton	78.94	78.15
Peover Superior	414.07	409.93
Pickmere	394.80	390.85
Plumley with Toft and Bexton	410.04	405.94
Poole	82.32	81.50
Pott Shrigley	161.98	160.36
Poynton with Worth	6,122.10	6,060.87
Prestbury	2,239.97	2,217.57
Rainow	636.23	629.87
Ridley	84.96	84.11
Rope	884.60	875.76
Rosterne	80.76	79.95
Sandbach	8,493.80	8,408.86
Shavington-cum-Gresty	2,410.59	2,386.48
Siddington	184.09	182.25
Smallwood	335.26	331.91
Snelson	84.77	83.93
Somerford	742.68	735.25
Sound	115.23	114.08
Spurstow	193.26	191.33
Stapeley	1,716.41	1,699.25
Stoke	112.33	111.20
Styal	427.99	423.71
Sutton	1,173.67	1,161.93
Swettenham	182.22	180.40
Tabley	240.49	238.09
Tatton	13.15	13.02
Twemlow	123.01	121.78
Walgherton	69.45	68.76
Wardle	87.83	86.95
Warmingham	119.09	117.90
Weston	1,004.50	994.45
Wettenhall	119.58	118.39
Willaston	1,575.11	1,559.36
Wilmslow	12,129.60	12,008.31
Wincle	94.98	94.03
Wirswall	41.25	40.84
Wistaston	3,311.28	3,278.16
Woolstanwood	244.87	242.42
Worleston	126.34	125.08
Wrenbury	543.06	537.63
Wybunbury	701.02	694.01
	<b>158,189.37</b>	<b>156,607.48</b>

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**COUNCIL MEETING – 15<sup>TH</sup> DECEMBER 2021****2021/22 FINANCIAL YEAR REVIEW****RECOMMENDATION**

That Council approve:

- 1. fully funded supplementary revenue estimates for general purpose grants coded centrally over £1,000,000 in accordance with Financial Procedure Rules as detailed in Appendix 1 of the report, Section 3 Corporate Grants Register, Table 1;**
  - 2. fully funded supplementary revenue estimates for specific grants coded directly to services over £1,000,000 in accordance with Financial Procedure Rules as detailed in Appendix 1, Section 3 Corporate Grants Register, Table 2; and**
  - 3. supplementary capital estimates over £1,000,000 in accordance with Financial Procedure Rules as detailed in Appendix 1, Section 5 Capital Strategy, Table 6.**
- 

Extract from the Minutes of the Finance Sub-Committee meeting on 1<sup>st</sup> December 2021

27           **2021/22 FINANCIAL YEAR REVIEW**

The Sub-Committee considered a report outlining how the Council was managing resources to provide value for money services during the 2021/22 financial year. The report set out the financial performance of the Council with and without the impact of Covid-19.

Further details of how the Council was performing in 2021/22 were set out in Annex 1 of the report.

Arising from members' consideration of the report, the following comments were made:

- There was a need for the relevant service committees to address significant overspends and underspends arising from, among other things, increasing social care costs, reduced car park income and staff recruitment and retention issues.
- It was recognised that each service committee had responsibilities to work with officers to manage its allocated budget.
- Members noted the potential implications of the national local government pay award, which had not been fully factored into the budget for this year as a public sector pay freeze had been assumed.
- Consideration should be given to whether the assumptions underlying the budget remained realistic or required further review.

- It was noted that the non-domestic rates and Council tax collection rates had improved although the full impact of non-domestic rates had yet to be determined.
- The position with the General Reserves would be kept under review, and it may be necessary to consider further financial savings in future to ensure that the Reserves remained at an appropriate level.
- Members noted that the overall position with the budget, excluding Covid-related expenditure, represented a projected variance of less than 1% which had been achieved in challenging circumstances.

Arising from the discussion, the Director of Finance and Customer Services undertook to ask the Council's Corporate Leadership Team to consider the options for addressing staff recruitment and retention.

**RESOLVED (unanimously)**

That the Sub-Committee

1. notes the contents of the report and each appendix;
2. approves:
  - (a) supplementary revenue estimates for general purpose grants coded centrally up to and including £1,000,000 in accordance with Financial Procedure Rules as detailed in Appendix 1 of the report, Section 3 Corporate Grants Register, Table 1; and
  - (b) capital virements up to and including £5,000,000 in accordance with Financial Procedure Rules as detailed in Appendix 1, Section 5 Capital Strategy, Table 5;
3. recommends that Council approve:
  - (a) fully funded supplementary revenue estimates for general purpose grants coded centrally over £1,000,000 in accordance with Financial Procedure Rules as detailed in Appendix 1 of the report, Section 3 Corporate Grants Register, Table 1;
  - (b) fully funded supplementary revenue estimates for specific grants coded directly to services over £1,000,000 in accordance with Financial Procedure Rules as detailed in Appendix 1, Section 3 Corporate Grants Register, Table 2; and
  - (c) supplementary capital estimates over £1,000,000 in accordance with Financial Procedure Rules as detailed in Appendix 1, Section 5 Capital Strategy, Table 6;

4. recommends that Service Committees:

- (a) note the financial update and forecast outturn relevant to their terms of reference;
- (b) note that officers will seek to improve outcomes and the financial outturn across all Committees to mitigate the overall forecast overspend of the Council; and
- (c) approve supplementary revenue estimates for specific grants coded directly to services up to and including £1,000,000 in accordance with Financial Procedure Rules as detailed in Appendix 2-7, Section 3 Corporate Grants Register, Table 2.

**[Note: Appendix 1 of the report is attached.]**

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# Appendix 1

## Finance Sub-Committee

### 1. Changes to Revenue Budget 2021/22 since Medium Term Financial Strategy

	MTFS Net Budget £000	Additional Grant Funding £000	Restructuring & Realignments £000	Revised Net Budget £000
<b>Finance Sub-Committee Central Budgets</b>				
Capital Financing	14,000	-	-	14,000
Corporate Contributions	(2,646)	-	(252)	(2,898)
Contribution to / from Reserves	1,328	-	912	2,240
	<b>12,682</b>	<b>-</b>	<b>660</b>	<b>13,342</b>
<b>Finance Sub-Committee - Central Budgets Funding</b>				
Business Rates Retention Scheme	(49,086)	-	-	(49,086)
Specific Grants	(19,165)	(815)	-	(19,980)
Council Tax	(242,849)	-	-	(242,849)
Sourced from Collection Fund	-	-	-	-
	<b>(311,100)</b>	<b>(815)</b>	<b>-</b>	<b>(311,915)</b>
<b>TOTAL CENTRAL BUDGETS FUNDING</b>				

## 2. Policy Proposal Update

Budget Policy Proposal	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000	In Year Update
Minimum Revenue Provision	2,000	4,000	1,000	1,000	Growth Implemented
Central Pension adjustment	-4,567	-1,900	1,500		On track and expected to overachieve in 2021/22
Bad Debt Provision	200				Growth Implemented
[16] Improved Debt Recovery and correcting budgeted court costs income targets to reflect actual levels	-250				On track
Capital Receipts Income	1,000				Growth Implemented
Use of Earmarked Reserves (MTFS Feb 20) plus increase to include funds set aside for VR costs	3,022	-873	-253	-1,476	Growth Implemented
[17] Capital Programme Review	-1,000	1,000			Complete
Top up to General Reserves		600		-600	On track
Increase forecast Domestic Tax Base Growth. Taxbase growth estimated at 1,800 new homes + reduction for increased Council Tax Support	-1,892	-2,435	-2,483	-2,533	On track

Budget Policy Proposal	2021/22 £000	2022/23 £000	2023/24 £000	2024/25 £000	In Year Update
Increase forecast Domestic Tax Base Growth (change from previous year budget) % increase planned at 1.99%	-11,452	-4,833	-4,977	-5,126	On track
Business Rates Retention Government Policy change Compensation Grants	700				On track
Change in specific grants estimated	-1,002	387	49	46	On track
Change to NHB funding estimate	3,352	3,920	1,960	980	On track
Deficit on Collection Fund	147				On track

## 3. Corporate Grants Register

### Government Grant Funding of Local Expenditure

- 3.1 General purpose grants were budgeted to be £19.2m. Further in-year grant announcements have increased the amount received to £68.2m at mid-year.
- 3.2 The Covid-19 pandemic has seen continued financial support issued by Central Government for business rates.
- 3.3 In response to the Coronavirus pandemic, in the Budget on 11 March the Government announced that it would increase the discount to 100% and extend it to include the leisure and hospitality sectors. Following the announcement on 23 March 2020 of further measures to limit the spread of Coronavirus, the Government confirmed that some of the exclusions for this relief have been removed, so that retail, leisure, and hospitality properties that will have had to close as a result of the restriction measures were also eligible for the relief. 100% expanded retail relief has been extended to 30 June 2021 for eligible ratepayers. Relief has reduced to 66% from 1 July and Government have applied cash caps to the relief of £2 million for ratepayers meeting the eligibility for the closed cash cap or £105,000 for all other ratepayers. Relief awarded is fully funded by Government.

- 3.4 The estimated full cost for this additional relief for Cheshire East is £27.3m. Usually, local authorities would only be paid their Business Rates Retention share (49%) of any new burdens measures, but in this instance 100% of the funding is being paid to councils to help with cash flow shortfalls as the estimate was not included at the NDR1 stage when budgets were set. At the end of the financial year, following a detailed reconciliation, the share relating to MLUHC (50%) will be repaid to Government.
- 3.5 Additional general purpose grants of £49.0m have also been received during the year to date. These include further Covid-19 related grant payments of £40.0m and an additional £8.6m in respect of Business Rates Relief grant. Requests for the allocation of the additional grants received are detailed in **Table 1**.
- 3.6 **Table 2** shows additional specific service grants over £1m that require approval from Council. Details of other specific service grants are within the service committee appendices.
- 3.7 **Table 3** provides a summary of grants (general purpose) that have already been approved.
- 3.8 **Table 4** provides a summary of the updated budget position for general purpose grants in 2021/22 by service. Further details of grants are shown in **Table 5** Corporate Grants Register.

Table 1 – Supplementary Revenue Estimates for Allocation of Additional Grant Funding (General Purpose)

Committee / Service Area	Type of Grant	£000	Details
Finance Sub-Committee	Covid-19 Business Rates Reliefs 2021/22	27,280	100% expanded retail relief has been extended to 30 June 2021 for eligible ratepayers. Relief has reduced to 66% from 1 July and Government have applied cash caps to the relief of £2 million for ratepayers meeting the eligibility for the closed cash cap or £105,000 for all other ratepayers. Relief awarded is fully funded by Government.
Finance Sub-Committee	Covid-19 Local Council Tax Support	3,373	This additional unring-fenced grant recognizes that local authorities are best placed to determine local priorities, with the focus being on a similar set of priorities as previously set out in 2020/21. These priorities included: adult social care, children's services, public health services, household waste services, shielding the clinically extremely vulnerable, homelessness and rough sleeping, domestic abuse, managing excess deaths, support for re-opening the country and, in addition, the additional costs associated with the local elections in May 2021. This funding should be used in planning to cover any Covid-related costs for the priority pressures above and any further Covid-19 costs in 2021/22.
Finance Sub-Committee	Covid-19 Local Authority Support Grant	8,508	This is a continuation of the Covid-19 Emergency Funding for 2021/22 and is additional grant received due to the costs caused by the pandemic.
Finance Sub-Committee	Business Rates Reliefs Grant 2021/22 (Reserves)	8,606	S31 grants received to compensate for reduced business rates collected as a result of reliefs mandated by Central Government after the setting of the Business Rates Baseline in 2013/14 (grant covers CEC 49% share).
<b>General Purposes allocations for Council Approval</b>		<b>47,767</b>	

Committee / Service Area	Type of Grant	£000	Details
Finance Sub-Committee	Covid-19 Compensation for Sales, Fees and Charges Income	800	The Sales, Fees and Charges scheme compensates local authorities for irrecoverable income losses due to Covid-19 for the period April - June 2021. This is an estimated payment for 2021/22.
<b>General Purposes allocations for Committee Approval</b>			
Finance Sub-Committee (Expenditure Children and Families)	Extended Rights to Free Transport	57	The Department for Education provides additional transport funding to local authorities to support children from low-income families to be able to attend schools further from home than the statutory walking distances. The funding is paid as a non-ring-fenced grant paid via the Department for Communities and Local Government under the Local Services Support Grant (section 31 of the Local Government Act 2003).
Finance Sub-Committee (Expenditure Corporate Policy)	Housing Benefit and Council Tax Administration	60	Increase on MTFs 2021-25 estimate. The grant is provided towards expenditure incurred, or to be incurred, in respect of the provision of local housing benefit and council tax administration in 2021/22.
Finance Sub-Committee (Expenditure Corporate Policy)	Individual Electoral Registration	5	The funding is to be used on activities associated with Individual Electoral Registration (IER) services within the Electoral Services area.
<b>General Purposes Allocations less than £500,000</b>		<b>122</b>	
<b>Total General Purpose Allocation</b>		<b>48,689</b>	

**Table 2 – Recommendation for Council Approval for Supplementary Revenue Estimates of Additional Grant Funding (Specific Purpose) over £1m**

Committee / Service Area	Type of Grant	£000	Details
Finance Sub-Committee (Expenditure Corporate Policy)	Housing Benefit Subsidy	5,282	Payment of claims administration within Housing Benefits.
Finance Sub-Committee (Expenditure Corporate Policy)	Covid-19 Test and Trace Support (Self Isolation Payment)	1,039	Test and Trace Support Payment scheme – awards and administration of the scheme to support people self-isolating on a low income.
<b>Total Specific Purpose Allocation for Council Approval</b>		<b>6,321</b>	

**Table 3 - Summary of Grants already Approved (General Purpose)**

Committee / Service Area	Type of Grant	£000	Details
Finance Sub-Committee (Expenditure Children and Families) (July report)	Staying Put Implementation	113	The purpose of the grant is to provide support for local authorities in England for expenditure lawfully incurred or to be incurred by them, in respect of a young person aged 18 and their former foster carer, who wish to continue living together in a 'Staying Put' arrangement. For the purposes of this grant 'young person' means a former relevant child who was looked after immediately prior to their 18 <sup>th</sup> birthday. This supported arrangement can continue until the young person's 21 <sup>st</sup> birthday.
Finance Sub-Committee (Expenditure Children and Families) (July report)	Extended Personal Advisor Duty Implementation Grant	56	The purpose of the grant is to support Local Authorities in England to meet the requirements of the Children and Social Work Act 2017, requiring them to offer Personal Adviser support to all care leavers up to the age of 25. The grant is to support those young people that may request support

Committee / Service Area	Type of Grant	£000	Details
Finance Sub-Committee (Expenditure Adults and Health) (Outturn report)	Independent Living Fund	43	<p>from the Local Authority after the age of 21 and up to the age of their 25<sup>th</sup> birthday. The grant has been provided to meet the extra demand for personal adviser time that the new duties create. The new duty provides the Local Authority the ability to respond positively to requests for support from care leavers who may have difficulties and be struggling to transition to adulthood.</p> <p>Following the closure of the Independent Living Fund (ILF) in June 2015, the government agreed to continue funding pre-existing ILF arrangements until the end of 2019 to 2020, through the former ILF recipient grant. Government have confirmed that the former ILF recipient grant will continue to be paid to local authorities in 2021 to 2022.</p> <p>The total value of the grant in 2021 to 2022 will be maintained and this additional funding allocation is to cover the cost of the payments made to clients for the ILF, increasing it to the level of the actual 2021/22 grant, which is £42,776 higher than originally forecast in the Medium Term Financial Strategy.</p>
Finance Sub-Committee (Expenditure Economy and Growth) (Outturn report)	Homelessness Domestic Abuse New Burdens	9	<p>The grant should be used to delivery statutory homelessness duties in respect of victims of domestic abuse, as set out in the Housing Act 1996 and Homelessness (Priority need for Accommodation) (England) Order 2002, as amended by the Domestic Abuse Act 2021.</p>
Finance Sub-Committee (Expenditure Environment and Communities) (Outturn report)	Neighbourhood Planning Grant	70	<p>The conditions of grant mean that this funding could be used across the wider Spatial Planning area. This level of funding would be intended to support a number of Community Neighbourhood Plans across the borough.</p>

Committee / Service Area	Type of Grant	£000	Details
Finance Sub-Committee (Expenditure Corporate Policy)	Breathing Spaces (Debt Respite Scheme)	2	The Debt Respite Scheme (Breathing Space) will give someone in problem debt the right to legal protections from their creditors.
<b>General Purpose Allocations already Approved</b>			<b>293</b>

Table 4 - Summary of General Purpose Grants

Grants 2021/22	Original Budget 2021/22 £m	Revised Forecast 2021/22 £m	Change from Original Budget 2021/22 £m
<b>GENERAL PURPOSE</b>			
Children and Families	0.3	0.5	0.2
Adults and Health	9.1	9.2	0.1
Economy and Growth	0.0	0.0	0.0
Environment and Communities	0.0	0.1	0.1
Highways and Transport	0.0	0.0	0.0
Corporate Policy	9.8	58.4	48.6
<b>TOTAL GENERAL PURPOSE</b>	<b>19.2</b>	<b>68.2</b>	<b>49.0</b>

Table 5 – Corporate Grants Register

General Purpose Grants 2021/22 (Held Corporately)		Original Budget	Revised Forecast	Change from Original Budget	Treatment of Grant
		2021/22 £000	2021/22 £000	2021/22 £000	Notes 2 - 5
<b>CHILDREN and FAMILIES</b>					
Staying Put Implementation Grant	0	113	113	113	SRE
Extended Rights to Free Transport (Home to School Transport)	201	258	258	57	SRE
Extended Personal Adviser Duty Implementation	0	56	56	56	SRE
Extension of the role of Virtual School Heads	60	60	60	0	
<b>ADULTS and HEALTH</b>					
Social Care Support Grant	7,979	7,979	7,979	(0)	
Independent Living Fund	818	861	861	43	SRE
Local Reform & Community Voices, Social Care in Prisons and War Pension Scheme Disregard	340	340	340	0	
<b>ECONOMY and GROWTH</b>					
Homelessness Domestic Abuse New Burdens	0	9	9	9	SRE
<b>ENVIRONMENT and COMMUNITIES</b>					
Neighbourhood Planning Grant	0	70	70	70	SRE
<b>CORPORATE POLICY</b>					
Housing Benefit and Council Tax Administration	1,022	1,082	1,082	60	SRE
NDR Administration Allowance	569	569	569	(0)	
Breathing Spaces (Debt Respite Scheme)	0	2	2	2	SRE
New Homes Bonus	7,841	7,841	7,841	0	
Individual Electoral Registration	0	5	5	5	SRE
Lower Tier Services Grant	335	335	335	0	
COVID-19 Business Rates Reliefs 2021/22	0	27,280	27,280	27,280	Reserves
COVID-19 Compensation for Sales, Fees and Charges Income	0	800	800	800	SRE
COVID-19 Local Council Tax Support	0	3,373	3,373	3,373	Reserves
COVID-19 Local Authority Support Grant	0	8,508	8,508	8,508	Balances
Business Rates Reliefs Grant 2021/22	0	8,606	8,606	8,606	Reserves
<b>TOTAL</b>	<b>19,165</b>	<b>68,145</b>	<b>68,145</b>	<b>48,980</b>	

## 4. Debt Management

- 4.1 Sundry debt includes all invoiced income due to the Council except for statutory taxes (Council Tax and Non-Domestic Rates). The balance of outstanding debt has decreased by £1.5m since the end of March.
- 4.2 Annually, the Council raises invoices with a total value of over £60m. Around a quarter of the Council's overall sundry debt portfolio relates to charges for Adult Social Care, the remainder being spread across a range of functions including Highways, Property Services, Licensing and Building Control.
- 4.3 The Council's standard collection terms require payment within 28 days of the invoice date, however, services receive immediate credit in their accounts for income due. The Council uses a combination of methods to ensure prompt payment of invoices. Recovery action against unpaid invoices may result in the use of debt collectors, court action or the securing of debts against property.
- 4.4 The Revenue Recovery team (using their experience gained in collecting Council Tax and Non-Domestic Rates) engage with services to offer advice and assistance in all aspects of debt management, including facilitating access to debt collection/enforcement agent services (currently provided by Bristow & Sutor).
- 4.5 After allowing for debt still within the payment terms, the amount of outstanding service debt at the end of August 2021 was £10.7m.

- 4.6 The total amount of service debt over six months old is £6.7m; provision of £7.8m has been made to cover doubtful debt in the event that it needs to be written off.

### DEBT SUMMARY

	Outstanding Debt £000	Over 6 months old £000
<b>Adults and Health Committee</b>		
Adults, Public Health and Communities	8,084	5,123
<b>Children and Families Committee</b>		
Children's, Education, Prevention and Early Help Schools	472	82
	55	34
<b>Highways and Transport Committee</b>		
Highways and Infrastructure	750	710
<b>Economy and Growth Committee</b>		
Growth and Enterprise	808	513
<b>Environment and Communities Committee</b>		
Environment and Neighbourhood Services	106	57
<b>Corporate Policy Committee</b>		
Finance and Customer Services	29	3
Governance and Compliance	3	-
Transformation	401	163
	<b>10,708</b>	<b>6,685</b>

# 5. Capital Strategy

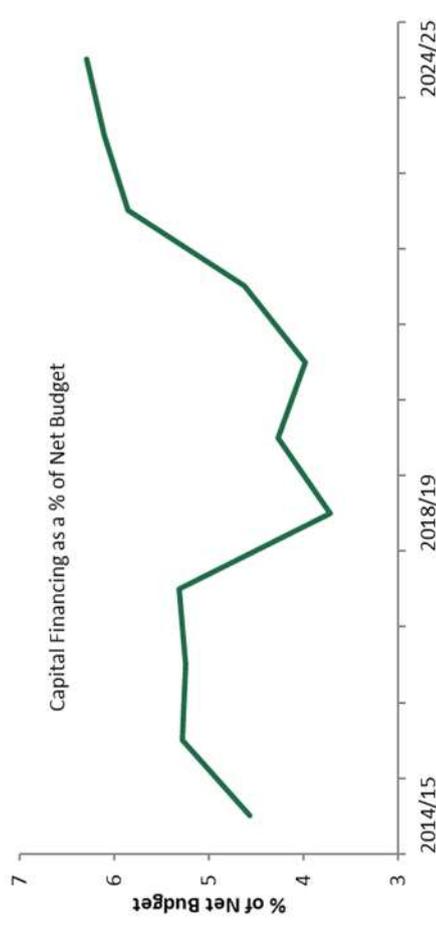
Table 1: Financial Parameters for 2021/22 to 2024/25

Parameter	Value (£m)			
	2021/22	2022/23	2023/24	2024/25
<b>Repayment of Borrowing</b>				
Minimum Revenue Provision*	13.4	16.1	18.6	20.2
External Loan Interest	4.9	4.8	4.7	4.7
Investment Income	(0.9)	(0.9)	(0.9)	(0.9)
Contributions from Services Revenue Budgets	(1.5)	(1.7)	(1.7)	(1.6)
<b>Total Capital Financing Costs</b>	<b>15.9</b>	<b>18.3</b>	<b>20.7</b>	<b>22.4</b>
<b>Use of Financing EMR</b>	<b>(1.9)</b>	<b>(0.3)</b>	<b>(1.7)</b>	<b>(2.4)</b>
<b>Actual CFB in MTFS</b>	<b>14.0</b>	<b>18.0</b>	<b>19.0</b>	<b>20.0</b>
<b>Capital Receipts targets*</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>	<b>1.0</b>
<b>Flexible use of Capital Receipts</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

\*Anticipated MRP based on achieving capital receipts targets

## Repayment of Borrowing

- 5.1 The use of prudential borrowing allows the Council to spread the cost of funding the asset over its useful economic life. Using prudential borrowing as a funding source increases the Council's capital financing requirement (CFR), and will create revenue costs through interest costs and minimum revenue provision.
- 5.2 Regulation 27 of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003, requires local authorities to charge to their revenue account for each financial year a minimum amount to finance the cost of capital expenditure. Commonly referred to as MRP (Minimum Revenue Provision). This ensures that the revenue cost of repaying debt is spread over the life of the asset, similar to depreciation.



- 5.3 The projection of the Council's Capital Financing Requirement (CFR) and external debt, based on the proposed capital budget and treasury management strategy is reported as part

of the MTFs report and Outturn report. This highlights the level to which the Council is internally borrowed (being the difference between the CFR and external debt), and the expected repayment profile of the external debt.

- 5.4 The nature and scale of the Council's capital programme means that it is a key factor in the Council's treasury management, including the need to borrow to fund capital works. The treasury management strategy for the Council is included in **Appendix 8** of this report.
- 5.5 The Council's current strategy is to use available cash balances, known as 'internal borrowing' and to borrow short term loans. As short term interest rates are currently much lower than long term rates this is likely to be more cost effective.

#### **Contributions from Services**

- 5.6 All business cases supporting capital expenditure will include full analysis of the financial implications of the scheme alongside a clear indication of how the financial implications will be managed within the Medium Term Financial Strategy (MTFS).
- 5.7 When including any scheme in the Council's Capital Programme the Section 151 Officer will determine the appropriate impact on the Revenue Budget. This impact will require service budgets within the MTFs to fund either all, part or none of the net capital costs of the scheme.
- 5.8 In making a determination about funding capital schemes from revenue budgets the level of potential revenue savings or additional revenue income will be considered. If a capital scheme will increase revenue costs within the MTFs, either from the future costs of maintaining the asset or from the costs of financing the capital expenditure, then the approach

to funding such costs must be approved as part of the business planning process before the scheme can commence.

- 5.9 The Council's strategy is to use revenue contributions of £6.5m over the next four financial years to finance the Capital Programme to reduce the overall Capital Financing Budget. These contributions come from: £2.9m from the Investment Portfolio; £1.8m contribution from schools towards the schools transformation programme; £1.2m from ESAR for the improvements to the Council's leisure facilities; £0.4m from Highways Street Lighting for the upgrade to LED lighting; and £0.2m from Transformation Services for the Azure 365 upgrade.

#### **Use of Financing Earmarked Reserve**

- 5.10 To allow a longer term approach to setting the Financial Parameters of the Capital Strategy the Council will maintain an earmarked reserve to minimise the financial impact of annual variations to the Capital Financing Budget.
- 5.11 The Council's Reserves Strategy determines the appropriate use of reserves and how they are set up and governed. In the first instance any under or overspending of the Capital Finance Budget (CFB) within any financial year will provide a top-up or draw-down from the Financing Earmarked Reserve. In balancing the CFB over the period of the MTFs the Section 151 Officer may also recommend appropriate use of the Financing Earmarked Reserve over the period.
- 5.12 The Council's current strategy is to draw-down up to £6.3m from the Financing Earmarked Reserve for the period 2021/22 to 2024/25.

**Capital Programme – Review Position**

5.13 Since the Medium Term Financial Strategy was approved in February 2021 the Capital Programme has increased by £58.6m for the next four year period.

5.14 The main change for the increase is slippage from 2020/21 into future years of £59.1m Other changes reported this quarter total (£1.3m) and this is mainly due to a budget reduction due to a reduction in capital grants for Highways from the Department of Transport. **Table 2** below shows a summary of the changes.

**Table 2: Summary Capital Programme**

	MTFS Budget	C/Fwd from 2020/21 Budget	SCEs/ Transfers to/from Addendum		Budget Reductions		SCEs/ Virements		Revised Budget
			2021/25	2021/25	2021/25	2021/25	2021/25	2021/25	
	£m	£m	£m	£m	£m	£m	£m	£m	£m
Adults, Health & Integration	0.4	0.1	-	-	-	-	-	-	0.5
Children and Families	43.8	8.9	0.8	-	-	-	-	-	53.5
Place Directorate	289.7	48.8	-	1.2	(3.3)	-	2.3	(0.3)	338.7
Corporate Directorate	37.8	1.3	-	-	-	-	-	-	38.8
	<b>371.7</b>	<b>59.1</b>	<b>0.8</b>	<b>1.2</b>	<b>(3.3)</b>	<b>2.0</b>	<b>(0.3)</b>		<b>431.5</b>

5.15 Apart from the slippage that was reported at the Outturn £31.2m and the budget increases there were approved as part of the Outturn report of £26.4m there has been little change to the overall capital programme apart from the Capital Supplementary Estimates and Virements listed in **Tables 4 to 7**.

5.16 There is a significant budget reduction within Highways and Infrastructure as the estimated Highways grant from the Department of Transport was less than was previously

reported in the Medium term Financial Strategy in February 2021.

- 5.17 The revised programme is funded from both direct income (grants, external contributions) and the Council's own resources (prudential borrowing, revenue contributions, capital reserve). A funding summary is shown in **Table 3**.
- 5.18 **Table 4** details requests of Supplementary Capital Estimates (SCE) up to and including £250,000 and Capital Virements up to and including £100,000 approved by delegated decision which are included for noting purposes only.
- 5.19 **Table 5** lists details of Capital Virements over £100,000 and up to and including £5,000,000 that requires Committee to approve.
- 5.20 **Table 6** lists details of Capital Supplementary Estimates over £1,000,000 that requires Committee to recommend to Full Council to approve.
- 5.21 **Table 7** lists details of reductions in Approved Budgets where schemes are completed and surpluses can now be removed. These are for noting purposes only.
- 5.22 **Table 8** lists the transfers to and from the Addendum These are for noting purposes only.
- 5.23 Capital programme detail is shown in other service committee **Appendices 2-7, Section 5**.

Table 3: Capital Programme Update

<b>CHESHIRE EAST COUNCIL CAPITAL PROGRAMME SUMMARY</b>							
<b>CAPITAL PROGRAMME 2021/22 - 2024/25</b>							
	<b>Forecast 2021/22 £000</b>	<b>Forecast 2022/23 £000</b>	<b>Forecast 2023/24 £000</b>	<b>Forecast 2024/25 £000</b>	<b>Total Forecast 2021-25 £000</b>		
<b>Committed Schemes - In Progress</b>							
Adults, Health and Integration	485	0	0	0	485		
Children and Families	17,146	21,432	9,402	0	47,980		
Place	101,635	91,079	60,386	25,153	278,253		
Corporate	15,031	8,199	7,668	7,668	38,566		
<b>Total Committed Schemes - In Progress</b>	<b>134,297</b>	<b>120,710</b>	<b>77,456</b>	<b>32,821</b>	<b>365,284</b>		
<b>CAPITAL PROGRAMME 2020/21 - 2024/25</b>							
	<b>Forecast 2021/22 £000</b>	<b>Forecast 2022/23 £000</b>	<b>Forecast 2023/24 £000</b>	<b>Forecast 2024/25 £000</b>	<b>Total Forecast 2021-25 £000</b>		
<b>New Schemes</b>							
Adults, Health and Integration	0	0	0	0	0		
Children's Services	284	4,493	500	250	5,527		
Place	10,072	19,206	19,035	12,147	60,460		
Corporate	250	0	0	0	250		
<b>Total New Schemes</b>	<b>10,606</b>	<b>23,699</b>	<b>19,535</b>	<b>12,397</b>	<b>66,237</b>		
<b>Total</b>	<b>144,903</b>	<b>144,409</b>	<b>96,991</b>	<b>45,218</b>	<b>431,521</b>		

# CHESHIRE EAST COUNCIL CAPITAL PROGRAMME SUMMARY

## CAPITAL PROGRAMME 2021/22 - 2024/25

	Forecast 2021/22 £000	Forecast 2022/23 £000	Forecast 2023/24 £000	Forecast 2024/25 £000	Total Forecast 2021-25 £000
<b>Funding Requirement</b>					
<b>Indicative Funding Analysis:</b> (See note 1)					
Government Grants	75,419	75,739	48,150	14,739	214,047
External Contributions	17,069	19,125	7,889	15,141	59,224
Revenue Contributions	750	0	0	0	750
Capital Receipts	1,000	1,000	1,000	1,000	4,000
Prudential Borrowing (See note 2)	50,665	48,545	39,952	14,338	153,500
<b>Total</b>	<b>144,903</b>	<b>144,409</b>	<b>96,991</b>	<b>45,218</b>	<b>431,521</b>

**Note 1:**

The funding requirement identified in the above table represents a balanced and affordable position, in the medium term. The Council will attempt to maximise external resources such as grants and external contributions in the first instance to fund the capital programme. Where the Council resources are required the preference will be to utilise capital receipts from asset disposals. The forecast for capital receipts over the next four years 2021-2025 assumes a prudent approach based on the work of the Asset Management team and their most recently updated Disposals Programme.

**Note 2:**

Appropriate charges to the revenue budget will only commence in the year following the completion of the associated capital asset. This allows the Council to constantly review the most cost effective way of funding capital expenditure.

Table 4: Delegated Decision - Requests for Supplementary Capital Estimates (SCEs) and Virements

Service / Capital Scheme	Amount Requested £	Reason and Funding Source
<b>Supplementary Capital Estimates that have been made up to £250,000</b>		
<b>Prevention and Support</b> Ash Grove Nursery Expansion	3,750	Additional Nursery Funding Grant is available to increase the required budget to £230,017.
<b>Growth and Enterprise</b> Schools Capital Maintenance	94,000	Schools Contributions to the Facilities Management Schools Condition Programme for 2021/22
<b>Environment and Neighbourhood Services</b> Regulatory Systems & Environmental Health ICT System	50,000	Additional £50K Ear Marked Reserve funding approved to support project completion.
<b>Total Supplementary Capital Estimates Requested 147,750</b>		
Service / Capital Scheme	Amount Requested £	Reason and Funding Source
<b>Capital Budget Virements that have been made up to £100,000</b>		
<b>Highways and Infrastructure</b> A532 Safer Road Fund Scheme	93,734	To provide additional funding to support delivery of ongoing scheme
S106 Redhouse Lane, Disley	30,000	To provide supplementary funding to support the project to facilitate Network Rail to deliver the Road Rail Collision avoidance measures.
<b>Total Capital Budget Virements Approved 123,734</b>		
<b>Total Supplementary Capital Estimates and Virements 271,484</b>		

**Table 5: Requests for Supplementary Capital Estimates (SCEs) and Virements**

Service / Capital Scheme	Amount Requested £	Reason and Funding Source
<b>Finance Sub Committee are asked to approve the Supplementary Capital Estimates and Virements</b>		
<b>Capital Budget Virements above £100,000 up to and including £5,000,000</b>		
<b>Education and 14-19 Skills</b>		
Wilmslow High School	900,000	Virement from the Wilmslow Planning Area (Primary) for the Basic Need School expansion Project.
<b>Highways and Infrastructure</b>		
Highway Maintenance Minor Wks	377,160	To provide funding to deliver proactive level 2 patching programmes to meet
S106 Davenport Lane, Arclid	244,810	To provide supplementary funding to support a s106 agreement budget that
<b>Growth and Enterprise</b>		
Demolition of Crewe Library & Concourse	323,000	Virement from the Strategic Capital Projects
Schools Capital Maintenance	1,046,000	Virement from the School Condition Grant to fund to the Facilities Management School Condition Programme in 2021/22
<b>Transformation Services</b>		
Best4Business 2	368,000	£368k of Core Financial approved budget to be transferred to Best4Business.
<b>Total Capital Virements requested</b>	<b>2,358,970</b>	
<b>Total Supplementary Capital Virements</b>		
	<b>2,358,970</b>	

Table 6: Requests for Supplementary Capital Estimates (SCEs) and Virements

Service	Amount Requested £	Reason and Funding Source
<b>Supplementary Capital Estimates over £1,000,000</b>		
<b>Growth and Enterprise</b>		
Connecting Cheshire 2020	2,000,000	Additional Grant received from Broadband Delivery UK (BDUK) to enable the current infrastructure delivery contract to roll out further broadband across Cheshire.
<b>Total Supplementary Capital Estimates Requested</b>	<b>2,000,000</b>	
<b>Total Supplementary Capital Estimates and Virements</b>		
	<b>2,000,000</b>	

Table 7: Capital Budget Reductions

Service / Capital Scheme	Approved Budget £	Revised Approval £	Reduction £	Reason and Funding Source
<b>Finance Sub Committee are asked to note the reductions in Approved Budgets</b>				
<b>Highways and Infrastructure</b>				
Parking Meters	350,000	0	350,000	It is no longer proposed that this project will go ahead at this time.
Integrated Transport Block - LTP	1,987,000	2,003,000	-16,000	The amount of Department for Transport grant for the Local Transport Plan is less than the amount assumed and approved in the 2021-25 Budget, £2,895,000 less overall.
Maintenance Block - LTP	8,409,000	5,799,000	2,610,000	
Incentive Fund - LTP	1,751,000	1,450,000	301,000	
<b>Growth and Enterprise</b>				
St Annes Car Park	178,256	165,262	12,994	St Anne's has now been sold, so this project can now be closed. Project now complete
Private Sector Assistance	1,991,531	1,991,527	(4)	
	<b>14,666,787</b>	<b>11,408,789</b>	<b>3,257,990</b>	

Table 8: Transfers from and to the Capital Addendum

Service / Capital Scheme	Amount Transferred Mid Year £	Reason / Comment
<b>Budgets Transferred from the Addendum to the Main Capital Programme</b>		
<b>Growth and Enterprise</b> Demolition of Crewe Library & Concourse	1,200,000	ODR has been approved to transfer the funds from the Addendum
<b>Total Budgets Transferred to Main Capital Programme</b>	<b>1,200,000.00</b>	
<b>Net Change to the Addendum</b>		
	<b>1,200,000</b>	

## 6. Reserves Strategy

### Management of Council Reserves

- 6.1 The Council's Reserves Strategy states that the Council will maintain reserves to protect against risk and support investment.
- 6.2 The opening balance at 1 April 2021 in the Council's General Reserves was £11.5m as published in the Council's Statement of Accounts for 2020/21.
- 6.3 The updated Risk Assessment for 2021/22 provides for the Minimum Level to be set at £10.3m. This is considered a relatively prudent overall target for reserves at 3.3% of the net budget. At the end of 2020/21 the outturn position allowed an increase to the General Reserve in line with the strategy to increase it to £11.5m over the next three years.
- 6.4 The Council also maintains Earmarked Revenue reserves for specific purposes. The opening balance at 1 April 2021 on these reserves stood at £91.4m, excluding balances held by Schools.
- 6.5 During 2021/22, an estimated £33.4m will be drawn down and applied to fund service expenditure specifically provided for. Service outturn forecasts take account of this expenditure and funding. The closing balance at 31 March 2022 is forecast at £58.0m.
- 6.6 The Collection Fund reserve includes an S31 grant of £30.1m received from MHCLG to fund the Council's 49% share of the Extended Retail Relief as a result of Covid-19. This was received in 2020/21 and will be used to repay the resulting

deficit in the business rates collection fund that is due to be paid back in 2021/22 as a result of the relief being granted.

- 6.7 As part of the management of the outturn for 2020/21, and the Medium Term Financial Strategy 2021 to 2025, the Council aims to defer costs related to the Capital Programme and income losses in the Collection Fund in order fully protect the Council's General Reserves. Any variation to this position will be managed through the Council's Covid-19 Earmarked Reserve, which was created in March 2020 to receive non-ringfenced grants related to the pandemic.
- 6.8 The mid-year position, excluding Covid-19, presents an overspend of £2.2m (to within budget by 0.7%). Any variation to budget at year-end will be managed through the Council's Medium Term Financial Strategy Earmarked Reserve.
- 6.9 **Table 1** shows the forecast total reserves at the end of March 2021/22. Overall, the Council remains in a strong financial position given the major challenges across the public sector.

**Table 1 – Reserves Position**

	£m
General Reserve	11.5
Earmarked Reserves (excluding Schools)	58.0
<b>Total Reserves Balance at 31 March 2021</b>	<b>69.5</b>

- 6.10 Details of individual reserves are shown in the relevant Service Committee appendix.

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**COUNCIL MEETING – 15 DECEMBER 2021****ARRANGEMENTS FOR THE APPOINTMENT OF EXTERNAL AUDITORS****RECOMMENDATION**

**That Council accept the invitation from Public Sector Audit Appointments to ‘opt in’ to the sector led option for the appointment of external auditors for five financial years commencing 1 April 2023**

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Extract from the Minutes of the Audit and Governance Committee meeting on 25 November 2021

**43 Arrangements for the Appointment of External Auditors**

The Committee considered the proposals for appointing the Council’s external auditors for the five-year period from 2023/24.

In 2017 the Council opted into the ‘appointing person’ national auditor appointment arrangements established by Public Sector Audit Appointments (PSAA) for the period covering the accounts for 2018/19 to and including the audit of the 2022/23 accounts.

Section 7 of the Local Audit and Accountability Act 2014 stated that a ‘relevant authority must appoint a local auditor to audit its accounts for a financial year no later than 31 December in the preceding financial year’.

The PSAA was now inviting the Council to opt in for the next appointing period, covering audits for 2023/24 to 2027/28, along with all other authorities, so that the PSAA could enter into a number of contracts with appropriately qualified audit firms and appoint a suitable firm to be the Council’s auditors.

**RESOLVED:**

That Council be recommended to accept the invitation from Public Sector Audit Appointments to ‘opt in’ to the sector led option for the appointment of external auditors for five financial years commencing 1 April 2023.

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## **Audit & Governance Committee**

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**Date of Meeting:** 25 November 2021

**Report Title:** Arrangements for the Appointment of External Auditors

**Report Of:** Alex Thompson, Director of Finance & Customer Services

**Report Reference No:** AG/10/21-22

**Ward(s) Affected:** Not applicable

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### **1. Report Summary**

- 1.1. This report sets out proposals for appointing the Council's external auditor for the five-year period from 2023/24.
- 1.2. The available options are:
  - A. Establish a standalone Auditor Panel to make the appointment on behalf of the Council;
  - B. Explore the establishment of local joint procurement arrangements with neighbouring authorities; or
  - C. Opt-in to the national Sector Led Body, Public Sector Audit Appointments Ltd (PSAA).
- 1.3. The report recommends Option C.
- 1.4. In order to opt into the national Sector Led body, a decision will be required at a meeting of the full Council in time to submit a formal acceptance to PSAA by the required date of 11 March 2022.

### **2. Recommendation/s**

That Members of the Audit & Governance Committee:

- 2.1. Recommend to Council to accept the invitation from PSAA to 'opt in' to the sector led option for the appointment of external auditors for five financial years commencing 1 April 2023.

### **3. Reasons for Recommendation/s**

- 3.1. The Local Audit and Accountability Act 2014 (the Act) at Section 7 states that a “relevant authority must appoint a local auditor to audit its accounts for a financial year not later than 31 December in the preceding financial year.” The current auditor appointment arrangements cover the period up to and including the audit of the 2022/23 accounts.
- 3.2. In 2017 the Council opted into the ‘appointing person’ national auditor appointment arrangements established by Public Sector Audit Appointments (PSAA) for the period covering the accounts for 2018/19 to 2022/23.
- 3.3. PSAA is now undertaking a procurement for the next appointing period, covering audits for 2023/24 to 2027/28. The closing date to opt-in to the PSAA arrangement is 11 March 2022. This enables procurement and award of contracts by the statutory deadline of 31 December 2022.
- 3.4. This report sets out the options open to the Council and the basis of officers’ recommendation to the Audit & Governance Committee to opt into the national arrangement with PSAA.

### **4. Other Options Considered**

- 4.1. If the Council did not opt in there would be a need to establish an independent auditor panel. In order to make a stand-alone appointment the auditor panel would need to be set up by the Council itself. The members of the panel must be wholly or a majority of independent members as defined by the Act. Independent members for this purpose are independent appointees; this excludes current and former elected members or officers and their close families and friends. This means that elected members will not have a majority input to assessing bids and choosing which audit firm to award a contract for the Council’s external audit.
- 4.2. Alternatively the Act enables the Council to join with other authorities to establish a joint auditor panel. Again this will need to be constituted of wholly or a majority of independent appointees. Further legal advice would be required on the exact constitution of such a panel having regard to the obligations of each Council under the Act and the Council would need to liaise with other local authorities to assess the appetite for such an arrangement.
- 4.3. Neither of these options is recommended as both these options would be more resource intensive processes to implement and without the bulk buying power of the sector led procurement, would be likely to result in a

more costly service. It would also be more difficult to manage quality and independence requirements through a local appointment process.

## **5. Background**

- 5.1. There is a requirement under the Local Audit and Accountability Act 2014 for all local government and NHS bodies in England to locally appoint their external auditors.
- 5.2. A review of options was presented to the Audit & Governance Committee in December 2016 and to Council in March 2017 to support the decision to opt-in to the PSAA arrangements. The basis for that decision has not fundamentally changed in the intervening period.
- 5.3. The PSAA is again inviting the Council to opt in for the next appointing period, covering audits for 2023/24 to 2027/28, along with all other authorities, so that PSAA can enter into a number of contracts with appropriately qualified audit firms and appoint a suitable firm to be the Council's auditor.
- 5.4. The principal benefits from such an approach are as follows:
  - PSAA will ensure the appointment of a suitably qualified and registered auditor and expects to be able to manage the appointments to allow for appropriate groupings and clusters of audits where bodies work together;
  - PSAA will monitor contract delivery and ensure compliance with contractual, audit quality and independence requirements;
  - Any auditor conflicts at individual authorities would be managed by PSAA who would have a number of contracted firms to call upon;
  - It is expected that the large-scale contracts procured through PSAA will bring economies of scale and attract keener prices from the market than a smaller scale competition;
  - The overall procurement costs would be lower than an individual smaller scale local procurement;
  - The overhead costs for managing the contracts will be minimised through a smaller number of large contracts across the sector;
  - There will be no need for the Council to establish alternative appointment processes locally, including the need to set up and manage an 'auditor panel';
  - A sustainable market for audit provision in the sector will be easier to ensure for the future.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

6.1.1. The arrangements for local auditor appointment set out in the Local Audit and Accountability Act 2014 will apply for audit of the accounts of principal local authority bodies. Auditor appointments must be made for 2023/24 audits by 31 December 2022, as required by Section 7 of the Act. Appointments may be made by the audited body itself, by groups of audited bodies, or by a specified appointing person.

6.1.2. In accordance with Regulation 19 of the Local Audit (Appointing Person) Regulations 2015, the decision on opt-in must be taken by Council (“full authority”).

## **6.2. Finance Implications**

6.2.1. The audit fees will be met from within the revenue budget. Current external audit fees levels are likely to increase when the current contracts end in 2023, regardless of the procurement option.

6.2.2. Opting-in to a national scheme provides maximum opportunity to ensure fees are as low as possible, whilst ensuring the quality of audit is maintained by entering into a large scale collective procurement arrangement.

## **6.3. Policy Implications**

6.3.1. There are no policy implications identified.

## **6.4. Equality Implications**

6.4.1. There are no equality implications identified.

## **6.5. Human Resources Implications**

6.5.1. There are no human resources implications identified.

## **6.6. Risk Management Implications**

6.6.1. The principal risks are that the Council fails to appoint an auditor in accordance with the new frameworks or does not achieve value for money in the appointment process. These risks are considered best mitigated by opting into the sector led approach through PSAA.

## **6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

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

6.8.1. There are no direct implications for children and young people.

**6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

**6.10 Climate Change Implications**

6.10.1. There are no direct implications for climate change.

**7. Ward Members Affected**

7.2. Not applicable.

**8. Access to Information**

8.2. The background papers relating to this report can be inspected by contacting the report writer.

**9. Contact Information**

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

Name: Joanne Wilcox

Job Title: Head of Financial Management

Email: [Joanne.wilcox@cheshireeast.gov.uk](mailto:Joanne.wilcox@cheshireeast.gov.uk)

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## Council

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<b>Date of Meeting:</b>	15 December 2021
<b>Report Title:</b>	Annual Report of the Audit and Governance Committee 2020/21
<b>Report of:</b>	Jane Burns, Executive Director Corporate Services
<b>Ward(s) Affected:</b>	<b>All</b>

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### 1. Report Summary

- 1.1. To present to Council the Annual Report of the Audit and Governance Committee 2020/21, as approved by the Audit and Governance Committee on 25 November 2021.
- 1.2. Producing an annual report on the work of the Committee ensures compliance with best practice requirements and provides assurance to wider stakeholders on the continuing improvements of the Council's governance arrangements.

### 2. Recommendation

- 2.1. That the Annual Report of the Audit and Governance Committee 2020/21 be received.

### 3. Reasons for Recommendation

- 3.1. To report in line with the requirements of the Council's Constitution and the Audit and Governance Committee's Terms of Reference, which require a report to full Council on a regular basis.
- 3.2. The report should cover the performance of the Committee in relation to its Terms of Reference, and the effectiveness of the Committee in meeting its purpose.

### 4. Other Options Considered

- 4.1. Not applicable.

## **5. Background**

5.1. Current CIPFA guidance, *Audit Committees – Practical Guidance for Local Authorities and Police 2018 Edition* states that audit committees should report regularly on their work and at least annually report an assessment of their performance. Aspects to consider include:

- whether the committee has fulfilled its agreed terms of reference
- whether the committee has adopted recommended practice
- whether the development needs of committee members have been assessed and whether committee members are accessing briefing and training opportunities
- whether the committee has assessed its own effectiveness or been the subject of a review and the conclusions and actions from that review
- what impact the committee has on the improvement of governance, risk and control within the authority.

5.2. The requirement to submit an annual report is recommended by the CIPFA guidance and included within Cheshire East Council's Constitution.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

6.1.1. The Council's Constitution gives responsibility to the Audit and Governance Committee for overseeing the Council's roles and responsibilities in respect of Corporate Governance and Audit and specifically for submitting an annual report to Council. Production of the report ensures compliance with this requirement.

### **6.2. Finance Implications**

6.2.1. The annual report of the Audit and Governance Committee outlines the assurances received by the Committee on the adequacy of the Council's governance arrangements, including the integrity of financial reporting processes.

### **6.3. Policy Implications**

6.3.1. The production of the annual report and its presentation to Council ensures compliance with the CIPFA best practice guidance.

### **6.4. Equality Implications**

6.4.1. There are no equality implications for this report.

**6.5. Human Resources Implications**

6.5.1. There are no direct human resource implications for this report.

**6.6. Risk Management Implications**

6.6.1. The annual report of the Audit and Governance Committee outlines the assurances received by the Committee on various aspects of the Council's governance arrangements, including the risk management framework.

**6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

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

6.8.1. There are no direct implications for children and young people.

**6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

**6.10. Climate Change Implications**

6.10.1. There are no direct implications for Climate Change.

**7. Consultation & Engagement**

7.1. The annual report of the Committee was prepared by Internal Audit following discussion with key officers who regularly provide updates to the Audit and Governance Committee. The report was discussed with the Committee Chair and Vice Chair and considered by the Corporate Leadership Team prior to the Audit and Governance Committee approving the report on 25 November 2021 for consideration by Council.

**8. Access to Information**

8.1. The Annual Report of the Audit and Governance Committee 2020/21 is attached as Appendix A to this report.

**9. Contact Information**

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

Name: Josie Griffiths

Job Title: Head of Audit and Risk

Email: [Josie.griffiths@cheshireeast.gov.uk](mailto:Josie.griffiths@cheshireeast.gov.uk)

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# Annual Report of the Audit and Governance Committee 2020/21

DRAFT  
(May 2020 - April 2021)

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## Foreword by the Chair of the Audit and Governance Committee

As Chair of the Audit and Governance Committee for the year in review, I am pleased to present this detailed report on the work of the Committee over 2020/2021.

The report informs full Council of the broad range of work which has been considered over the year to support the Committee in fulfilling its Terms of Reference and provides assurance on the effectiveness of the Committee in meeting its purpose.

I hope that this report helps to demonstrate the key role which is undertaken by the Audit and Governance Committee and the positive contribution it makes to the Council's overall governance.

The Committee's Terms of Reference were developed in accordance with the CIPFA guidance, and the detailed Committee Work Programme designed to ensure that they are fulfilled is subject to review at each meeting of the Committee.

I would like to thank all those who have contributed to the Committee meetings over the last year, supporting the Committee's work with varied reports and presentations, which are the culmination of much more preparation and work undertaken 'behind the scenes'.

As everyone is aware, 2020/21 provided a unique challenge to everyone in responding to the Covid-19 pandemic and the associated lockdown restrictions. This included holding meetings remotely and I am pleased to report that the arrangements that were put in place to facilitate this, were successful and ensured that the Committee was able to continue to operate effectively and fulfil its terms of reference. I would like to thank officers for the support that they provided to both myself and the rest of the Committee during this difficult period.

My tenure as Chair of Audit and Governance Committee ended at the March 2021 meeting and I am certain that the current Chair, Councillor Margaret Simon, and the rest of the Committee, will continue to successfully provide independent assurance on the Council's control environment and the governance framework.



*Councillor Rod Fletcher*

Chair of the Audit and Governance Committee 2020-21

November 2021

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## **1. Introduction to the Audit and Governance Committee**

Governance is defined in the “Delivering Good Governance in Local Government: Framework” (CIPFA/SOLACE 2016) as follows

*Governance comprises the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved.*

*To deliver good governance in the public sector, both governing bodies and individuals working for public sector entities must try to achieve their entity’s objectives while acting in the public interest at all times.*

Audit Committees are therefore an essential element of good governance. Good corporate governance requires independent, effective assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and annual governance processes.

These functions are best delivered by an Audit Committee independent from the decision making and scrutiny functions.

Effective Audit Committees help raise the profile of internal control, risk management and financial reporting issues within an organisation, as well as providing a forum for the discussion of issues raised by internal and external auditors. They enhance public trust and confidence in the financial governance of an authority.

## **2. Audit and Governance Committee - Statement of Purpose**

The Audit and Governance Committee is a key component of the Council’s corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

It provides an independent assurance to the Council of the adequacy of the risk management framework and the internal control environment.

It provides independent review of the Council’s governance, risk management and control frameworks and oversees the financial reporting and annual governance processes.

It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

It promotes high standards of ethical behaviour by developing, maintaining and monitoring performance and Codes of Conduct for Members of the Council (including co-opted Members and other persons acting in a similar capacity).

The Audit & Governance Committee has delegated responsibilities from Council. This report provides details of how the Committee has discharged those responsibilities and delivered against its terms of reference which can be found in the Council's [Constitution](#).

Meetings of the Audit & Governance Committee were held on the following dates during 2020/21:

- 28<sup>th</sup> May 2020
- 30<sup>th</sup> July 2020
- 24<sup>th</sup> September 2020
- 11<sup>th</sup> November 2020
- 28<sup>th</sup> January 2021
- 11<sup>th</sup> March 2021

More information on the Audit & Governance Committee Meetings, including agendas, minutes and attendance details is available [here](#).

### 3. Governance, Risk and Control within Cheshire East Council

Reports have been received by the Audit and Governance Committee in the following areas, providing assurance and updates on the Council's governance, risk and control framework over the past year.

#### Internal Audit

Meeting	Reports received
30 July 2020	Internal Audit Annual Report 2019/20
24 September 2020	Internal Audit and Counter Fraud Plan 2020/21 – Progress Update
28 January 2021	Internal Audit Update – April 2020 to December 2020
11 March 2021	Internal Audit Plan 2021/22

**External Audit**

<b>Meeting:</b>	<b>Reports received:</b>
28 May 2020	External Audit Update Report
30 July 2020	External Audit Update Report
24 September 2020	External Audit Update Report
11 November 2020	External Audit Findings and Action Plan 2019/20
11 March 2021	External Audit Update and Annual Audit Letter 2019/20 Certification of Claims and Returns 2019/20

**Risk Management**

<b>Meeting:</b>	<b>Reports received:</b>
24 September 2020	Annual Risk Management Report 2019/20
11 November 2020	Strategic Risk Register 2020/21 Update (Q2)
11 March 2021	Strategic Risk Register 2020/21 Update (Q3)

**Corporate Governance & Annual Governance Statement (AGS)**

<b>Meeting:</b>	<b>Reports received:</b>
30 July 2020	Annual Monitoring Officer Report 2019/20
11 November 2020	Annual Governance Statement 2019/20
11 March 2021	Annual Governance Statement 2019/20 - Progress Update Member Code of Conduct: Standards Report

**Accounts, Financial Statements & Treasury Management**

<b>Meeting:</b>	<b>Reports received:</b>
28 May 2020	Treasury Management Update (implications of Covid-19 government funding)
30 July 2020	Draft Pre-Audit Statement of Accounts 2019/20
24 September 2020	Treasury Management Annual Report 2019/20
11 November 2020	Statement of Accounts 2019/20 Draft Treasury Management Strategy and Minimum Revenue Provision Statement 2021/22

**Information Governance**

<b>Meeting:</b>	<b>Reports received:</b>
30 <sup>th</sup> July 2020	Annual Information Governance Update 2019/20

Significant assurances the Committee has received during the year include:

- **2019/20 Internal Audit opinion:**  
This was presented to the 30 July 2020 meeting.
- **2019/20 Financial Statements Opinion (External Audit):**  
This was presented to the 11 November 2020 meeting.
- **Audit Review of Procurement Controls**  
This was presented to the 28 January 2021 meeting.

#### 4. Effectiveness of the Committee

The Committee regularly undertakes a formal review of its own effectiveness. The 2020/21 self-assessment was carried out against the CIPFA guidance, Audit Committees – Practical Guidance for Local Authorities and Police 2018 via an online survey and through discussion with the Chair and Vice Chair.

The self-assessment results were reported to Committee in May 2020, along with a plan setting out development actions. A key action for the Committee during the year was to respond to the Corporate Peer Challenge recommendation regarding the size and membership of the committee.

*“The Audit and Governance Committee of the Council has made improvements in recent years with much more effective challenge being provided through this committee.” There is currently one ‘independent person’ on the Committee who is not a member of the council and can therefore help to provide independent challenge. However, the size and membership of the committee may benefit from review to ensure the committee can operate effectively and provide sufficient challenge across all areas of responsibility, including on financial matters*

The Committee agreed to establish a working group to consider its composition and structure at their meeting in November 2020, prior to the current co-opted independent member completing his term in March 2021 and prior to the move to the new Committee structure in May 2021.

Further reports were received in January and March 2021 which recommended the Committee should be reduced to 9 elected members and 2 co-opted independent members.

To minimise conflicts of interest arising as the Council moved to a committee system of decision making, it was also recommended that membership should not include the Leader and Deputy of the Council, Chairs or Vice Chairs of the

Services Committee and that the Chair and Vice Chair of the Audit and Governance Committee should not sit on a services Committee.

A draft Terms of Reference (ToR) was presented, and both the composition and ToR were approved by Committee in March 2021 and recommended to full Council.

The Committee has continued to provide challenge and feedback to the reports received.

## **5. Additional Assurance**

Additional assurance work requested by the Committee has been provided around emerging issues including:

### **Covid-19 Updates on Response, Recovery and Financial Impact**

Updates on the financial impact of Covid-19 and the response and recovery effort were reported to Committee on a regular basis, highlighting the Council's ongoing actions to address the pandemic response and consideration of future developments.

The report to Committee in July 2020 set out the changes to the Council's normal financial arrangements and provided a summary of the methodology used to date on projecting the full year's implications of the Covid-19 response on the Council's finances. It also provided a summary of the main financial implications to date and the financial support received from government. Discussions highlighted that Corporate Overview and Scrutiny and Cabinet, at their September meetings, were scheduled to receive the latest information and data of the effects of Covid-19 on the Council's finances.

In addition, a report providing a summary of the volume and amount paid in support of businesses, lessons learned through the administration of the scheme and any issues identified through fraud during the period February 2020 to October 2020 was provided to Committee in January 2021. The report set out details of the grants issued for three schemes announced in February 2020 which provided support to small business and businesses within the retail, leisure and hospitality sectors.

### **Ombudsman complaints and lessons learnt**

The Committee received update reports at each meeting detailing the decision notices received by the Council from the Local Government Ombudsman and

Social Care Ombudsman. The detailed reports provided the Committee with information on those decision notices which concluded that there had been maladministration causing injustice.

It is noted that on 26th March 2020, the Ombudsman took the decision to suspend all casework activity that demands information from, or action by, any local authority. Councils were expected to respond appropriately to any complaints received during this time and to direct complaints to the Ombudsman service upon completion of the Council's complaints procedure. However, following a national consultation the Ombudsman decided to restart their casework from 21 May 2020, although limited only to the cases they were already considering prior to their shutdown.

### **Reporting of all WARNs's (Waiver and Record of Non-adherence)**

The Audit and Governance Committee has a key role in overseeing governance arrangements and requirement to review all approved WARNs. The WARN process forms part of the Contract Procedure Rules (CPR's) which are intended to promote good procurement and commissioning practice, transparency and clear public accountability.

Since June 2016, summary information on the number and reasons for WARN's has been provided to the Committee as a standard part one agenda item, with the details being considered as part two, following exclusion of press and public from the meeting pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1 2 and 3 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

Following the outbreak of COVID-19, the Cabinet Office issued a number of Procurement Policy Notes, setting out the following information and guidance:

- Procurement of goods, services and works with extreme urgency and permitted authorities to do so using regulation 32(2)(c) under the Public Contract Regulations 2015
- Payment of their suppliers to ensure service continuity during and after the current COVID-19 outbreak, stating that contracting authorities must act quickly to ensure suppliers at risk were able to resume normal contract delivery once the outbreak was over.
- Use of procurement cards, with the aim to accelerate payments to suppliers to support and improve cash flow.

The Committee noted that the number of waivers being reported had increased due to Covid-19.

### **Member's Code of Conduct**

The Committee received an update report in March 2021 relating to the Member's Code of Conduct. The report detailed the number of complaints made against Cheshire East Councillors and Town and Parish Councillors; the paragraph of the Code alleged to have been breached and the outcome of each complaint, where completed. This information is provided to support the Committee's role in monitoring and maintaining high ethical standards within the authority.

### **Counter Fraud Update**

Counter Fraud updates were included in the updates against the Internal Audit plan. In September 2020 a detailed report was provided highlighting that the Internal Audit resource has been diverted to support the wider organisation in responding to Covid-19 and to ensure that Internal Audit continues to provide value and support in the achievement of the Council's objectives.

A breakdown of the consultancy and non-assurance work provided identified that this included advice and guidance when implementing new processes to ensure that fraud risks were addressed and the undertaking of relevant pre-and/or post-payment checks on Covid-19 grants to ensure that the risk of fraudulent claims was minimised and to identify and reclaim monies paid outside of the eligibility criteria.

## **6. Members of the Committee**

Members of the Committee during 2020/21 are set out in **Appendix 2**.

The Audit and Governance Committee has been supported by officers providing reports in accordance with the Committee's work programme and at the request of the Committee.

The Committee has routinely been attended by the Executive Director Corporate Services, Director of Governance and Compliance, the Director of Financial and Customer Services and Head of Audit and Risk.

## **7. Statutory Requirements, New Guidance and Recommended Practice**

During the year, the Committee has carried out statutory requirements including approving the Financial Statements and the Annual Governance Statement.

Committee members were provided with a copy of the Committee's Terms of Reference in advance of the May 2020 meeting.

The Committee has received updates on changes to relevant legislation, particularly in relation to Covid-19.

## **8. Training and Development**

The following training was carried out during the 2020/21 year:

- Annual Governance Statement & Role of the Audit Committee
- Approving the Financial Statements
- Treasury Management

The training has been recorded and made available to all Councillors to improve understanding of the role of this Committee.

Where needed, induction briefings for new and deputising Members of the Committee have been provided. In addition, Members have access to copies of the CIPFA Better Governance Forum *Audit Committee Update* featuring a round-up of legislation, reports and developments of interest to Audit & Governance Committee Members.

## **9. Work programme for 2021/22**

The Committee has an agreed work programme for 2021/22, which includes the annual statutory requirements (e.g. approval of the Statement of Accounts, approval of the AGS etc.) of the Committee and also those regular reports and assurances it receives on External Audit, Internal Audit, Risk Management, Treasury Management and other areas.

The forward looking work programme ensures comprehensive coverage of the Committee's responsibilities and in addition to this, the Committee will:

- Continue to develop the proactive nature of the Committee to facilitate actions by officers to ensure that risks are identified as early as possible and remedial actions are taken in a timely fashion;

- Oversee any development required of the Audit and Governance Committee work programme to comply with the requirements of the CIPFA Audit Committees guidance;
- Continue to review governance arrangements to ensure the Council adopts the latest best practice and continues to be an open and transparent public organisation;
- Continue to support the work of internal and external audit and ensure that responses are given to their recommendations;
- Receive assurance on compliance with best practice such as the Public Sector Internal Audit Standards and the CIPFA Statement on the Role of the Head of Internal Audit;
- Continue to support the Council in managing the risk of fraud and corruption;
- Continue to develop the Audit and Governance Committee to review risk and partnership issues and safeguarding of public sector assets;
- Equip existing and new Members to fulfil their responsibilities by providing more detailed and focused training on all key areas of responsibility, including financial arrangements and risk management, governance and audit planning; and
- Continue to ensure that arrangements and ways of working introduced in light of the Covid-19 pandemic are subject to effective governance arrangements and robust systems of internal control.

### How the Audit and Governance Committee's Terms of Reference were met during 2020/21:

Terms of Reference of Committee	Relevant activity in 2020/21
<b>Governance, Risk and Control</b>	
To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.	<p>The Committee approved the 2019/20 Annual Governance Statement in November 2020.</p> <p>The Committee received an Annual Governance Statement progress report in March 2021.</p> <p>The Annual Monitoring Officer's Report 2019/20 and the Annual Information Governance Update 2019/20 were received and approved in July 2020.</p>
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.	<p>The Committee received the final 219/20 Annual Governance Statement (AGS) in November 2020.</p> <p>In addition, an update report was received in March 2021.</p>
To consider the Council's arrangements to secure value for money and to review and scrutinise assurances and assessments on the effectiveness of these arrangements.	<p>The Committee received regular reports on the quantity and reasons for Waivers and Non-Adherences approved since the last Committee.</p> <p>Committee received a report relating to the operational procurement and contract award arrangements in January 2021.</p>
To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.	<p>The Committee received a variety of reports during the year addressing this aspect;</p> <ul style="list-style-type: none"> <li>- Updates on Strategic Risks</li> </ul>

Terms of Reference of Committee	Relevant activity in 2020/21
	<ul style="list-style-type: none"> <li>- Internal Audit reports and plan updates</li> <li>- Annual Governance Statement; draft, final and progress updates</li> <li>- Information Assurance updates</li> <li>- LGO Complaints and lessons learned.</li> </ul>
To monitor the effective development and operation of risk management in the council.	The Committee received update reports on Risk Management in September 2020 and March 2021.
To monitor progress in addressing risk related issues reported to the committee and to review the assessment of fraud risks and potential harm to the Council from fraud and corruption. To monitor the counter fraud strategy, actions and resources.	The Committee monitors Anti-Fraud and Corruption arrangements through regular updates on activity provided as part of the regular Internal Audit update reports.
To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions, including calling managers to explain lack of progress.	Internal Audit progress reports were provided to Committee in September 2020 and January 2021.
To review the governance and assurance arrangements for significant partnerships or collaborations.	Governance and assurance arrangements are set out as part the Annual Governance Statement, however further, more focused reports to Committee could be provided.
To review and monitor the Council's treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.	<p>The Treasury Management 2019/20 Annual Report was received in September 2020.</p> <p>The 2020/21 Draft Treasury Management Strategy and Minimum Revenue Position (MRP) Statement was reviewed at the November 2020 meeting.</p> <p>A Treasury Management Update report was presented in May 2020 to update the Committee on the implications for the</p>

Terms of Reference of Committee	Relevant activity in 2020/21
	Council's Treasury Management Strategy in response to the receipt of government funding re Covid-19.
<b>Internal Audit</b>	
To approve the internal audit charter.	An updated Internal Audit Charter was approved at the March 2020 Committee meeting. This has been reviewed within 2020/21 with no further changes required.
To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations	This has not been relevant during 2020/21.
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. To approve significant interim changes to the risk-based internal audit plan and resource requirements	The Committee approved the 2020/21 Internal Audit Plan in March 2020. The Committee monitored progress against the plan in September 2020 and January 2021.
To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.	The Audit and Governance Committee regularly consider this as part of discussion on the internal audit plan and progress updates.
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	The Audit and Governance Committee is made aware of the other operational responsibilities of the Head of Audit and Risk through the Internal Audit Charter. During the course of 20/21, where Internal Audit team members have provided operational support in other parts of the business, the Committee received information about these roles, and how the impact on future audit work will be managed.
To consider reports from the head of internal audit on internal audit's performance during the year.	Internal Audit progress reports were provided to Committee in September 2020 and January 2021.

Terms of Reference of Committee	Relevant activity in 2020/21
To consider the Head of Internal Audit's annual report.	The 2019/20 Internal Audit Annual Report, including the annual audit opinion was presented to the Committee in July 2020.
To consider summaries of specific internal audit reports as requested	Committee received a report relating to the operational procurement and contract award arrangements in January 2021.
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. To consider summaries of specific internal audit reports as requested.	Internal Audit interim reports against the 2019/20 plan were received in September 2020 and January 2021.  Internal Audit interim reports include a summary of Internal Audit work completed and the significant issues arising from individual assignments.
To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.	The Committee is updated in the Head of Internal Audit annual opinion report on the progress made on assessment criteria required to comply with the Public Sector Internal Audit Standards.
To provide free and unfettered access to the audit committee chair for the head of internal audit, including the opportunity for a private meeting with the committee.	The Head of Audit and Risk met on a regular basis with the Chair and Vice Chair of the Committee
External Audit	
To consider the external auditor's annual assessment of independence, annual letter, relevant reports, and the report to those charged with governance.	A summary of the External Audit findings from the 2019/20 audit were presented to Committee in March 2021 by the External Auditor.  The 2019/20 Annual Audit Letter was reported to the March 2021 Committee meeting.

<b>Terms of Reference of Committee</b>	<b>Relevant activity in 2020/21</b>
To consider specific reports as agreed with the external auditor.	The Committee received and considered the work of the External Auditor (all meetings during the year).
To comment on the scope and depth of external audit work and to ensure it gives value for money	Regular reports are received from the External Auditors who also meet with the Chair and Vice Chair prior to each Committee meeting.
To commission work from internal and external audit and to advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.	<p>The Committee consider the work plan at all meetings and commission additional work where Committee members determine that additional assurance is required.</p> <p>The relationship between Internal and External Audit is reviewed at least annually together with any requirements to liaise with any other relevant agencies.</p>
<b>Financial Reporting</b>	
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.	<p>The Annual Statement of Accounts 2018/19 was presented to the Committee in July 2020.</p> <p>An update on the financial impact of Covid-19 was brought to Committee in July 2020.</p>
To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.	<p>A summary of the External Audit findings from the 2019/20 audit were presented to Committee in March 2021 by the External Auditor.</p> <p>The 2019/20 Annual Audit Letter was reported to the March 2021 Committee meeting.</p>
<b>Accountability Arrangements</b>	
To report to those charged with governance on the committee's findings conclusions and recommendations concerning the	The Committee received the Audit and Governance Committee Annual Report in July 2020 ahead of presentation to Council.

Terms of Reference of Committee	Relevant activity in 2020/21
adequacy and effectiveness of their governance, risk management and internal control frameworks; financial reporting arrangements, and internal and external audit functions.	The Audit and Governance Committee's Self-Assessment Action Plan was presented in May 2020.
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.	The Committee received the Audit and Governance Committee Annual Report in July 2020 ahead of presentation to Council.
To publish an annual report on the work of the committee.	The Committee received the Audit and Governance Committee Annual Report in July 2020 ahead of presentation to Council.
Related Functions	
To approve and monitor Council policies relating to "whistleblowing" and anti-fraud and corruption.	<p>The Committee is provided with updates in relation to these matters via the interim reports on internal audit activity received during the year.</p> <p>Details relating to whistleblowing statistics are reported via the Monitoring Officer report which was received by the Committee in July 2020.</p>
To seek assurance that customer complaint arrangements are robust	The Committee received regular update reports throughout 2020/21 on the number of decision notices received from the Local Government and Social Care Ombudsman.
Working Groups	
The Committee may establish standing and time-bound working groups (which may but need not be politically balanced) to consider any matters within the terms of reference of the Committee.	<p>The Terms of Reference was updated to include this specific responsibility in November 2020.</p> <p>A working group was set up to consider the Audit and Governance Committee structure and composition in November</p>

Terms of Reference of Committee	Relevant activity in 2020/21
	2020 and reported to the Committee in January 2021 and March 2021.
Standards Arrangements	
Promoting 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).	<p>A Members Code of Conduct Standards Report recording the number and outcome of decisions relating to complaints was submitted to the Committee in March 2021.</p> <p>The Committee meeting in July 2020 approved the following:</p> <ul style="list-style-type: none"> <li>• Localism Act 2011 – General Dispensations for a four year period (to 28 Sept 2024); and</li> <li>• General dispensation allowing Members to take part in and vote on Community Governance Review matters in which they have disclosable pecuniary and prejudicial interests for a 4-year period (to 29 July 2024)</li> </ul>
Ensuring that Members receive advice and training as appropriate on the Members Code of Conduct.	<p>Members of the Audit &amp; Governance Committee have been advised on the Member Code of Conduct processes during the year.</p> <p>A review of the Member's Code of Conduct was scheduled pending the outcome of a model Code of Conduct and has begun during 2021/22.</p>
Granting dispensations under the provisions of the Localism Act 2011 to enable a member or co-opted Member to participate in a meeting of the Authority.	The Committee meeting in July 2020 approved the Localism Act 2011 – General Dispensations for a four year period (to 28 Sept 2024).

### Membership of the Audit and Governance Committee during 2020/21:

Members of the Audit and Governance Committee during 2020/21	
	<p><b>Councillor Rod Fletcher (Chair)</b> Councillor Fletcher has been an elected member of Cheshire East Council since its beginning in April 2009 and has served on the Committee since May 2011. He chaired his first meeting in May 2019.</p>
	<p><b>Councillor Rachel Bailey (Vice-Chair)</b> Councillor Bailey has been an elected member of Cheshire East Council since its beginning in April 2009. She joined the Committee in May 2019.</p>
	<p><b>Councillor Mike Sewart</b> Councillor Sewart became an elected member of Cheshire East Council in May 2015. He joined the Committee in March 2017.</p>
	<p><b>Councillor Andrew Kolker</b> Councillor Kolker has been an elected member of Cheshire East Council since its beginning in April 2009. He served as Vice-Chair of the Governance and Constitution Committee for a time and has been on the Audit and Governance Committee from June 2010 to date.</p>
	<p><b>Councillor David Edwardes</b> Councillor Edwardes became an elected member of Cheshire East Council in May 2019.</p>
	<p><b>Councillor Byron Evans</b> Councillor Evans became an elected member of Cheshire East Council in May 2019.</p>

Members of the Audit and Governance Committee during 2020/21	
	<p><b>Councillor Sally Handley</b> Councillor Handley became an elected member of Cheshire East Council in May 2019 and was a member of the Committee until July 2020.</p>
	<p><b>Councillor Steven Hogben</b> Councillor Hogben has been an elected member of Cheshire East Council since June 2011. He re-joined the the Committee in May 2019 and was replaced in January 2021.</p>
	<p><b>Councillor Marilyn Houston</b> Councillor Houston became an elected member of Cheshire East Council in May 2019.</p>
	<p><b>Councillor Margaret Simon</b> Councillor Simon re-joined the Committee in March 2020 having previously served on the Committee from its first meeting in June 2010 until March 2017.</p>
	<p><b>Councillor A Harewood</b> Councillor Harewood became an elected member in May 2011 and joined the Committee in January 2021.</p>
	<p><b>Councillor C Bulman</b> Councillor Bulman became an elected member in May 2019 and joined the Committee in July 2021.</p>
<b>No image available.</b>	<p><b>Philip Gardener</b> Independent Member of the Committee, Mr Gardener was co-opted to the Committee in March 2017.</p>

It should be also noted that Councillor C Bulman deputised for a member of the Audit & Governance Committee in May 2020 having previously received the necessary induction training in October 2019.



*Working for a brighter future together*

## **Council**

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<b>Date of Meeting:</b>	15 December 2021
<b>Report Title:</b>	Connecting Cheshire Accelerated Grant Funding
<b>Report of:</b>	Jayne Traverse, Executive Director of Place
<b>Ward(s) Affected:</b>	All

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### **1. Executive Summary**

- 1.1. As the Accountable Body for the Connecting Cheshire Partnership, the Council is being asked to approve acceptance of a grant from Building Digital UK (BDUK) to accelerate and extend the roll out of superfast broadband across the whole of Cheshire and Warrington.
- 1.2. The decision requires a Supplementary Capital Estimate as the funding associated with this grant will lead to an increase in the Council's approved budget for 2021/22 and beyond.
- 1.3. The accelerated funding grant is expected to be awarded in January 2021. The allocation is £2m. The funding is required to be used to extend an existing contract with Airband to increase this contracts capacity to connect households in both Cheshire East and Cheshire West and Chester boroughs. Council is recommended to approve the acceptance of the grant and delegate the authority to spend to avoid any delays in the roll out of the programme and the benefits to residents across Cheshire.

### **2. Recommendations**

#### **It is recommended that the Council:**

- 2.1. Accept the £2m grant funding from BDUK.
- 2.2. Note that BDUK has attached two conditions to this new funding:
  - an outline model of how the contractor (Airband) intends to use the indicative £2m grant allocation, is provided.

- that the Authority renew its commitment to the existing policy of ringfencing gainshare arising from previous Connecting Cheshire contracts for use on digital investment across Cheshire.
- 2.3. Note that the Finance Sub Committee in December 2021 has recommended approval of the £2m Supplementary Capital Estimate, presented as part of the 2021 – 2022 Financial Year Review
- 2.4. Approves a Supplementary Capital Estimate for £2m.
- 2.5. Delegate authority to the Director – Economy and Growth to agree the terms on which the grant is offered and enter into a grant agreement to incur expenditure and activity in line with the conditions associated with the accelerated funding grant.

### **3. Reasons for Recommendations**

- 3.1. To enable the roll out of superfast broadband to rural communities ensuring that such rural communities are not disadvantaged. Allowing residents to work from home; children to access school from home; enable small businesses to trade online and much more.
- 3.2. Intervention and investment into rural broadband are needed as soon as possible as there is no indication that the market would invest to bring better broadband to rural communities. Connecting Cheshire has available ring-fenced funding to invest in superfast broadband projects and government gigabit voucher schemes to extend networks to rural areas.
- 3.3. In the development and drafting of the existing Airband contract within the Digital Cheshire project, it was anticipated that additional funding may have become available during the lifetime of the project. While the contract was entered into at a value of approximately £4.75m, the terms of the contract and the State Aid assurance enabled it to be extended up to a ceiling value of £10m if agreed by both parties.
- 3.4. BDUK have communicated that due to a recent receipt of approximately £90m funding specifically intended to extend existing 'superfast' contracts, they are willing to provide £2m of funding that could be utilised within the existing £5.25m of extension, or 'headroom', value in the Airband contract.
- 3.5. These funds would be provided without any match requirement on the Authority or Connecting Cheshire. They are specifically intended for the Airband contract and are to be utilised on infrastructure (broadband deployment) and cannot be used on other areas of support provided by the Digital Cheshire project.
- 3.6. Under constitutional and procedural requirements, it is considered that acceptance of the BDUK funding and the consequent operation of the

extension condition of the Airband contract requires formal approval from the Council.

- 3.7. To draw down the funding from BDUK and to allow them to adhere to HM Treasury deadlines, Cheshire East Council is required to provide the following information by the 31 December 2021 to ensure the grant remains available to the Authority:
- an outline model of how the contractor (Airband) intends to utilise the indicative £2m grant allocation, via a contract change request which will be independently assessed for Value for Money; and
  - A re-commitment by the Authority to the already existing policy of ringfencing gainshare arising from previous Connecting Cheshire contracts for use on digital investment across Cheshire, and in particular approximately £3m of gainshare that is directly attributable to previous BDUK grants.
- 3.8. We are not able to provide this information without the Council's decision to accept the requirements outlined in para 3.7 above.
- 3.9. A further reason for the recommendation is it will allow the first of our superfast contracts to move through closure with BDUK and be able to crystallise gainshare from the contract.

#### **4. Other Options Considered**

- 4.1. The Council could refuse to accept the Supplementary Capital Estimate and refuse the unsolicited offer of a £2m grant into Cheshire, but this would mean that rural households with limited or no broadband connectivity would not benefit from this central government funding.

#### **5. Background**

- 5.1. The Connecting Cheshire Partnership (CCP) was formally established following Cabinet approval in September 2012 (CE12/13-15) as a collaboration between Cheshire East, Cheshire West & Chester, Warrington, and Halton Borough Councils to invest local authority funds and government grants in the delivery of superfast broadband to areas that required market intervention. Its primary focus remains on improving connectivity in the wider sub region, but as an additional area it provides business support in digital areas. Cheshire East is the Lead and contracting Authority within the partnership.
- 5.2. The partnership has already delivered two gap funded superfast broadband contracts with BT Openreach, deploying networks between 2013 to 2019, impacting over 100,000 premises and providing a gainshare pot of approximately £10m across the two contracts. The Council decision will allow the first contract to be closed and the first tranche of gainshare to crystallise early next year.

- 5.3. A third superfast broadband contract commenced in December 2020. The contract value is £4.5m and was awarded to Airband. It is expected to connect 4,100 premises. It is expected that after this contract and other commercial deployments there would still be over 20,000 premises across the sub-region without superfast broadband due to market failure.
- 5.4. The terms of the existing Airband contract and the State Aid assurance in place enable it to be extended up to a ceiling value of £10m if agreed by both parties. This extension can cover any of the sub 30mbs problem premises that were identified as part of the contract procurement and State Aid process. Excluding the premises planned to be covered in the existing deployment, this totals around 20,000 premises in the Cheshire region.
- 5.5. BDUK, the government's broadband infrastructure agency has approached the CCP and offered an unsolicited grant of £2m to extend the contract with Airband. This funding would utilise the existing contract headroom to connect further premises in Cheshire East and Cheshire West (the value is considered insufficient to directly impact the partnership areas of Warrington and Halton).
- 5.6. Work is currently being progressed with the contractor, CCP and BDUK to assess how and where the additional £2m will impact. A contract change will be required and agreed with Airband once the change impact is accepted by all parties.
- 5.7. BDUK were a major contributor to the public funding utilised in Contracts 1 and 2. It has always been the principle of the funding that any gainshare would be ringfenced for future investment in digital. As we approach the closure of Contract 1 and the crystallisation of gainshare BDUK are keen that we formally recommit to that longstanding principle. In particular BDUK are keen to tie the offer of the £2m grant to a requirement that the circa £3.5m that they believe is directly attributable to their funding is used solely for investment in further digital infrastructure. As this correlates to existing policy there should be no difficulty in confirming this. This future investment will cover the whole of Cheshire, and it is expected to be in those rural areas that have very slow (sub 30mbs) broadband connectivity.
- 5.8. A further paper will be brought before Council when the first gainshare fund is due to crystallise to ensure it is incorporated into the Council's Medium Term Financial Strategy and to seek approval for any schemes identified as a suitable means of extending broadband provision across Cheshire. The Connecting Cheshire Partnership will continue to develop schemes for future approval. This may include the establishment of a regional top-up voucher scheme to provide 'top-up' funding to the government's Project Gigabit voucher scheme. In this national programme vouchers are capped at £1,500 for residential homes and £3,500 for business premises and can only be used to cover the costs of installing gigabit broadband. The scheme is administered nationally by BDUK. There is substantial evidence that the limited amounts provided from the national programme do not cover the real

costs of connecting homes across Cheshire. Further work is required to understand the overall coverage and levels of top-up for each voucher. This work will be undertaken by the Director of Economy and Growth with local partners.

## **6. Consultation and Engagement**

- 6.1 Consultations with local ward Councillors, residents and business will take place regarding the roll-out of extended broadband connections once Officers are in receipt of the contractors change control notice.

## **7. Implications**

### **7.1. Legal**

- The grant from Broadband Delivery UK (BDUK) has been determined by the Secretary of State for Digital, Culture, Media, and Sport (DCMS) in exercise of the powers conferred by section 31 of the Local Government Act 2003.
- The purpose of the grant is to extend the existing contract for Deployed Services with Airband Community Internet Limited (Airband). The procurement of and the contract with Airband contain provision for Additional Approved funding up to an amount of £5,450,000. Under the terms of the contract with Airband the Additional Funding may be used by the Authority at its sole discretion and subject to agreement of a variation to the Contract for the Deployed Services, extending coverage and/or improving broadband speeds.
- The Grant Agreement will need to be reviewed by Legal Services once it has been received.
- The receipt of funding from BDUK and any variation to the contract with Airband will need to be compliant with:

- the UK’s Subsidy Control regime / the EU’s State Aid regime; and the Public Contracts Regulations 2015. Approval of a Supplementary Estimate requires adherence to the provisions of the Financial Procedure

**Funded from Additional Grants**

Directors may make applications for grants, where the application does not create a financial or any other commitment, in consultation with the Chief Finance Officer. However, if the application is for a grant in excess of £1m, or if any match funding will be required, then CLT must be consulted in advance.

Successful grant applications will require a supplementary estimate to incur spending, in line with the approval limits set out in the table below.

If grant application or receipt commits expenditure outside of the Control Totals then a Virement or Other Supplementary Estimate will also be required.

Amount of grant to be received	Approval Level
Up to and including £100,000	Officers
Between £100,000 and £500,000	Relevant Member of CLT in consultation with Chair of the relevant Committee and Chair of Finance Sub-Committee
£500k and up to £1m	Committee
£1m and above	Council

- Rules as set out in the Constitution and specifically the provisions of Chapter 3 Part 3 at para 19 shall apply:
  - It being noted that the level of grant funding (£2m) requires Council approval.
  - The determination by which the grant funds are awarded in exercise of the powers conferred by section 31 of the Local Government Act 2003 apply Conditions.

**7.2. Finance**

- The necessary Supplementary Capital Estimate has been brought before Council for approval via the 2021 – 2022 Financial Year Review Annex 1, Appendix 1, Section 5: Capital Strategy, Table 6.
- The Council has a current infrastructure supply contract in place and as there is available headroom within the contract value, Building Digital UK (BDUK), part of the Department for Culture, Media and Sport (DCMS) have been keen to consider ways they can accelerate the rollout of broadband infrastructure across Cheshire.
- It is their intention to provide an unsolicited grant of £2m to be utilised in the existing contract and to be spent by March 2025 subject to the

existing infrastructure supplier being able to utilise the £2m in a manner that demonstrates value for money to the public purse. There will be a requirement for the supplier to submit a implementation plan to BDUK for assurance. The contract will only be varied upwards if BDUK determine that it offers value for money and the grant is formally accepted. There will be no risk of additional costs for the Council in the event the grant is not made available.

- The expectation is that the Council will spend the grant in accordance with the conditions yet to be agreed and not exceed the amount advised by BDUK. There will not be any significant unfunded ongoing commitments as a result of this expenditure. Post contract closure there will be a need to monitor take-up to ensure the supplier does not generate excessive profit for the seven years post deployment. Any excessive profits will result in a gainshare mechanism. Gainshare relating to this portion of the contract will accrue to BDUK as the funder. This differs from earlier contracts but reflects the fact that early superfast contracts have generated significant gainshare which will become available for further investment in digital.
- The reporting of the grant spend will be carried out quarterly and annually as part of the normal course of reporting that occurs for the digital infrastructure contract. Grant payments are likely to be made in arrears on receipt of a fully completed and verified grant claim. The supplier will also be managed to ensure that they adhere to the spending profiles and to ensure that the Authority is not exposed to future liabilities.
- There is experience within the Council of managing the infrastructure supply contracts and the necessary reporting to BDUK.
- The securing of the grant and the reaffirming of existing commitments to utilise gainshare for the furtherance of digital connectivity will allow Contract to be formally closed from a Council capital accounting perspective.

### 7.3. **Policy**

- The policy context is the Corporate Plan. Any policy implications that arise from activities funded by the accelerated grant funding will be dealt within an individual report to Members or Officer Decision Records.

### 7.4. **Equality**

7.5. Improvements to digital connectivity will be important to improve accessibility to all residents, enabling increased inclusiveness and reducing isolation to all groups and communities.

- An equality impact assessment is currently being completed regarding the implementation of the grant to ensure that people are not

disadvantaged or treated unfairly by this scheme. For example, that our processes are easy to access and to navigate.

- We expect that the implementation of the grant will have a positive impact in relation to the protective characteristic of age, particularly for children and young people. It will also support the need to ensure that we have fairer and more resilient communities.

**7.6. Human Resources**

- There are no additional resources or capacity required to administer this grant. Reasonable administration costs are funded as part of the grant and we will ensure that the full costs of any additional staffing are offset against the grant.

**7.7. Risk Management**

7.8. A key risk to receipt of BDUK funding is to not have the required approvals in place, in particular approval of the formal acceptance of the funds and the change required on the Airband

7.9. The BDUK offer of funding does not appear part of a formal or established funding process. This has led to lack of clarity on certain fixed deadlines and creates the risk that an unanticipated deadline may apply to parts of the process that may lead to an inability to secure the funding. Connecting Cheshire have sought clarity on all requirements and believe these are fully understood and achievable within the timescales required. Despite this all activity and approval should be considered urgent and carried out in a timely manner at the earliest possible opportunity to minimise any deadline risks.

7.10. While BDUK have communicated that there is £2m of funding available (they have allocated), this is not a formal offer and there is a risk that the funding may be withdrawn, although this is considered a very low likelihood.

7.11. The BDUK funding is dependent on the proposed extension meeting BDUK's value for money (VFM) assessment and other compliance activities. The connecting Cheshire teams are working with BDUK to ensure this risk is minimised and extension plan is likely to pass these VFM requirements and meet any compliance requirements.

7.12. The extension itself and utilisation of additional funding is also dependent on the agreement (and capacity) of Airband to deliver this extension. Connecting Cheshire are working with Airband and they have indicated a strong desire to extend so the risk of non-agreement by Airband is considered very low.

- Procurement and contractual risks regarding the extension have been re-assessed and it is considered that it is legally compliant with procurement and contract regulations, so challenge or difficulties are not considered a risk.

7.13. **Rural Communities**

7.14. The recommendations directly impact on the rural community. Bringing superfast broadband enables the development of thriving and active rural communities.

7.15. **Children and Young People/Cared for Children**

7.16. More children and young people can access online education and modern entertainment via superfast broadband connections. This will enable modern platforms such as Microsoft Teams and Zoom.

7.17. **Public Health**

7.18. Rural broadband enables better access to remote health services such as 'tele health'.

7.19. **Climate Change**

7.20. Superfast broadband will have a positive impact on people's lives by easier working from home; online shopping and conducting normal everyday activities on the internet. It will lead to lower carbon emissions by reduced use of transport.

<b>Access to Information</b>	
Contact Officer:	Dr. Charles Jarvis, Head of Economic Development Charles.jarvis@cheshireeast.gov.uk Telephone: 0797 165 1217
Appendices:	None
Background Papers:	Cabinet - September 2012 (CE12/13-15) Economy and Growth Committee 30 November 2021 EG/06/21-22 <a href="https://moderngov.cheshireeast.gov.uk/ecminutes/documents/s90402/Report.pdf">https://moderngov.cheshireeast.gov.uk/ecminutes/documents/s90402/Report.pdf</a>

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## Council

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<b>Date of Meeting:</b>	15 <sup>th</sup> December 2021
<b>Report Title:</b>	Educational Psychologist Capacity for supporting SEN learners.
<b>Report of:</b>	Deborah Woodcock, Executive Director Children's Services
<b>Ward(s) Affected:</b>	All

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### 1. Executive Summary

- 1.1 There is a chronic national shortage of Educational Psychologists (EPs). All neighbouring authorities hold vacancies and are seeking to competitively recruit. The service has struggled to attract new main grade or specialist practitioner EPs. Our last recruitment process resulted in only one external successful candidate and we are currently carrying approximately 6 full time vacancies and backfilling with approximately 13 locum EPs.
- 1.2 To overcome this shortage, we have implemented a local recruitment and retention policy to grow our own EPs working in association with local universities; however, this will take 5 years to reap all benefits. The increased spending on locums this year has been unprecedented coupled with an ongoing surge in SEN Needs Assessments. This has resulted in significant pressures on service delivery in meeting statutory timeliness as well as engaging in other statutory and non-statutory work. The overall impact has been that the service has incurred costs close to the agreed WARN (Waiver Approval of Competition Requirements /Record of Non-Adherence as approved in August 2020) at a far quicker than projected. It is expected that this financial value will be achieved by Mid-December.
- 1.3 HR, Legal, Procurement and Commissioning have worked extensively with the service over recent months to progress this matter. A VEAT (Voluntary Ex-Ante Transparency Notice) can be published when a contracting authority has chosen a particular route to market and this option is recommended. The service is seeking a VEAT approval over a 5-year period which is the maximum timeframe. It is anticipated however that the full value of the VEAT will not be utilised once the 'grow our own' model embeds, however given the recent surge in EHCP requests this is hard to project.

- 1.4** Without this agreement, the financial limits within the current WARN will be met by mid December 2021 and it will result in the service being non-compliant and therefore potentially unable to meet our statutory requirements for SEN Needs Assessments.

## **2. Recommendations**

That approval is given for a Voluntary Ex-Ante Transparency Notice with a maximum contract value of £2.5 million to serve the Educational Psychologists service over the next five years (up until 31st August 2026).

### **Reasons for Recommendations**

- 2.1 In August 2020, a Waiver for £550,000 to span a two-year period (2020-22) was granted with the anticipation that there would be a reduction of SEN Needs Assessments over the two academic years alongside a successful recruitment drive. This enabled the EP service to:

- 1) attract Locum EPs to take up work with us
- 2) to reduce Locum EP charges
- 3) to ameliorate the EHCNA backlog and secure reasonable timeliness of our statutory duties

- 2.2.1 However, needs assessments have continued to surge, increasing by over 100% in the last three years e.g., academic year 2017-18 = 303, compared with 2020-21 = 627. Recent data analysis and consultation with schools has resulted in a projection of around 700 needs assessment requests due each academic year and this will remain constant if preventative / supportive strategies to reduce needs assessments are not implemented by the SEND partnership.

- 2.2.2 Over the past 14 months, due to the above pressures and challenges the actual spend against the existing Waiver (Number 1068) is £424,425.00 and the WARN value is likely to be exceeded Mid December 2021.

## **3 Background**

- 3.2 Due to the chronic national shortage the EP service have sought to recruit to three Specialist Practitioner EP posts. There were two successful appointments (one external candidate and a promotion within the service). An advert for three main grade EP roles, did not yield any applications. However, the service successfully recruited to three new Assistant EP roles and it is these roles that formed the basis of the innovative Retention and Recruitment plan that we intend to build upon over the coming years.

- 3.3 Currently, Cheshire East Educational Psychology Service staffing remains critically low and this impacts on the amount of and speed to which bespoke psychological assessments and reports can be undertaken. This in turn, compromises the Council in meeting part of their statutory duties particularly relating to completing Education, Health and Care Needs Assessments
- 3.4 The EP service collaborated with HR, legal and finance to develop an innovative Recruitment and Retention (R&R) plan which was positively appraised and approved by DMT on 12th July 2021. This is progressing very well, in line with our 'grow your own' model of supporting Trainee Educational Psychologists through to qualification and contracting their work with us as main grade EPs thereafter.
- 3.5 There is a strong commitment to securing a sustainable way forward in terms of requesting further direct awards to experienced Locum EPs until the EP service progresses through its five-year R&R plan and reaches sufficient capacity to be self-sustaining.
- 3.6 There is a need to provide a direct award to appropriate Locum EP companies over a five-year period until the EP service's Recruitment and Retention strategy is fully implemented. 18 providers have been contacted to gauge their availability and commitment to delivering assessments going forward. 14 providers have currently responded positively and due to a range of factors, their known availability can only be provided over the next two years.
- 3.7 It is proposed to contract with Locum EPs on a two-year basis with the option to extend for 3 x 12 months. This is whilst the 3 determining factors become clearer:
- 1) Demand in terms of the level of Needs Assessments (there are SEND Partnership strategies in place aimed to reduce the number of Needs Assessments)
  - 2) Internal EP staffing resource (early success in recruitment and retention strategy)
  - 3) Effectiveness and protected time to engage in the management of Locum EPs

Through commissioning Locum EP work directly and not via agencies, the Council is saving considerable money.

#### **4 Other Options Considered**

- 4.2 The work we are seeking to commission from Locum EPs sits within our Council's statutory duties and associated services - which must be provided.
- 4.3 If the EP service is unable to provide bespoke psychological advice towards Education, Health and Care Needs Assessments (EHCNAs) the Council will not meet its statutory duties and timeframes. This renders the Council open to legal challenge as well as financial and reputational damage.

- 4.4 Without sufficient Council EP capacity being aligned to other statutory and non-statutory duties (e.g., change of placements, tribunal support, inclusion, and prevention work) the EP service would not be in a position to potentially support other Council SEND priorities and actively provide a traded service.

## **5 Implications**

### **5.2 Legal**

- 5.2.1 Agreement is given that this is an appropriate way forward. If the service wishes to extend current contracts and/or make subsequent direct awards of contracts without full market engagement via a tender process; it is appropriate that a Voluntary ex ante transparency (or “VEAT”) notice be issued. If the VEAT goes unchallenged then the Council protects itself from a subsequent challenge as to the effectiveness of the contracts awarded. This strategy is not without risk; the disclosure to the marketplace of the Council’s intention may give rise to a challenge. However, if it is felt that there is little contract capacity in the marketplace as matters stand; then the risk of there being objections to the proposed VEAT may be viewed as small.

### **5.3 Finance**

- 5.3.1 The EP Service has an annual staffing budget of £0.94m and is currently forecasting to be £0.1m overspent in 2021/22.
- 5.3.2 The latest MTFs schedule proposes growth of +£125k in 2022/23 and +£63k in 2023/24 for the EP service. These figures are under review as they will not enable the service to roll out their grow your own plan.
- 5.3.3 There are also published income targets in the MTFs of -£25k in 2022/23 and -£75k in 2023/24 for a traded EP service.
- 5.3.4 The VEAT is necessary to enable the service to deliver against the expected demands over the medium term. The service has a “grow your own” plan to gradually reduce reliance on locum staff to remove or reduce the need for a further VEAT.

### **5.4 Policy**

- 5.4.1 This demand for EP services forms part of the overarching SEN Strategy and our statutory duties to meet the needs of young people with identified special educational needs.

### **5.5 Equality**

- 5.5.1 We will need to consider that without the commissioning of EP’s the impact to children with SEND could result in children not having appropriate education provision and therefore being at a disadvantage compared with another child who is not disabled.

### **5.6 Human Resources**

5.6.1 HR supports this request due to the challenging market situation. The service has proactively engaged both procurement and HR and every effort has been made to seek locum EP's previously with a WARN form in 2020.

5.6.2 Since then, a new innovative approach to recruiting Education Psychologists has commenced September 2021 where trainees will be engaged with whilst they are undertaking Doctoral training over a three-year period, with a view of permanent employment to an Education Psychologist role. This recruitment model is a long-term plan where each academic year will have a new intake and over the next 5 years. This will increase capacity and reduce the need for locum Education Psychologists.

5.6.3 The VEAT will cover a period for the next 5 years - until 31st August 2026, whilst the service grows its own trainee EP's and convert them into main scale EP's. Further information is detailed in the VEAT form.

**5.7 Risk Management**

5.7.1 If the EP service is unable to provide bespoke psychological advice towards Education, Health and Care Needs Assessments (EHCNAs) the Council will not meet its statutory duties and timeframes. This renders the Council open to legal challenge as well as financial and reputational damage.

**5.8 Rural Communities**

5.8.1 No direct Implications

**5.9 Children and Young People/Cared for Children**

5.9.1 We will need to consider that without the commissioning of EP's the impact to children with SEND could result in children not having appropriate education provision in place and them not meeting their education potential.

**5.10 Public Health**

5.10.1 There are no direct implications for public health.

5.11 **Climate Change** No direct implications

5.12

<b>Access to Information</b>	
Contact Officer:	Head of Service - Participation and Pupil Support, Claire Williamson <a href="mailto:claire.williamson@cheshreeast.gov.uk">claire.williamson@cheshreeast.gov.uk</a> Senior HR Officer David Worrall <a href="mailto:david.worrall@cheshireeast.gov.uk">david.worrall@cheshireeast.gov.uk</a> Principal Accountant - Steve Reading <a href="mailto:steve.reading@cheshireeast.gov.uk">steve.reading@cheshireeast.gov.uk</a> Legal Chris Peters <a href="mailto:christopher.peters@cheshireeast.gov.uk">christopher.peters@cheshireeast.gov.uk</a>

Appendices:	N/A
Background Papers:	VEAT application



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## Council

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<b>Date of Meeting:</b>	15th December 2021
<b>Report Title:</b>	Workforce Recruitment and Retention Fund
<b>Report of:</b>	Helen Charlesworth-May, Executive Director – Adults, Health and Integration
<b>Ward(s) Affected:</b>	All Wards

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### 1. Purpose of Report

- 1.1. On 14<sup>th</sup> September 2021 the government made a commitment in the COVID-19 Response: Autumn and Winter Plan 2021 to support local authorities and social care providers to maintain safe staffing levels over the winter period and to continue working with the care sector to build sufficient workforce capacity across services.
- 1.2. The adult social care winter plan published on 3<sup>rd</sup> November 2021 sets out the support the government will be providing to the adult social care sector to meet the challenges it faces this winter. The plan includes a commitment to providing workforce recruitment and retention funding to support local authorities to recruit and retain sufficient staff over the winter and support growth and sustain the sector.
- 1.3. The purpose of this report is to seek approval for a Supplementary Revenue Estimate for the 2021/22 Financial Year of £982,203 to be funded from the Workforce Capacity Fund for Adult Social Care for Local Authorities. The allocation for Cheshire East Council is set out in Department of Health and Social Care (DHSC) guidance published on 3<sup>rd</sup> November 2021.

### 2. Recommendations

Council is recommended to approve:

- 2.1. That a grant funded Supplementary Revenue Estimate be made, for the 2021/22 Financial Year, of £982,203 to be funded from the DHSC Workforce

Capacity Fund for Adult Social Care for Local Authorities allocation for Cheshire East Council.

- 2.2. That the Executive Director – Adults, Health and Integration be authorised to spend the money in accordance with the conditions of the fund.

### **3. Reasons for Recommendations**

- 3.1. The purpose of this funding is to enable Cheshire East Council to deliver measures to supplement and strengthen adult social care staff capacity to ensure that safe and continuous care is achieved.
- 3.2. Local Authorities can use this funding to deliver staffing capacity measures that support all providers of adult social care within their geographical area.

### **4. Other Options Considered**

- 4.1. Do nothing. Where use of the funds not to be approved then they would need to be returned to the Department of Health and Social Care. In doing so would deprive the local care market access to funds that could support both local job creation and the retention of staff with valuable skills within Cheshire East.

### **5. Background**

- 5.1. On 3rd November 2021, the Department for Health and Social Care published guidance on a new funding stream to support the Adult Social Care workforce. The primary purpose of the Workforce Recruitment and Retention Fund is to support local authorities to address capacity pressures within the adult social care workforce in their geographical area, through recruitment and retention activities during the winter months. This fund is designed to:

- support providers to maintain the provision of safe care and bolstering capacity within providers to deliver more hours of care;
- support timely and safe discharge from hospital;
- support providers to prevent admission to hospital;
- enable timely new care provision in the community; and
- support and boost retention of staff within social care.

- 5.2. This is a new fund, separate from the most recent Infection Control Fund. As part of the government's COVID-19: Autumn and Winter plan 2021 a commitment was made to supporting local authorities and social care providers to maintain safe staffing levels over the winter period and to work closely with the sector to build capacity within the workforce. The Adult Social Care winter plan published on 3rd November 2021 includes a commitment to providing this funding to support recruitment and retention of staff over the

winter and to support growth and sustainability within the Adult Social Care workforce.

- 5.3.** Local authorities can use this funding to support all providers of adult social care in their area, including residential and domiciliary care, care providers with which local authorities do not have contracts and organisations providing care and support who may not be registered with the Care Quality Commission (CQC). Day care, short stay care services and supporting the capacity of the personal assistant workforce are also included.
- 5.4.** Cheshire East Council will be allocated a total of £982,203. The funding is payable in two tranches with 60% of the first allocation being made to the Council in December 2021 and the remaining 40% in January 2022. All funds must be spent by the 31st March 2022. The definition of spent is that the expenditure has been incurred during the grants qualifying period 21st October 2021 – March 31st 2022.
- 5.5.** In contrast to the Workforce Capacity Fund issued earlier in the year, there is no requirement to submit a proposal to DHSC as to how the funding will be spent. However, there will be points at which the authority will be required to report on how money has been spent and the outputs achieved. The first report is due to be completed and returned to DHSC by 14th January 2022 to cover the funding period from its start date up to and including 30th November 2021.
- 5.6.** Further information is available at:

Guidance overview: Workforce Recruitment and Retention Fund for adult social care - GOV.UK ([www.gov.uk](http://www.gov.uk))

## **6. Consultation and Engagement**

- 6.1.** No formal consultation process has taken place with the intended recipients of this funding. However, Commissioners and Contract Managers are in constant dialogue with providers across all contract areas. Recruitment and retention are the key concern for providers of Adult Social Care, not only locally, but also nationally and we are already working with providers to identify the most effective ways of supporting recruitment and retention in a way that expands the amount of service we can commission and the number of people we can support.

## **7. Implications**

### **7.1. Legal**

- 7.1.1. The Care Act 2014 contains a number of statutory duties that pertain to the provision of services and the care provider market. Failure to use additional available funds in such a way as to support services being delivered to the residents of Cheshire East would be seen as negligent. Ongoing legal advice to be provided if required throughout this process.

**7.2. Finance**

- 7.2.1. There are no financial implications or changes required to the MTFS as a result of the recommendations in this paper.
- 7.2.2. The service will ensure that all conditions and reporting requirements for the use of the grant are met.

**7.3. Policy**

- 7.3.1. Supporting the local adult social care workforce ensures that the Council follows through on its commitment to empower and care for the residents of Cheshire East.

**7.4. Equality**

- 7.4.1. There are no direct equality implications for the Council.
- 7.4.2. There is an expectation that each provider is committed to the principles of the Equality Act 2010 and ensures that those working within the labour market and those looking to join it, are not discriminated on any grounds.

**7.5. Human Resources**

- 7.5.1. There are no initial Human Resource implications for the Council that have been identified.

**7.6. Risk Management**

- 7.6.1. The distribution of funds will be in line with activities developed prior to receiving this grant. The plans have been designed to support providers to develop a skilled workforce to support the needs of Cheshire East residents, in a variety of care settings across the authority's footprint. Failure to do could compromise the levels of services that said residents are expected to receive.

**7.7. Rural Communities**

- 7.7.1. Those residing in Cheshire East's rural communities are more at risk of social isolation and of encountering difficulties in accessing services. Funds being allocated to providers in the potential to improve service availability within these areas. It also has the potential to attract people living in these areas into the workforce and support local communities.

**7.8. Children and Young People/Cared for Children**

7.8.1. This funding stream is for use in supporting the adult social care sector.

**7.9. Public Health**

7.9.1. The desired impact of this fund is to increase capacity within the social care marketplace for residents of Cheshire East to receive the care that they require, within the setting of their preference. In doing so, it aims to achieve the desired Public Health outcome of improving quality and prolonging life.

**7.10. Climate Change**

7.10.1. There are no identified ways in which the Council can reduce its energy consumption during this process, as there will be a requirement for electronic devices to be utilised throughout to achieve the desired outcome. The Council could consider making Ecosia its default internet search engine as they utilise advertisement revenues to plant trees as a way of promoting environmental sustainability and reducing its carbon footprint.

<b>Access to Information</b>	
Contact Officer:	Nichola Thompson Director of Commissioning <a href="mailto:Nichola.thompson@cheshireeast.gov.uk">Nichola.thompson@cheshireeast.gov.uk</a>

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**COUNCIL – 15 DECEMBER 2021****NOTICES OF MOTION****Submitted to Council in Accordance with the Council Procedural Rules****1 Second Winter Gritting Consultation**

**Proposed by Councillor Janet Clowes and Seconded by Councillor Tony Dean**

**We propose that:**

1. In line with Cheshire East Council's Policy Decision of 2014, the results of the Second Winter Gritting Consultation, conducted in 2020 as a result of the call-in to the Environment and Regeneration Overview and Scrutiny Committee, is published on the Cheshire East Website, together with a full report that includes:
  - a) Who was invited to take part in the Consultation.
  - b) Who responded to the Consultation.
  - c) What documentation was provided to those selected to respond to the consultation
  - d) How the information, presented by respondents, was evaluated by Cheshire East Highways to inform the current Winter Gritting and Adverse Weather Strategy.
  
- 2 That as a result of the Consultation, Cheshire East Council publishes details of the well-maintained highways metrics used to determine which routes remained on the gritting schedules, but importantly, which routes did not remain on the gritting schedule as a result of this consultation and its findings.  
[https://www.cheshireeast.gov.uk/council\\_and\\_democracy/council\\_information/consultations/consultation-results/consultations\\_results.aspx](https://www.cheshireeast.gov.uk/council_and_democracy/council_information/consultations/consultation-results/consultations_results.aspx)

*“As part of the Council's commitment to transparency, from August 2014 we will feedback the results of consultations and surveys undertaken by the Council, from a single location”.*

**References:**

*Cabinet 4 February 2020:*

[Well-Managed Highways Infrastructure](#)

*Environment and Regeneration Committee 16 March 2020:*

[Call in of Cabinet Decision - Well Managed Highways Infrastructure](#)

## **2 Low Carbon Advertising**

**Proposed by Councillor Brian Puddicombe and Seconded by Councillor Quentin Abel**

### **This Council notes**

- It is possible for local authorities to implement advertising policies against specific products if they consider them to be harmful to the amenity of an area.
- The Council holds an Advertising Concession Agreement with Clear Channel UK (Adshel) to provide advertising on bus shelters.
- The Council promotes advertising opportunities on roundabouts across the Borough.
- That as a Local Planning Authority this Council is responsible for planning consent for advertising infrastructure.

### **This Council believes**

- That the purpose of advertising is to stimulate demand for goods and services.
- That some advertising content undermines the Council's objectives regarding public health, air pollution and sustainable consumption.

### **This Council resolves**

- To review its Advertising Concession Agreement to investigate the current set of prohibitions to include products that undermine the Council's objectives regarding public health, air pollution and sustainable consumption.
- To implement a Low Carbon Advertising Policy as part of the Council's planning policies to apply to bus stops, billboards and advertising spaces within the jurisdiction of the local planning area.
- To adopt a presumption against planning applications for all new digital advertising screens due to the high electricity use of these technologies.

### **3 Integrated Rail Plan**

#### **Proposed by Councillor Rachel Bailey**

Government announced its Integrated Rail Plan on 18 November 2021, a plan which delivers the Crewe Hub ambition of 5 to 7 high speed trains an hour.

“In light of this commitment to Crewe, I propose that this Council accepts that its Policy Committee decision, taken on 4 November, was premature, and calls for an update to be provided no later than July 2022 Council.”

*References:*

[Integrated Rail Plan for the North and the Midlands](#)

*Corporate Policy Committee 4 November 2021:*  
[HS2 Update](#)

### **4 Investigation of Costs and Feasibility of a Replacement Recycling Site at Congleton**

#### **Proposed by Councillor Denis Murphy and Seconded by Councillor June Buckley**

This Council authorises the full Environment and Communities Committee to carry out a full investigation to ascertain the detailed costs and feasibility of an alternative replacement recycling site for the residents of Congleton and surrounding areas following the closure of the former Congleton recycling site in September 2021.

This detailed investigation should also give full consideration to the replacement recycling site to include the provision of a reuse and repair facility as part of this Council’s policy and commitment to work with communities to reduce carbon.

This investigation should also fully consider all potential suitable locations for such a permanent replacement recycling site including all those sites identified as being suitable in the report issued by consultants to the previous Cheshire East Council Administration in 2018 at a cost of about £ 50,000.

The full Environment and Communities Committee to provide a full report of its conclusions from these detailed investigations to full Council for its consideration no later than 30th June 2022.

*Background*

*On 4th May 2021, Cheshire East Council’s cabinet decided not to replace the recycling site for the residents of Congleton and surrounding areas. Cheshire East Council estimated that a replacement recycling site would cost about £ 4 million.*

*In making that decision, Cabinet admitted that the closure of Congleton's Household Waste Recycling Centre would result in a net increase of CO2 emissions of 158.8 tonnes per year every year.*

*Cheshire East Council was asked at that cabinet meeting of May 4th 2021, whether detailed information had been obtained from Norfolk Council to ascertain how they can build a recycling site at their Norwich South site for £ 1.9 million.*

*In response, Councillor Crane advised that Cheshire East Council had contacted Norfolk Council who had confirmed that the cost of £ 1.9 million in relation to their site did not include the purchase of the land or the building of a service road.*

*However, it would appear that the decision made by cabinet regarding not replacing the Congleton recycling site was based on incomplete information.*

*Since that decision was made by cabinet on 4th May 2021, the following additional and relevant information has been obtained by a member of the public concerning the Norwich South recycling site.*

*The Norwich South site at 7,500 sq metres, (1.85 acres), is 4.5 times the size of the former Congleton site of 1,642 sq metres, (0.4 acres).*

*The Norwich South site has a forecast throughput of 15,000 tonnes which is 5.4 times of the throughput of the former Congleton site for the year ended 31st March, 2020 of 2,783 tonnes. Congleton's throughput for the year to March 2020 had not been significantly impacted by Covid19.*

*The former Congleton recycling site only had space for about six cars. The Norwich South site has 46 car park spaces, of which 24 have been widened to 3 metres rather than the standard 2.4 metres to enable users safely take items out of the back doors of their cars.*

*That this cost estimate for the Norwich South site of £ 1.9 million includes a re-use facility of 242 sq metres which is 18.5 metres by 13.1 metres, (61 feet by 43 feet) with solar panels on the roof.*

*Given that in our opinion the original decision in respect of the replacement recycling site for Congleton made by cabinet on 4th May 2021 was based on inadequate information, it is now appropriate that a detailed investigation is carried out by the full Environment and Communities Committee.*

## **5 Single Use Plastics**

**Proposed by Councillor Kate Parkinson and Seconded by Councillor Tony Dean.**

This Council will lead by example by banning single use plastic from its operations.

### *Background*

*In 2019 this Council agreed to move to Net Zero Carbon by 2025 and has a programme of measures in place to try and meet this deadline. One of the simplest of measures to reduce our carbon footprint, and drastically reduce our potential to*

*pollute the environment with non-biodegradable plastic, would be to cease using single use plastic items. By agreeing this Motion, we can help with the burden of plastic waste which is currently affecting the whole world, and we can also reduce our overall carbon footprint.*

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# Schedule of Urgent Decisions

## Urgent decisions made following Member consultation

Date	Summary of decision	Decision on behalf of	Members, MO/S151 consulted/ content?	Status
15 11 21	<p>Sustainable Warmth Home Upgrade Grant:</p> <ul style="list-style-type: none"> <li>To accept the grant of £3,288,960- the Council to be the accountable body/will administer the funding on behalf of the sub region and ensure the funding is utilised in accordance with the MOU.</li> <li>To approve a fully funded Supplementary Capital Estimate up to the value of the grant.</li> <li>To authorise officer signatories to sign the MOU on behalf of the Council.</li> </ul>	Council	11 11 21	Complete

## Urgent decisions made by the Chief Executive relating to Covid-19 funding etc under general delegation dated 2<sup>nd</sup> July 2020

Date	Summary of decision	MO/S151 consulted	Status
27.10.21	<p>Adult Social Care Infection Control Fund: Approval of a Supplementary Revenue Estimate of £3,465,255.00 be approved; this to be funded from the Adult Social Care Infection Control and Rapid Testing Fund Round 3 allocation for Cheshire East Council.</p> <p>Director of Commissioning be authorised to expend discretionary element of the funding in consultation (with the appropriate service committee chair), in accordance with DoHSC guidance.</p>	Yes	Completed

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