

# CHESHIRE EAST COUNCIL

## Constitution Committee

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**Date of Meeting:** 17<sup>th</sup> November 2011  
**Report of:** Head of Safer and Stronger Communities  
**Subject/Title:** Delegated Powers Relating to Car Parking Charges

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### **1.0 Report Summary**

- 1.1 The report provides the background to the existing delegations relating to the function of varying charges for the use of off-street parking places, and sets out the options open to the Committee when considering the motion referred to it by Council on 13<sup>th</sup> October 2011.

### **2.0 Recommendations**

- 2.1 The Constitution Committee is requested to consider the motion relating to delegated powers to vary car parking charges referred to it by Council on 13<sup>th</sup> October 2011, and to resolve whether to recommend to Council either:

(a) that no amendment to the current delegation is made; or

(b) that an amendment to the Constitution is made, as set out within paragraph 10.5 of the report, so that decisions in relation to the variation of charges for the use of off-street parking places are made by the relevant Cabinet Member.

### **3.0 Reasons for Recommendations**

- 3.1 At the meeting of Council on 13<sup>th</sup> October 2011 consideration was given to the motion “that the delegated powers to officers to alter car parking charges be rescinded and the powers returned to the Cabinet Member.” Council resolved that the motion stand referred to the Constitution Committee.

### **4.0 Wards Affected**

- 4.1 All

### **5.0 Local Ward Members**

- 5.1 All

### **6.0 Policy Implications (including Carbon reduction and Health)**

- 6.1 None

## **7.0 Financial Implications (Authorised by the Borough Treasurer)**

7.1 None

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 Section 35C of the Road Traffic Regulation Act 1984 states that when an order made under section 35(1)(iii) of the 1984 Act makes provision as to the charges to be paid in connection with the use of an off-street parking place, the charges may be varied by notice. Regulation 25 of the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 provide that a 'notice of variation' given under section 35C must be published at least once in a newspaper circulating in the area in which the parking places to which the notice relates are situated at least 21 days before it is due to come into force. In addition, the authority is required by regulation 25(5) to display copies of the notice in the relevant parking places.

8.2 By virtue of the Local Authorities' Functions and Responsibilities (England) Regulations 2000 (as amended) the function of varying charges for the use of off-street parking places is an executive function.

8.3 The Constitutional implications are set out within paragraph 10.0 below.

## **9.0 Risk Management**

9.1 No risks would appear to arise from the proposals contained within the report.

## **10.0 Background and Options**

10.1 The motion considered by Council on 13<sup>th</sup> October 2011 was "that the delegated powers to officers to alter car parking charges be rescinded and the powers returned to the Cabinet Member."

10.2 The existing delegations within the Constitution in relation to fees and charges are contained within paragraph 9.1 of the 'Powers and Responsibilities of Officers' section of the Constitution, which provides that "CMT Members 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 whether authorised by specific statutory provisions or local authority powers at large." This paragraph is read in conjunction with paragraph 14 of the Cabinet Member Responsibilities of the Constitution which states that each Cabinet Member is responsible for "in conjunction with the relevant officer of the Council, setting new external charges and revisiting current ones."

10.3 In accordance with the existing constitutional provisions, to date decisions to approve variations to the charges made in relation to the use of off-street parking places have been taken by the Strategic Director (Places & Organisational Capacity) in conjunction with the Cabinet Member for Environmental Services.

- 10.4 The Constitution provides that decisions made by individual Cabinet Members must be taken at formally constituted meetings, the arrangements for which are required to be publicised in advance in accordance with the Access to Information Procedure Rules.
- 10.5 The Committee is requested to consider the motion and to recommend to Council either (a) that no amendment to the existing delegations are required; or (b) that amendments should be made to the Constitution to provide that decisions relating to the variation of charges at off-street parking places are made by the relevant Cabinet Member. If the Committee resolves to recommend option (b), then it is suggested that the following amendments to the Constitution would be required:

To amend the Responsibilities of the Environment Services Portfolio Holder (page 74 of the Constitution) so that it reads:

- Highways Operational Management including:
  - Management of Highways Register
  - Highways Design, Maintenance, Parking (including decisions to vary the charges for the use of off-street parking places) and Decriminalisation of Parking Enforcement
  - Street Lighting, Signals and Signing
  - Traffic Management and Road Safety
  - Civil Engineering and Transport Operations, including public transport liaison and co-ordination

### **Access to Information**

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

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