



# 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

EDITION: April 2021

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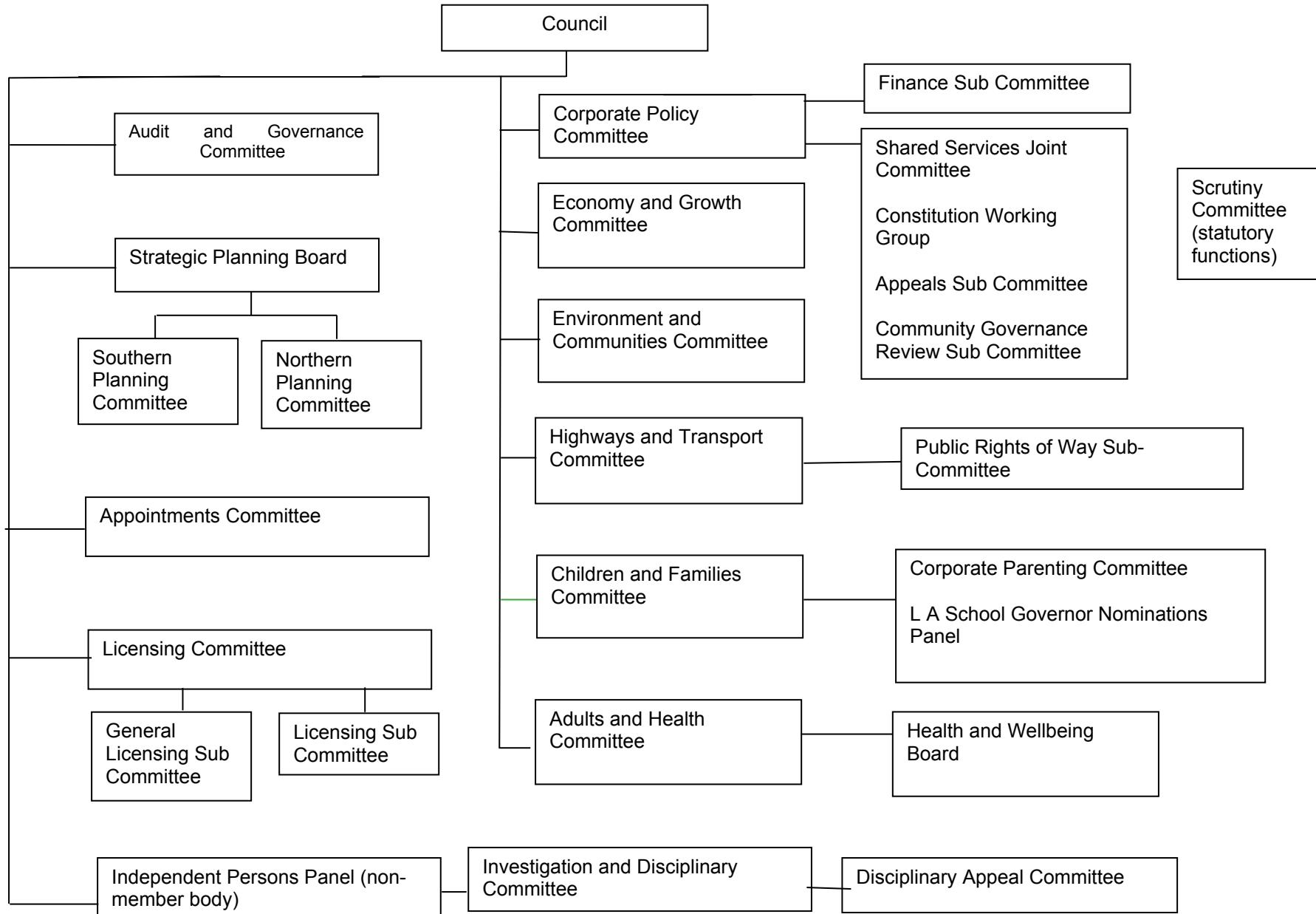
## Chapter 2

### 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="#">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> <li>• <a href="#">Strategic Planning Board</a></li> </ul>

Part	Title	Contents
		<ul style="list-style-type: none"> <li>○ <a href="#">Northern Planning Committee</a></li> <li>○ <a href="#">Southern Planning Committee</a></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="#">Disciplinary Appeals Committee</a></li> <li>● <a href="#">Independent Persons Panel</a></li> <li>● <a href="#">Audit and Governance Committee</a></li> <li>● <a href="#">Standards 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





## Chapter 2 – Part 2

### Introduction to decision making

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

#### **Types of decision and the decision-takers**

- 4 When the Full Council makes decisions, it will comply with the [Council Procedure Rules](#).
- 5 When Committees and Sub-Committees make decisions, they will comply with the [Committee Procedure Rules](#).
- 6 When the Scrutiny Committee makes decisions, it will comply with the [Error! Reference source not found.](#)
- 7 On occasions, the Council, a Committee, Sub-Committee or an officer will act as a tribunal or in a quasi-judicial manner when they determine the civil rights, obligations or criminal responsibility of an individual. When this happens, they will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.
- 8 Significant decisions may appear on the [Council's Forward Plan](#).

## Chapter 2 – Part 3

### The Full Council

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#### Functions of the Full Council

- 1 The following functions are the responsibility of the Council and will be discharged by the Full Council (all Councillors meeting together) unless specifically delegated to another Committee, Sub-Committee, body or officer elsewhere in this Constitution. The Council:
  - 1.1 is accountable to residents and service users for the proper discharge of all of its functions and the delivery of its services
  - 1.2 will keep under review the running of the Council's affairs and will implement changes where it considers there is a need to do so to improve the way in which the organisation operates, its relationships with the public and the delivery of services in the most efficient and effective way to deliver best value
  - 1.3 will adopt the Council's Constitution and approve any amendments to it (except where specifically delegated to the Corporate Policy Committee or the Monitoring Officer)
  - 1.4 will:
    - 1.4.1 elect the Mayor
    - 1.4.2 appoint the Deputy Mayor
    - 1.4.3 elect the Leader of the Council
    - 1.4.4 appoint to such other offices and/or positions as may be required under this Constitution or by law.
  - 1.5 will adopt the [Policy Framework](#) and any of the policies within it
  - 1.6 will agree the Council's [Budget](#)
  - 1.7 will determine any decision which would otherwise be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget
  - 1.8 will adopt the Council's [Codes of Conduct](#) for Councillors and Officers and the [Protocol on Councillor/Officer Relations](#)
  - 1.9 will agree:
    - 1.9.1 the establishment and composition of Committees and Sub-Committees
    - 1.9.2 The political balance of such bodies as required from time to time



- 1.9.3 the allocation of Chairs and Vice-Chairs to those bodies (see paragraph 2 below).
  - 1.10 will agree and amend the terms of reference of its Committees and Sub-Committees and the job description for committee Chairs
  - 1.11 will determine any matter which is referred to it for determination by a Committee or Sub-Committee
  - 1.12 will adopt (or otherwise) Motions submitted in accordance with the Council Procedure Rules
  - 1.13 will approve the [Councillors' Allowance Scheme](#) for elected Members following advice from the [Independent Remuneration Panel](#)
  - 1.14 will appoint/dismiss the Head of Paid Service, dismiss the Monitoring Officer and Chief Finance Officer, designate an officer to act as Monitoring Officer and an officer to act as Chief Finance Officer
  - 1.15 will appoint the Returning Officer and Electoral Registration Officer
  - 1.16 will approve the Council's response to any issues or proposals in relation to local government boundaries including Electoral Wards, the conduct of elections and community governance functions
  - 1.17 may take decisions relating to the name of the area and may confer the title of Honorary Alderman or Freedom of the Borough
  - 1.18 may make decisions relating to the making, amending, revoking, re-enacting, adopting or enforcing byelaws and promoting or opposing the making of local legislation or personal bills
  - 1.19 will take decisions in respect of functions which have not been delegated by the Council to Committees, officers or elsewhere.
- 2 Nominations to the Council's Committees, Sub-committees and decision-making bodies, and changes to such nominations, including nominations to Chairs and Vice-Chairs, shall be notified by the Council's Group Leaders or Group Whips in writing or by email to the Head of Democratic Services and Governance and shall thereafter be published on the Council's website. Such nominations shall be in accordance with the relevant numerical allocations made by Council for that body.

### **Policy Framework**

- 3 By law, the Council must have a policy framework. This is a list of plans and strategies which are relevant to the Council's functions and are decided by the full Council. These are set out in the Budget and Policy Framework Procedure Rules.

## **Budget**

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

## **Appointment to Outside Organisations**

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

## Chapter 2 – Part 4

### Functions of Committees

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- 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 (unless no Councillor votes against an alternative arrangement).
- 3 The quorum for all Committees and Sub-Committees is one third unless otherwise stated.
- 4 Committees are able to exercise all of the functions of their Sub-Committees and anything calculated to facilitate or conducive or incidental to the exercise of those functions.
- 5 Committees and Sub-Committees are appointed by Council and may appoint informal working groups or task groups.
- 6 All Panels, Working Groups and ad-hoc meetings of Sub-Committees may be convened by the Proper Officer under the normal processes for making appointments to committees (via Group Leader/Whip notification to the Head of Governance and Democratic Services).

#### **Corporate Policy Committee**

#### **Membership: 13 Councillors**

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

#### ***Functions***

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

- 1.3 Human Resources, Organisational Development and Health and Safety matters affecting the Council; including adopting HR policies and practices;
- 1.4 to make recommendations to Council in relation to the annual Pay Policy Statement and any amendments to such statement.
- 1.5 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.
- 1.6 make decisions in relation to proposed severance packages with a value of £95,000 or more as appropriate (excluding contractual and holiday pay).
- 1.7 exercise the functions relating to local government pensions, so far as they relate to Regulations made under sections 7, 12, or 24 of the Superannuation Act 1972 or subsequent equivalent legal provisions.
- 1.8 determination of key cross-cutting policies and key plans that impact on more than one service committee.
- 1.9 determination of policy matters not otherwise allocated to any other committee.
- 1.10 determination of any matter of dispute or difference between committees.
- 1.11 a co-ordinating role across all other committees and to exercise a corporate view of outcomes, performance, budget monitoring and risk management.
- 1.12 determination of any matter that has a major impact on a number of Council services or the Council as a whole.
- 1.13 oversight and scrutiny of the Corporate Services Directorate, including the following functions: Governance and Compliance, Finance and Customer Services, and Transformation; together with Strategic Partnerships and shared services;
- 1.14 independent assurance of the adequacy of the HR service and staffing related matters;
- 1.15 oversight and monitoring of the Councillors' Allowances budget and keeping under review the scheme for the payment of allowances to Councillors through the appointment of an Independent Remuneration Panel (IRP) to advise full Council on the adoption and any proposed amendments to such scheme.
- 1.16 review of the Council's Constitution and the recommendation of any changes to the Council;
- 1.17 consideration of recommendations and an Annual Report of the Council's involvement in ASDVs;

- 1.18 appointing representatives to serve on outside bodies and organisations (including education bodies and establishments) and reviewing the process for considering appointments to outside organisations;
  - 1.19 appointing Lay Members (who shall not be Councillors) to serve on the Independent Admissions and Exclusion Appeals Panel as required under the relevant legislation;
  - 1.20 approving the payment of a reasonable and proper allowances and expenses for the work undertaken by the Council's Independent Persons;
  - 1.21 approving annual conference and seminar attendance.
- 3 The Corporate Policy Committee shall be entitled to exercise: any function of the Council not otherwise allocated; as well as the functions of all other Committees and Sub-Committees, particularly where plans 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 Investment Strategy
  - 2.4 grant awards for sums in excess of £50,000;
  - 2.5 estates and property transactions including buying selling and appropriation of land and property;
  - 2.6 management of the Council's involvement in ASDVs and overseeing the production of an Annual Report on performance;
  - 2.7 making decisions as Shareholder, reviewing and approving Business plans, including risk registers and commissioning services and functions from the Council's ASDVs.

### **Appeals Sub-Committee**

**Membership: 3 Councillors**, established on an ad hoc basis in consultation with the Chair of the Corporate Policy Committee

#### ***Functions***

- 1 To consider appeals from senior Staff in the following circumstances:
  - 1.1 Appeals against dismissal
  - 1.2 Appeals against grievances
  - 1.3 Appeals against policy (but only the first appeal where the appeals are based on the same issues/circumstances)
  - 1.4 [Appeals against action short of dismissal from the three designated Statutory Officers] (remove duplication by removing Disciplinary Appeals **Committee and placing functions here?.**)

### **Community Governance Review Sub-Committee**

**Membership: 7 Councillors**

#### ***Functions***

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

### **Constitution Working Group**

**Membership: [ ] Councillors**

#### ***Functions***

- 1 The Constitution Working Group will make recommendations to the Corporate Policy Committee and Council on:
  - 1.5 the Council's administrative business, including electoral matters; administrative boundaries and support for Councillors;
  - 1.6 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
  - 1.7 reviewing the Council's Constitution and recommending any changes to the Monitoring Officer (where not significant), Corporate Policy Committee and Council;

- 1.8 recommending to Council, as appropriate, the appointment of Councillors to Committees and Sub-Committees (including any co-opted Members)
- 1.9 overseeing and monitoring the Councillors' Allowances budget and keeping under review the scheme for the payment of allowances
- 1.10 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 economic growth, improving the quality of the environment and delivering improvement in key front line services.
- 2 The Committee's responsibilities include:
  - 2.1 development and delivery of the Council's strategic objectives for Environmental Management, sustainability, renewables and climate change;
  - 2.2 development and delivery of Strategic Planning policies;
  - 2.3 development and delivery of the Council's estates, land and physical assets policies;
  - 2.4 external health and safety good practice and enforcement including instituting proceedings and prosecutions;
  - 2.5 determination of policies and exercising functions in relation to waste collection and disposal, recycling, leisure, culture, museums, libraries, the arts and sports development, bereavement services, trading standards, environmental health, nuisance and anti-social behaviour, public space protection orders, contaminated land and air quality;
  - 2.6 determination of policies and making decisions in relation to flooding and accessibility in co-ordination with the Scrutiny Committee.

## **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 determination of policies and making decisions in relation to the rural and cultural 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, including, but not limited to, highway adoption, highway maintenance, road safety, network management and street lighting.

**Public Rights of Way Sub-Committee****Membership: 7 Councillors**

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

**Functions**

- 1 The Public Rights of Way Sub-Committee's responsibilities include:



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

## **Children and Families Committee**

### **Membership: 13 Councillors**

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

### ***Functions***

- 1 The Children and Families Committee will be responsible for those services which help keep children and young people safe and enable them to achieve their full potential. The responsibility incorporates matters in relation to schools and attainment, early help and family support and social care for children and families. The Committee shall have a particular focus on those children who are looked after and for whom the Council has corporate parenting responsibility.
- 2 The Committee's responsibilities include:
  - 2.1 determination of 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 discharge of the Council's functions in relation to children in need and child protection including safeguarding and youth justice.
  - 2.3 discharge of the Council's functions and powers in relation to the provision of education and oversight of the Schools Forum.
  - 2.4 development and maintenance of relationships with schools in relation to the raising of standards of attainment.

- 2.5 coordination of the Council's role as Corporate Parent with a focus on fostering and adoption.
- 2.6 discharge of the Council's functions in relation to Special Education Needs and Disability (SEND).
- 2.7 discharge of the Council's functions in relation to early help and family support.

### **Corporate Parenting Committee**

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

and representative young people from the My Voice (Cheshire East's Children and Care Council) to advise the Committee

#### ***Functions***

- 1 The purpose of the Corporate Parenting 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 children in care 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 and reports relating to children in care and care leavers are in place 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 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 Council's Corporate Policy Committee on at least an annual basis; and
  - 3.3 review its terms of reference annually.
- 4 The Committee will be supported by Democratic Services.
- 5 The meetings will take place out of school hours to enable cared for children and young people to participate.

### **Appeals Sub-Committee**

**Membership:** 5 *Councillors* drawn from a pool of 10

### **Functions**

- 1 The Sub-Committee is responsible for:
  - 1.1 hearing and determining appeals lodged under the Marriage 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;
  - 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).

Before any Councillor who is a member of the Appeals Sub-Committee 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.

## **Health and Adults Committee**

### **Membership: 13 Councillors**

#### ***Functions***

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

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

## **Planning and Development Control**

### **Committee Structure and Delegations**

- 1 Development control functions will be discharged by a Strategic Planning Board, supported by two Planning Committees as follows:
  - 1.1 **Strategic Planning Board** (12)
  - 1.2 **Northern Planning Committee** (12)
  - 1.3 **Southern Planning Committee** (12)

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

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

### **Substitutes and Pool of Planning Substitutes**

- 2 A cross party pool of 9 planning substitutes 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 to monitor the volume and type of applications determined; assessing the performance of the Development Management service, and, if appropriate
  - 1.2 to vary the division of functions and delegations between the Board, the Planning Committees and the Head of Planning
  - 1.3 to 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.
- 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:
- 4.1 the renewal (or extension of time) of extant unimplemented permissions;
  - 4.2 applications for major minerals or waste development other than small scale works which are ancillary to an existing mineral working or waste disposal facility;
  - 4.3 applications involving a significant departure from policy which has been referred to SPB which a Planning Committee is minded to approve;
  - 4.4 any other matters which have strategic implications by reason of their scale, nature or location;

- 4.5 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.
- 5 To exercise a consultation and advisory role, commenting upon the content of proposed planning policy and upon the effectiveness of existing policies employed in development control decisions.
- 6 To exercise on behalf of the Council the function of final approval of the Area Action Plans, and any other document including a Site Allocation Policy, which form part of the Local Plan.
- 7 To determine any relevant Schedule 17 applications as deemed appropriate by the Head of Planning.

## **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.
- 2 This does not include re-applications for extant schemes or detailed applications where outline consent has been given or removal/variation of conditions.
- 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 Referral request by a local ward Member will be agreed where applications are for the renewal (or extension of time) of extant, unimplemented permissions.
- 5 To determine any other planning and development control matters:
  - 5.1 advertised as a departure from policy, which the Head of Planning is minded to approve;
  - 5.2 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;
- 5.3 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;
  - 5.4 referred up to them by a Councillor in accordance with the Committees` Referral procedure. However:
    - 5.4.1 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);
    - 5.4.2 applications for householder development, listed building consents to alter/extend and conservation area consents will normally be dealt with under delegated powers;
    - 5.4.3 applications for advertisements, tree work, prior approvals, Certificates of Lawfulness and notifications will not be eligible for call in and will be dealt with under delegated powers;
    - 5.4.4 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.
  - 5.5 any other matters referred up at the discretion of the Head of Planning.
  - 5.6 To determine any relevant Schedule 17 applications as deemed appropriate by the Head of Planning in liaison with a Principal Planning Officer.
- 6 The Committees will refer up to the Strategic Planning Board matters involving a significant departure from policy which they are minded to approve contrary to recommendation by the Head of Planning.

## Licensing

- 1 The Licensing functions of the Council shall be carried out by the following bodies:
  - 1.1 A full Licensing Committee of **15 Councillors**



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

### **Functions**

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

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

***Ad Hoc Licensing Act 2003/Gambling Act 2005 Sub-Committee***

- 7 All functions under the Licensing Act 2003 and the Gambling Act 2005 shall be determined by the Sub-Committee or Officers 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 fees for sex establishments
- 8.10 power to designate streets as consent streets, licence streets or prohibited streets.
- 8.11 power to set fees in relation to street trading
- 8.12 power to approve policy in relation to the Scrap Metal Dealers Act 2013
- 8.13 power to set fees and charges in relation to scrap metal dealers licences.

### **Appointments Committee**

**Membership:** 8 Councillors

#### ***Functions***

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

### **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**

- 2 Councillors must have completed mandatory training.
- 3 A quorum for the meeting shall be **3 Councillors**.

### **Functions**

- 4 Councillors shall be appointed to the Committee, as and when a Committee is required to be convened, under the normal processes for making appointments to committees (via Group Leader/Whip notification to the Head of Governance and Democratic Services). In accordance with the Model Disciplinary Procedure contained in the JNC Handbook for *Directors*, IDC meetings shall be convened by the Monitoring Officer (in consultation with the Chair of Corporate Policy Committee). Should the Monitoring Officer (MO) be unable to act, the Head of Paid Service or Deputy Monitoring Officer (DMO) can also convene the Committee. Subsequent meetings of a convened IDC Committee will be convened by the IDC Co-ordinator in conjunction with the Chair of the Committee.
- 5 The Monitoring Officer (or DMO) shall, in consultation with the Chair of the Corporate Policy Committee and the Chair of any existing IDC, filter out and deal with allegations of misconduct which are clearly unfounded, trivial or can best be dealt with under some other procedure. The MO/DMO will also consider whether informal resolution is appropriate.
- 6 For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Councillors shall comprise the Committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter), until such time as the matter is completed. Should any Member become conflicted or indisposed over the course of the matter, any substitution shall be at the Chair's discretion in conjunction with the Committee's legal adviser.
- 7 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.
- 8 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.
- 9 The Committee will after taking advice from its legal adviser decide:
  - 8.1 Whether no further formal action under this procedure is required,
  - 8.2 To appoint an Independent Investigator ("II") to investigate the issue and to commission reports from an II;
  - 8.3 Whether it is appropriate to reach agreement with the DSO on a formal sanction (short of dismissal) without the need to appoint an II;

- 8.4 Whether to suspend a DSO or to reconsider suspension and to review at a frequency to be determined by the Committee, any decisions taken to suspend;
- 8.5 What action should be taken against a DSO following an investigation. This could include a hearing, taking no further action, informal resolution/other appropriate procedures, disciplinary action short of dismissal or proposed dismissal. The Committee shall have delegated authority to impose disciplinary action short of dismissal in these circumstances.
- 10 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.
- 11 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 Disciplinary Appeals Committee against any decisions made by the Committee to take disciplinary action against a DSO.

**Disciplinary Appeals Committee [suggest merger with Appeals Sub-Committee under Corporate Policy Committee.]**

**Membership: 5 Councillors**

No Member who was a member of the Investigation and Disciplinary Committee making the decision which is the subject of the appeal may be a member of the Disciplinary Appeals Committee. Members of the Committee must have completed mandatory training.

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) that it has been convened to consider, until such time as the matter is disposed of.

**Functions**

- 1 To consider any appeals brought by the DSOs against any decision made by the Investigation and Disciplinary Committee to take disciplinary action against a DSO short of dismissal.

*Procedure for the Disciplinary Appeals Committee*

- 2 The DSO shall have the right to attend and be accompanied at the Committee Meeting which considers the appeal by a trade union representative or work colleague of their choice.
- 3 The Committee shall consider the appeal in accordance with the Council's normal procedure for dealing with appeals.

*Access to Advice and Representation*

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

### **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**

- 6 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.
- 7 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.
- 8 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 Disciplinary Appeals Committee.
- 9 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: 10 Councillors** and one independent member

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.

The co-option of an independent member is intended to bring additional knowledge and expertise to the Committee and reinforce its political neutrality and independence. To ensure that the Committee remains focussed on its assurance role, all members of the Committee, and any designated substitute, must be appropriately trained.

### **Functions**

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

### ***Governance, risk and control***

- 5 To review 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.

- 7 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.
- 8 To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.
- 9 To monitor the effective development and operation of risk management in the council.
- 10 To monitor progress in addressing risk related issues reported to the committee.
- 11 To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions, including calling upon managers to explain progress.
- 12 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.
- 13 To oversee the operation of the Contract Procedure Rules and the Commissioning and Procurement Board.
- 14 To review the governance and assurance arrangements for significant partnerships or collaborations.
- 15 To review and monitor the Council's treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.

***Internal Audit***

- 16 To approve the internal audit charter.
- 17 To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations
- 18 To approve and up-date 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.
- 19 To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.



- 20 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.
- 21 To consider reports on internal audit's performance during the year, including the Quality Assurance and Improvement Programme, the Annual Governance Statement and the performance of external providers of internal audit services.
- 22 To consider the head of internal audit's annual report and other audit reports as requested
- 23 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.
- 24 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.
- 25 To consider a report on the effectiveness of internal audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit Regulations.
- 26 To provide free and unfettered access to the audit committee chair for the Head of Audit and Risk, including the opportunity for a private meeting with the committee.

### ***External Audit***

- 27 To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA or the authority's auditor panel as appropriate.
- 28 To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- 29 To consider specific reports as agreed with the external auditor.
- 30 To comment on the scope and depth of external audit work and to ensure it gives value for money.

- 31 To commission work from internal and external audit.

### ***Financial Reporting***

- 32 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 or a Committee.
- 33 To consider the external auditor's reports and management letters.

### ***Accountability Arrangements***

- 34 To report to those charged with governance on the committee's findings conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks; financial reporting arrangements, and internal and external audit functions.
- 35 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.
- 36 To publish an annual report on the work of the committee.

### ***Related Functions***

- 37 To approve and monitor Council policies relating to whistleblowing and anti-fraud and corruption.
- 38 Subject to the requirements set out below, to consider all 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 in connection with the Ombudsman's findings.

### ***Working Groups***

- 39 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.

### ***Standards Arrangements***

- 40 The Committee is responsible for the Council's standards arrangements which seek to:

- (a) promote high standards of conduct and ethical behaviour by developing, maintaining and monitoring Councillor and co-opted Members Codes of Conduct and promoting good practice;
- (b) ensure that Councillors receive advice and as appropriate on the Code of Conduct; and
- (c) grant dispensations under the provisions of the Localism Act 2011 to enable a member or co-opted Member to participate in a meeting of the Authority.

41 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***

42 The Hearing Sub-Committee is appointed to consider complaints under the Council's arrangements adopted under the Localism Act 2011. It has **3 Councillors** drawn from a cross party panel of 15 members of the Council. An Independent Person is invited to attend all meetings of the Hearing Sub-committee and his/her views are sought and taken into consideration before the Hearing Sub-committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

### **Independent Remuneration Panel**

Membership: 4 Members (the minimum is 3 Members)

#### ***Functions***

- 1 To make recommendations to the Council:
  - 1.1 as to the amount of basic allowances that should be paid to Councillors
  - 1.2 about the responsibilities or duties which should lead to the payment of a special responsibility allowance and as to the amount of such allowance
  - 1.3 about the duties for which a travelling and subsistence allowance can be paid and as to the amount of such allowance
  - 1.4 as to the amount of the co-optees' allowance
  - 1.5 as to whether the Council's allowances scheme should include an allowance in respect of the expenses for arranging for the care of children and dependants and, if it does make such recommendation, the amount of such allowance and the means by which it is determined

- 1.6 on whether any allowance should be backdated to the beginning of a financial year in the event of the scheme being amended
- 1.7 as to whether annual adjustments of allowance levels may be made by reference to an index and, if so, for how long such a measure should run
- 1.8 as to treating basic allowance and special responsibility allowance as amounts in respect of which such pensions are payable.

## **Cheshire East Statutory Health and Wellbeing Board (CEHWB)**

### **Context**

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

### **Purpose**

- To work in partnership to make a positive difference to the health and wellbeing of the residents of Cheshire East through an evidence based focus on improved outcomes and reducing health inequalities.
- To prepare and keep up to date the Joint Strategic Needs Assessments (JSNAs) and Joint Health and Wellbeing Strategies (JHWSs), which is a duty of local authorities and clinical commissioning groups (CCGs).
- To lead integrated working between health and social care commissioners, including providing advice, assistance or other support to encourage arrangements under section 75 of the National Health Service Act 2006 (ie lead commissioning, pooled budgets and/or integrated provision) in connection with the provision of health and social care services.
- To be a forum that enables member organisations of the Board to hold each other to account for their responsibilities for improving the health of the population

- To assist in fostering good working relationships between commissioners of health-related services and the CEHWB itself.
- To assist in fostering good working relationships between commissioners of health-related services (such as housing and many other local government services) and commissioners of health and social care services
- To undertake any other functions that may be delegated to it by the Council - 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 Health and Adult Social Care Scrutiny Committee and in respect of children's health, the Children and Families Scrutiny Committee. Decisions taken and work progressed by the CEHWB will be subject to scrutiny by the Health and Adult Social Care Scrutiny Committee.
17. The CEHWB will provide information to the public through publications, local media, and wider public activities by publishing the minutes of its meetings on the Council's website. The CEHWB is supported by an Engagement and Communications Network across HWB organisations to ensure this function can operate successfully.

### **Membership**

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

#### Voting members:

- **Three councillors** from Cheshire East Council
- The Executive Director of People (Director of Adult Social Care and Director of Children's Services)
- The Director of Public Health
  
- A local Healthwatch representative
- Two representatives from the Cheshire Clinical Commissioning Group
- Two representatives from the Cheshire Integrated Care Partnership
- The Chair of the Cheshire East Place Partnership

#### Non-voting members:

- The Chief Executive of the Council
- A nominated representative of NHS England / NHS Improvement

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

19. The Core Members will keep under review the Membership of the CEHWB and if appropriate will make recommendations to Council on any changes to the Core Membership.
20. The above Core Members through a majority vote have the authority to appoint individuals as Non-Voting Associate Members of the CEHWB.. The length of their membership will be for up to one year and will be subject to re-selection at the next Annual General Meeting “AGM” of the CEHWB. Associate Members will assist the CEHWB in achieving the priorities agreed within the Joint Health and Wellbeing Strategy and may indeed be chairs of sub structure forums where they are not actual Core Members of the CEHWB.
21. The above Core Members through a majority vote have the authority to recommend to Council that individuals be appointed as Voting Associate Members of the CEHWB. The length of their membership will be for up to one year and will be subject to re-selection at the next Annual General Meeting “AGM” of the CEHWB.
22. Each Core Member has the power to nominate a single named substitute. If a Substitute Member be required, advance notice of not less than 2 working days should be given to the Council whenever practicable. The Substitute Members shall have the same powers and responsibilities as the Core Members.

### **Frequency of Meetings**

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

### **Agenda and Notice of Meetings**

25. Any agenda items or reports to be tabled at the meeting should be submitted to the Council’s Democratic Services no later than seven working days in advance of the next meeting. Generally, no business will be conducted that is not on the agenda.
26. Any voting member of the Board may approach the Chair of the Board to deal with an item of business which the voting member believes is urgent and under the circumstances requires a decision of the Board. The Chair’s ruling of whether the requested item is considered / tabled or not at the meeting will be recorded in the minutes of the meeting.

27. In accordance with the Access to Information legislation, Democratic Services will circulate and publish the agenda and reports prior to the next meeting. Exempt or Confidential Information shall only be circulated to Core Members.

### **Annual General Meeting**

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

### **Quorum**

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

### **Procedure at Meetings**

32. General meetings of the CEHWB are open to the public and in accordance with the Council's Committee Procedure Rules will include a Public Question Time Session. Papers, agendas and minutes will be published on the Cheshire East Health and Wellbeing website.
33. The Council's Committee Procedure Rules will apply in respect of formal meetings subject to the following:
34. The CEHWB will also hold development/informal sessions throughout the year where all members are expected to attend and partake as the agenda suggests.
35. Core Members are entitled to speak through the Chair. Associate Members are entitled to speak at the invitation of the Chair.
36. With the agreement of the CEHWB, subgroups can be set up to consider distinct areas of work. The subgroup will be responsible for arranging the frequency and venue of their meetings. The CEHWB will approve the membership of the subgroups.



37. Any subgroup recommendations will be made to the CEHWB who will consider them in accordance with these terms of reference and their relevance to the priorities within the Joint Health and Wellbeing Strategy and its delivery plan.
38. Whenever possible decisions will be reached by consensus or failing that a simple majority vote by those members entitled to vote.

### **Expenses**

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

### **Conflicts of Interest**

41. In accordance with the Council's Committee Procedure Rules, at the commencement of all meetings all CEHWB Members shall declare disclosable pecuniary or non-pecuniary interests and any conflicts of interest.
42. In the case of non-pecuniary interests Members may remain for all or part of the meeting, participate and vote at the meeting on the item in question.
43. In the case of pecuniary matters Members must leave the meeting during consideration of that item.

### **Conduct of Core Members at Meetings**

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

### **Review**

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

***January 2017***  
***Revised July 2019***  
***Revised August 2020***

### ***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**


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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**


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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**

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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**

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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**

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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**

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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**

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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

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### *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
<a href="#">General Principles Relating to Officer Delegation</a>	Sets out the general principles which apply to all decision making by officers
<a href="#">General Delegations to all Directors</a>	Sets out the delegations which apply to all officers called " <i>Directors</i> "
<a href="#">Delegations to the Chief Executive/Head of Paid Service</a>	Sets out the delegations which apply to this officer
<a href="#">Delegations to the Executive Director (People)</a>	Sets out the delegations which apply to this officer
<a href="#">Delegations to the Executive Director (Place)</a>	Sets out the delegations which apply to this officer
<a href="#">Delegations to the Executive Director (Corporate Services)</a>	Sets out the delegations which apply to this officer
<a href="#">Delegations to the Chief Finance Officer</a>	Sets out the delegations which apply to this officer
<a href="#">Delegations to the Monitoring Officer</a>	Sets out the delegations which apply to this officer
<a href="#">Arrangements for Proper Officer functions</a>	Sets out the legal requirements for "proper officers", what this means and a link to the <a href="#">Proper Officer Register</a>

- 3 “Officers” is the term used to refer to the people employed, retained or appointed by the Council to advise and support Councillors and implement their decisions. The term “officers” in this Constitution includes all the people who operate in this capacity including contractors, consultants, agency staff and volunteers.
- 4 The Council operates a “Cascade” principle of delegation to ensure that decisions are taken at the most appropriate level closest to those who will be affected. This means that the vast majority of the Council's decisions and actions will fall into the category of operational day to day decisions taken by its officers.
- 5 In order to ensure the smooth functioning of the Council and the efficient delivery of services, Full Council and the Committees and Sub-Committees have delegated to officers all of the powers that they need to perform their roles.
- 6 Certain officers have specific legal duties to ensure that the Council acts within the law, uses its resources wisely and exercises its powers properly. These officers are known as “Statutory” or “Proper” Officers and some have specific legal titles in addition to their job titles. These roles are explained below.
- 7 The way the Council structures its services and its officer arrangements changes from time to time to reflect changes in service delivery and best practice. The current arrangements include a **Chief Executive/Head of Paid Service** (as the most senior officer of the Council) supported by other senior roles as the [Corporate Leadership Team](#)
- 8 The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer are also called “Statutory Officers” (because every Council is required by statute – the law – to have these posts).
- 9 There are also a number of formal functions which the Council has to allocate to named officers called “Proper Officers”. There is a [Proper Officer Register](#) which sets out these details.
- 10 See the [current organisational structure](#) of the Council, showing more detail about the roles and responsibilities of the *Directors* and the officers supporting them to deliver all the Council's services.

### **General Principles Relating to Officer Delegation**

- 11 This scheme gives the power for the Directors and Statutory Officers to take decisions in relation to all the functions in their areas of responsibility except where:
  - 11.1 a matter is prohibited by law from being delegated to an officer, and
  - 11.2 a matter has been specifically excluded from delegation by this scheme, by a decision of the Council, a Committee or Sub-Committee.



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

- 12 The cascade principle under which this scheme operates means that any officer given powers under this scheme can further delegate those powers to other officers either:
  - 12.1 through a Local Scheme of Delegation (which sets out all the standing delegations given to specific officers in defined areas of the Council's service areas). This is a [full list of the Local Schemes of Delegation](#) and you can look at any of the schemes in detail, or
  - 12.2 through a Specific Delegation in relation to an individual decision which must be evidenced in writing using the agreed standard form, dated and signed by the officer delegating the power with a copy supplied to the Monitoring Officer – here is a [register of these Specific Delegations](#).
- 13 All Local Schemes of Delegation (and any changes to them) must be agreed by the Executive Director (Corporate Services) and the Monitoring Officer.
- 14 Where a function has been delegated to an officer (including where sub-delegated through the Cascade principle), the person or body making the delegation may at any time take back responsibility for the function and may therefore exercise the function (make the decision) despite the delegation.
- 15 In some circumstances the officer to whom a power has been delegated may consider a matter to be of such importance or sensitivity that their delegated authority should not be exercised. In these circumstances he or she may refer the matter back to the delegator for determination.
- 16 Any power delegated or cascaded under this Scheme can be exercised by the relevant *Director* Statutory Officer and in all cases by the Chief Executive personally.
- 17 The powers of this Scheme are delegated to the officers referred to by title within this Scheme of Delegation. So the delegations apply to whoever holds that post title at any time – not to the individual person. The powers are automatically transferred to any successor officer, to whom the functions are allocated following any reorganisation of the Council's management arrangements, irrespective of a change in the title/name of the officer post. Nominated Deputies are able to exercise all functions of the person delegating the functions.
- 18 Delegations relate to all provisions for the time being in force under any applicable legislation and cover functions of the Council and all powers and duties incidental to that legislation.
- 19 Any delegation must be exercised:

- 19.1 In compliance with the Budget and Policy Framework, all the Council's Procedure Rules, the Pay Policy Statement approved annually and the Officer Code of Conduct
  - 19.2 In accordance with the decision-making requirements set out in the Constitution, including requirements for decision-records and access to information
  - 19.3 Having identified and managed appropriate strategic and operational risks within the officer's area of responsibility
  - 19.4 Within the approved budget and policy framework approved by the Council (or separate approval must be sought)
  - 19.5 Following any appropriate legislative, regulatory, consultation, equalities or procedural requirements that may be required.
- 20 An officer, in exercising delegated powers may consult the relevant Committee Chair if he/she considers it appropriate to do so and shall consult other appropriate officers for professional advice including legal, financial and technical officers and shall have regard to any views and advice received.
  - 21 Whenever legislation is amended or replaced by new provisions, then the relevant delegated authority in this scheme applies to those new provisions. Whenever new legislation relevant or related to the functions exercised by the *Directoris* introduced, that Officer will have the delegated authority to exercise powers or otherwise take action under that legislation until such time as the Council, a committee or the Chief Executive decides to whom to allocate responsibility for the new legislation.
  - 23 Directors may appoint another officer as their deputy and such deputy shall have all the powers of the Director as set out in this Constitution. A deputy may be appointed in relation to all the areas of service delegated to the Director under this Constitution or in relation to a particular area of service only. A deputy may be appointed for a specific period of time (for example to cover the absence of a Chief Officer) or without time limitation. The appointment of a deputy shall not prevent the exercise by the Director of any delegation set out in this Constitution.
  - 24 If there is any dispute or lack of clarity as to which Director has power to make decisions on specific areas of service, the Chief Executive shall have power to determine where the delegation should be exercised.

### **General Delegations to all Directors**

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

#### *Urgent action*

- 26 To act on behalf of the Council in cases of urgency in the discharge of any function of the Council for which his/her Directorate or Service has responsibility, other than those functions which by law can be discharged

only by the Council or a specific Committee. This delegation is subject to the conditions that any urgent action:

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

#### *Implementation of decisions*

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

#### *General operational*

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

#### *Consultation*

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

#### *Finance*

- 32 To manage the finance of their departments to ensure value for money and the development of budget policy options with a detailed assessment of financial implications.
- 33 To enter into contracts and incur expenditure.
- 34 To determine the level of fees or charges payable in respect of any goods or services supplied, work undertaken or the loan or use of plant, equipment or machinery.
- 35 To submit applications for grant funding that align with the Council Budget and Policy Framework, in accordance with the approvals required under the Financial Procedure Rules.

#### *Staffing*

- 36 To deal with the full range of employment and staff management issues, below Director level including but not limited to appointments, terms and conditions (other than those negotiated nationally) training, discipline,

dismissal, performance, progression, promotion, shifts and working hours, grievance, grading, emoluments, expenses, allowances, sick pay, leave, equal opportunities and health and safety in accordance with approved policies and the *Employment Procedure Rules*.

- 37 To implement changes to staffing structures subject to prior consultation with all appropriate parties affected by the decision, including any Trades Union, except where the restructure:
- 37.1 involves the loss of one or more posts not currently vacant
  - 37.2 involves re-grading of posts or the grading of new posts
  - 37.3 involves changes to existing National or Local Agreements and policies
  - 37.4 cannot be achieved within the delegated powers in respect of budgets.
- 38 To enter into reciprocal arrangements for the authorisation and appointment of officers to facilitate cross-border co-operation in the discharge of delegated functions with any other council or enforcement authority.

#### *Land and assets*

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

#### *Legal authorisation and enforcement*

- 42 To act as “duly authorised officers” (for the purposes of all relevant legislation) and to enforce/administer the requirements of all relevant regulatory legislation which shall (for the avoidance of doubt) include (but not be limited to) taking the following action (and all actions reasonably necessary, expedient or ancillary in order to facilitate or enable the same):
- 42.1 Applying for warrants, carrying out investigations, inspections or surveys, entering land and premises, taking samples and seizing property
  - 42.2 issuing (or declining to issue) licences, certificates or certified copies of documents, approvals, permissions, consents, notices, orders, directions or requisitions for information
- 43 With the approval of the Monitoring Officer, to authorise the institution, defence or participation in civil and criminal proceedings and quasi-proceedings (which for the avoidance of doubt shall include but not be limited to all court hearings, tribunal, inquiry and appeal processes),

administer cautions and/or take any other action considered necessary to protect the interests of the Council.

- 44 To exercise the role of authorising officer and designated person under the Regulation of Investigatory Powers Act 2000. (The Monitoring Officer is excluded from this provision as he/she has the formal 'reviewer' role.)

*Safeguarding children and vulnerable adults*

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

**Delegations to the Chief Executive/Head of Paid Service**

- 46 The Chief Executive is the most senior officer in the Council. It is his/her role to support the Councillors and to provide leadership for the Council.
- 47 The Chief Executive is empowered to operate all the services of the Council and except where powers, duties and functions are delegated to a Councillor decision-making body, to exercise all powers, duties and functions of the Council, including those delegated to other officers.
- 48 Every Council has to, by law, appoint one of its officers as the Head of Paid Service. The Chief Executive is also the Council's Head of Paid Service. His/her responsibility in this role is to make proposals to the Council about the manner in which the discharge of the Council's functions is co-ordinated and the numbers, grades and organisation of staff required and the proper management of those staff.
- 49 The Chief Executive is given delegated power to undertake the following roles and responsibilities and to take the following decisions subject to the terms of this Constitution:
- 49.1 To be the Council's principal officer representative and to promote its good image and reputation
  - 49.2 To lead and direct the strategic management of the Council
  - 49.3 To appoint other officers as Proper Officers for the purposes of any specific Council service area or function
  - 49.4 Unless another officer is appointed as Proper Officer, to act as Proper Officer for the Council for the purposes of all Council service areas and functions
  - 49.5 To maintain an up to date Proper Officer Register showing who is appointed to act as the Proper Officer for all Council service areas and functions
  - 49.6 To discharge emergency planning and civil protection functions;
  - 49.7 To take such steps (including the incurring of expenditure where necessary) as may be required in the event of any national or local emergency requiring immediate action by the Council

- 49.8 To sign settlement agreements for employees/ex-employees, in consultation with the Leader of the Council and Chair of the Staffing Committee
- 49.9 Subject to paragraph 49.6 above, to approve the pay, terms and conditions of service and training of any employee except where an approval would be contrary to the provisions of the annual Senior Officer Pay Policy Statement which is reserved to full Council or where an approval falls within the responsibilities of the Corporate Policy Committee or would be contrary to the employment policies of the Council
- 49.10 To make decisions affecting the remuneration of any existing post whose remuneration is or is proposed to be or would become £100,000 p.a. or more in consultation with the Leader as Chair of the Corporate Policy Committee.
- 49.11 To undertake the communications, marketing and media functions of the Council with regard to policy and strategic direction (operational responsibility rests with the Executive Director (Corporate Services)).

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

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

### **Children's Social Care**

- Cared for Children and Care Leavers
- Children in Need and Child Protection

Children's Safeguarding

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

- Education Infrastructure and Outcomes
- Education Participation and Pupil Support

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

- Preventative Services
- Special Educational Needs and Disability

## **Children's development and partnerships**

## **Adult Social Care and Health**

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

## **Public Health**

- Public Health Intelligence
- Health Improvement
- Public Health Protection

## **Commissioning**

- Integrated commissioning
- Children's commissioning
- Adults commissioning
- Contract management and quality
- Support and Finance

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

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

## **Environment and Neighbourhood Services**

- Strategic Planning and Planning Policy
- Neighbourhood Services
- Development Management

- Planning Enforcement
- Regulation and Protection
- Libraries
- Emergency Planning
- HS2 Schedule 17 Applications

### **Infrastructure and Highways**

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

### **Growth and Enterprise**

- Housing
- Economic Development
- Rural and Cultural Economy
- Tatton Park
- Estates
- Assets and Property Management
- Asset Disposals and Acquisitions
- Facilities Management

### **Client Commissioning (Alternative Service Delivery Vehicles / ESAR)**

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



## **Business Management**

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

## **Delegations to the Executive Director Corporate Services**

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

## **Governance and Compliance**

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

## **Finance and Customer Services**

- Finance and Procurement
- Customer Services

## **Transformation**

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

## **Delegations to the Chief Finance Officer**

54 The Chief Finance officer is:

54.1 The financial adviser to the Council, Committees and Officers

54.2 The Authority's 'responsible financial officer', and

- 54.3 Responsible for the proper administration of the Council's financial affairs as specified in, and undertakes the duties required by, section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Local Government and Housing Act 1989, the Local Government Act 2003, and all other relevant legislation.
- 55 The Chief Finance officer shall have the following delegated powers and responsibilities:
- 55.1 To carry out the functions and responsibilities which are detailed in the Finance Procedure Rules.
- 55.2 To secure effective treasury management, including taking all action necessary in relation to all debts, payment of accounts, loans (including guarantees and indemnities), grants, advances, investments, financing and banking generally.
- 55.3 To take all action necessary to ensure the safeguarding of assets by maintaining and administering appropriate insurance and approving requests to postpone legal charges.
- 55.4 To take all action necessary to facilitate debt recovery and enforcement action including instituting prosecutions, making applications to courts and tribunals and authorising officer to appear on behalf of the Council.
- 55.5 To take all necessary action in respect of the Council's role in relation to the administration and operation of the Cheshire Pension Fund
- 55.6 To make recommendations to the Council on Council Tax requirements, on the Council tax base and to administer and manage generally all matters relating to Council Tax, Non Domestic Rates, Community Charge and General Rates including the awarding of discounts, relief, and exemptions and the levying, collection, recovery, and disbursement of all sums due to the Council in respect of the same in accordance with all governing Regulations, and
- 55.7 To negotiate, enter into arrangements and act generally on behalf of the Council in respect of continuing financial matters arising from arrangements and obligations existing between the former Cheshire County Council and six District Councils.

#### **Delegations to the Monitoring Officer**

- 56 The Monitoring Officer is appointed in accordance with Section 5 of the Local Government and Housing Act 1989 and is responsible for supporting and advising the Council in relation to:
- 56.1 the lawfulness and fairness of the decision making of the Council
- 56.2 the Council's compliance with its legal responsibilities and requirements, and

- 56.3 matters relating to the conduct of Councillors (including Parish Councillors).
- 57 The Monitoring Officer will provide advice to ensure that decisions are taken on proper authority, by due process, and in accordance with the budget and policy framework.
- 58 The Monitoring Officer shall, where necessary, and in consultation with the Head of Paid Service and the Chief Finance officer, report any proposal, decision or omission considered to be unlawful or that amounts to maladministration to the Council as appropriate in accordance with Section 5 of the Local Government and Housing Act 1989.
- 59 The Monitoring Officer shall have the following delegated powers and responsibilities:
- 59.1 To authorise the settlement of actual or potential uninsured claims, borehole claims or Local Government and Social Care Ombudsman cases across all functions of the Council up to £25,000 (which after settlement shall be reported to the relevant Committee).
- 59.2 To authorise the settlement of actual or potential uninsured claims, borehole claims or Ombudsman cases across all functions of the Council in accordance with the Financial Procedure Rules.
- 59.3 To prosecute, defend, make application, serve any notice or appear on behalf of the Council in any Court, Tribunal or hearing on any criminal, civil or other matter (including appeals).
- 59.4 To institute legal proceedings for any offences under any local Byelaws or Orders in force within the Council's area.
- 59.5 To lodge objections to any proposal affecting the Council's interests.
- 59.6 To determine applications for the display of the crest or logo of the Council.
- 59.7 To take all action including the completion of agreements, the service of notices, giving of directions, obtaining or issuing orders, authorising the execution of powers of entry, and the institution and defence of legal proceedings necessary or desirable to protect and advance the interests of or discharge the roles, functions and responsibilities of the Authority.
- 59.8 To make discretionary payments under Land Compensation Act 1973 on the recommendation of the District Valuer.
- 60 In accordance with the Council's approved policy to monitor the integrity of the operation of the Regulation of Investigatory Powers Act 2000 by:
- 60.1 Ensuring compliance with all relevant legislation and with the Codes of Practice.
- 60.2 Engagement with the Inspectors from the Investigative Powers Commissioners Office when they conduct their inspections, and, where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.

- 60.3 Monitoring authorisations and conducting a quarterly review of applications, authorisations and refusals, and reviewing renewals and cancellations.
- 61 To make Orders for the Temporary Closure of Highways and Regulation of Traffic.
- 62 To attest the affixing of the Council's seal to all documents approved for sealing.
- 63 To authorise appropriate Officers to administer formal cautions in respect of criminal offences.
- 64 To determine whether a particular claim for payment under the *Councillors Allowances Scheme* is appropriate.
- 65 To authorise appropriately qualified employees or persons acting on behalf of the Council to appear in, and conduct legal proceedings in, any Court or Tribunal on behalf of the Authority.
- 66 To prove debts owed to the Authority in bankruptcy and liquidation proceedings.
- 67 In consultation with the Chair and Vice-Chair of the Constitution Committee, to make such changes to the Council's Constitution as he/she deems to be necessary and which are in the Council's interests and not major in nature, including, but not limited to, changes:
  - 67.1 amounting to routine revisions
  - 67.2 to provide appropriate clarity
  - 67.3 to correct typographical and other drafting errors
  - 67.4 to reflect new legislation
  - 67.5 to correct inconsistencies in drafting
  - 67.6 to reflect new officer structures and job titles, properly approved through Council processes.
- 68 To determine applications for dispensations under Section 33 of the Localism Act 2011, in consultation with the Chair of the Audit and Governance Committee, as follows:
  - 68.1 if it is considered that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
  - 68.2 if it is considered that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
  - 68.3 if it is considered that granting the dispensation is in the interests of persons living in the authority's area; or

68.4 if it is considered that it is otherwise appropriate to grant a dispensation.

### **Arrangements for Proper Officer functions**

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

70 The Chief Executive/Head of Paid Service shall be the Proper Officer of the Council for the purposes of the Local Government Act 1972, the Local Government Act 2000 and for all other statutory purposes unless:

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

70.2 the Chief Executive/Head of Paid Service, exercising the powers given to him/her by this Constitution, appoints another officer of the Council to be the Proper Officer for a specific service area or function.

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