

Constitution Committee

Agenda

Date: Thursday, 26th January, 2012
Time: 2.00 pm
Venue: Committee Suite 1, 2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

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

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

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda.

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

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the meeting. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

4. **Minutes of Previous meeting** (Pages 1 - 8)

To approve the minutes of the meeting held on 17th November 2011.

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

5. **Proposed Amendments to the Council's Finance and Contract Procedure Rules** (Pages 9 - 68)

To consider proposed amendments to the Council's Finance and Contract Procedure Rules.

6. **Re-Appointment of Independent Remuneration Panel** (Pages 69 - 72)

To confirm appointments to the Council's Independent Remuneration Panel.

7. **Local Service Delivery Committees** (Pages 73 - 80)

To give further consideration to this matter following reference back by Council.

8. **Cheshire East Governance Arrangements - Localism Act 2011** (Pages 81 - 88)

To explore the options available to the Council to review its governance arrangements under the Localism Act 2011.

THERE ARE NO PART 2 ITEMS

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Thursday, 17th November, 2011 at Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor A Martin (Chairman)
Councillor D Marren (Vice-Chairman)

Councillors Rhoda Bailey (for Cllr Topping), D Brickhill (for Cllr Murphy),
R Cartlidge, P Groves, S Hogben (for Cllr Newton), S Jones, W Livesley,
A Moran, G Morris, A Thwaite and P Whiteley

In attendance

Councillors B Murphy and D Neilson

Officers

Caroline Elwood, Borough Solicitor
Brian Reed, Democratic and Registration Services Manager
Paul Mountford, Democratic Services Officer
Lindsey Parton, Registration Service and Business Manager
Peter Hartwell, Head of Service (Communities)
Diane Todd, Electoral Services Team Manager
Rose Hignett, Senior Elections Officer

Apologies

Councillors G Baxendale, B Murphy (who later attended as a visiting Member),
D Newton and D Topping (absent due to Council business)

35 DECLARATIONS OF INTEREST

No interests were declared.

36 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

37 MINUTES OF PREVIOUS MEETING**RESOLVED**

That the minutes of the meeting held on 22nd September 2011 be
approved as a correct record.

38 CALENDAR OF MEETINGS FOR 2012-2013

The Committee considered the Calendar of Meetings for 2012-2013.

The frequency of meetings followed the practice previously adopted. Where possible, Fridays would be used for Member development sessions. Dates had also been scheduled for financial briefing/budget engagement events. As with previous years, the Committee Suite at Westfields had been reserved on Monday mornings for Portfolio Holder meetings.

Those consulted over the production of the Calendar included the Corporate Management Team, Cabinet, Committee Chairmen, Group Leaders and Group Whips.

RESOLVED

That the Calendar of Meetings for 2012-2013 be recommended to Council for approval.

39 REVIEW OF POLLING DISTRICTS AND POLLING PLACES

The Committee considered the recommendations of the Polling Districts and Polling Places Review Sub-Committee.

The Sub-Committee had met on 15th September and 4th October 2011 to formulate proposals for Polling Districts and Polling Places for public consultation. These were published on 7th October 2011, for a four week period of consultation ending on 4th November 2011.

The Sub-Committee met again on 9th November to consider the representations received during the consultation period. The Sub-Committee agreed revised proposals for a number of wards in light of the representations received. Details were set out in the Sub-Committee's minutes which were circulated at the Committee's meeting, together with an updated set of proposals for the Borough as a whole.

The Officers reported receipt of a late representation from Tytherington High School indicating that for a number of reasons the School would be unsuitable for use as a polling station.

Council at its meeting on 13th October 2011 had agreed that the final decision concerning the outcome of the Review be delegated to the Constitution Committee.

RESOLVED

That the revised schedule of changes to Polling Places, Polling Districts and Polling Stations, as recommended by the Polling Districts and Polling Places Review Sub-Committee, be approved subject to the Officers in

consultation with the Chairman of the Sub-Committee determining alternative arrangements in response to the representations from Tytherington High School.

40 BOUNDARY COMMISSION FOR ENGLAND: PARLIAMENTARY CONSTITUENCY BOUNDARIES REVIEW

The Committee considered the recommendations of the Parliamentary Constituency Boundaries Review Sub-Committee.

The Sub-Committee had been appointed by the Constitution Committee to consider in detail the Boundary Commission's proposed review of Parliamentary Constituency Boundaries.

The Boundary Commission for England had launched a 12-week consultation on its initial proposals for a reduction in the number of constituencies in England from 533 to 502, of which 68 would be in the North West. The Boundary Commission had to submit formal recommendations to the Government by 1st October 2013. Local authority wards were seen as the basic building blocks for designing constituencies and the Boundary Commission's view was that the splitting of wards should therefore be avoided. However, as Cheshire East Council had undergone a Boundary Review in 2011, eight out of the 52 new wards were split between two constituencies by the initial proposals for the North West. Electors from Poynton had been included in the Greater Manchester Sub-Region in a constituency for Poynton and Hazel Grove.

Following informal discussions with members of the Sub-Committee, the Sub-Committee had met formally on 10th November to consider a draft proposal, together with submissions by Poynton Town Council and David Rutley MP were also circulated for Members' consideration. The minutes of the Sub-Committee's meeting were circulated together with a draft response to the Boundary Commission.

It was proposed that the Council's response would centre on the adverse impact on the 8 new Borough wards, which would be split between two constituencies. The draft response proposed that the 2011 wards should be used instead. The response also objected strongly to the Boundary Commission's proposal for the former Poynton ward (comprising 11,080 electors) to be included in the Greater Manchester Sub-Region, in a Constituency for Hazel Grove and Poynton. The draft response included an alternative proposal that sought to resolve the issue of splitting the 8 new Borough wards and which brought Poynton back into the Macclesfield constituency and Cheshire and Wirral Sub-Region. The Sub-Committee had approved the draft response subject to it being emphasised that the old wards had not been reviewed since 2001, and that the traditional constituency names should be retained.

The Sub-Committee had noted that the Cabinet proposed the inclusion of a fallback position in the event that the Boundary Commission was not

prepared to agree to use the 2011 ward boundaries. The purpose of the fallback position would be to retain the former Poynton ward within the Macclesfield constituency by adjusting the ward composition of the Macclesfield and adjoining constituencies. However, there was a view among members of the Sub-Committee that the inclusion of a fallback position within the response to the Boundary Commission's initial proposals would make it less likely that the Boundary Commission would consider seriously the Council's principal substantive objections and counter-proposals by presenting the Commission with an easier option which would not be the Council's first preference.

The Sub-Committee had resolved that

- (1) subject to (2) below, the draft response to the Boundary Commission's proposals be approved for submission to the Constitution Committee subject to the specific amendments agreed by the Sub-Committee;
- (2) Cabinet be asked to reconsider its view that a fallback position should be included in the response, and the Officers liaise with Councillor Mason accordingly;
- (3) if necessary, a form of wording for the fallback position be drafted for consideration by the Constitution Committee.

In considering the matter, the Committee noted that there might not be a further opportunity to submit representations to the Boundary Commission at the end of the current consultation period. In the circumstances, further consideration needed to be given to the question of including a fallback position within the Council's submission.

Council at its meeting on 13th October 2011 had agreed to delegate to the Constitution Committee the authority to determine the Council's response to the consultation.

RESOLVED

That the draft response recommended by the Parliamentary Constituency Boundaries Review Sub-Committee be approved and the Borough Solicitor be authorised in consultation with the Chairman to determine the final form of the Council's response which may or may not include a secondary proposal of the kind initially proposed by the Cabinet.

41 DELEGATED POWERS RELATING TO CAR PARKING CHARGES

Council on 13th October 2011 had considered the following motion by Councillor D Brickhill, seconded by Councillor A Moran, and had referred the motion to the Constitution Committee:

"That the delegated powers to officers to alter car parking charges be rescinded and the powers returned to the Cabinet Member."

The existing delegations within the Constitution in relation to fees and charges were contained within paragraph 9.1 of the 'Powers and Responsibilities of Officers' section of the Constitution, which provided that "CMT Members shall determine the level of fees or charges payable in respect of any chargeable goods or services supplied". In accordance with the existing constitutional provisions, to date decisions to approve variations to the charges made in relation to the use of off-street parking places had been taken by the Strategic Director (Places & Organisational Capacity) in conjunction with the Cabinet Member for Environmental Services.

Members felt that the setting of car parking charges were a matter of significant public concern and often local ward Members were not adequately notified or consulted. It was felt that such decisions should be taken by the relevant Cabinet Member at a public meeting, with an opportunity for local ward Members to comment, and for decisions to be subject to call-in and review if necessary.

RESOLVED

That Council be recommended to agree

- (1) that the Constitution be amended to provide that decisions relating to the variation of off-street parking places charges are made by the relevant Cabinet Member at a portfolio holder meeting; and
- (2) that the Borough Solicitor be authorised to make such changes to the Constitution as she considers necessary.

42 LOCAL SERVICE DELIVERY COMMITTEES TERMS OF REFERENCE/MEMBERSHIP

The Committee considered proposed terms of reference for the Local Service Delivery Committees for Crewe and Macclesfield as set out in the Appendix to the report.

It was noted that the Leighton ward had been inadvertently omitted from the list of wards for the Crewe Committee. Part of the ward covered an unparished area of Crewe.

The Macclesfield Committee had proposed the inclusion of some procedural rules relating to the nomination and appointment of the chairman and vice-chairman, and to member speaking and participation.

The Committee also considered the following motion by Councillor D Neilson, seconded by Councillor B Murphy, which had been referred to it by Council on 13th October 2011:

“In view of the consultative role of the Local Service Delivery Committee for Macclesfield, plus the request from the Cabinet in relation to precepting powers for the Committee and in order to enhance its mandate, to reflect opinion across the town, the Council requests the Constitution Committee to re-consider the Committee's composition, with a view to incorporating into its membership all elected Councillors for the unparished area.”

Members were reminded that Council at its meeting on 16th December 2010 had appointed the two Local Service Delivery Committees on a politically proportionate basis.

RESOLVED

That Council be recommended to approve the revised terms of reference for the Local Service Delivery Committees as set out in the Appendix to the report, subject to the addition of the Leighton ward for the Crewe Committee.

43 REVIEW OF THE CONSTITUTION

The Committee considered a progress report on its review of the Council's Constitution.

So far this year the Committee had made recommendations to Council in respect of a number of issues including:

- Scheme of Delegation
- Urgency Provisions
- Questions at Council meetings
- Contract Procedure rules

A number of other matters remained to be reviewed this year:

- Finance Procedure Rules
- Scrutiny Procedure Rules
- Budget and Policy Framework
- Staff Employment Procedure Rules

It was suggested that the Committee might wish to review its work programme with the aim of allowing Members more time to give full and proper consideration to proposals coming forward before making formal recommendations to Council. This was particularly appropriate with regard to large and complex areas of work such as the Finance and Contract Procedure Rules. It was further suggested that the Committee might wish to appoint a Member task group to consider such matters in detail before they were submitted to the Committee. Such an approach had worked well recently with the Planning Protocol Sub-Committee.

In considering this matter, Members were advised that under the Localism Act, councils had the option of reviewing their governance arrangements

with a view to adopting a committee system in place of a leader and cabinet model. It was noted that the Corporate Scrutiny Committee was to consider the matter at its meeting in January 2012. In the circumstances, it was felt that, with the exception of the Finance Procedure Rules, any further review of the Constitution should be suspended pending the outcome of the Corporate Scrutiny Committee's review of the Council's governance arrangements.

RESOLVED

That

- (1) a task group of five members be appointed (3 Con; 1 Lab; 1 Ind) to consider and make recommendations on detailed changes to the Constitution, and in the first instance to consider proposed amendments to the Finance Procedure Rules; and
- (2) the remainder of the review of the Constitution be suspended until the Corporate Scrutiny Committee has concluded its review of the Council's governance arrangements.

The meeting commenced at 2.00 pm and concluded at 3.45 pm

Councillor A Martin (Chairman)

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CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 26th January 2012
Report of: Director of Finance and Business Services
Subject/Title: Proposed Amendments to the Council's Finance and Contract Procedure Rules

1.0 Report Summary

- 1.1 This report seeks approval from the Committee for proposed amendments to the Foreword and Sections A, B, C and D of the Council's Finance and Contract Procedure Rules, and a recommendation to the Council for their endorsement.

2.0 Recommendation

- 2.1 That the amended Finance and Contract Procedure Rules (as set out in Appendix 1) be recommended to Council for approval and the Constitution be amended accordingly.

3.0 Reasons for Recommendations

- 3.1 The Finance and Contract Procedure Rules form Part E of the Council's Constitution.
- 3.2 The amendments set out in this report have been proposed in order to reflect the recent interim changes made to the Council's Officer Scheme of Delegation; and to generally improve the alignment of the Finance and Contract Procedure Rules, in terms of wording and content, with other parts of the Constitution. The amendments also take into account updated national best practice recommendations and changes to the way the Council operates. Some minor re-wording has also been undertaken to clarify points which have given rise to interpretational ambiguity and to improve clarity and readability.
- 3.3 At its meeting on 17th November 2011, the Constitution Committee appointed a Task Group of five members to consider and advise on detailed changes to the Finance Procedure Rules. The Task Group met on 16th December to review the proposed changes and agreed a number of further amendments, which have now been incorporated. The minutes of the Constitution Task Group are attached for information in Appendix 2.
- 3.4 Sections E and F of the Finance and Contract Procedure Rules have been excluded from this update. Changes to Section E (Contract Procedure Rules) were considered and agreed by Council at their meeting on 12th October 2011. Section F (External Arrangements) is currently being reviewed and proposals for amendments to this section will be brought forward at a later date.

4.0 Wards Affected

4.1 Not applicable

5.0 Local Ward Members

5.1 Not applicable

6.0 Policy Implications (including carbon reduction and health)

6.1 None identified

7.0 Financial Implications (authorised by Director of Finance and Business Services)

7.1 The Finance and Contract Procedure Rules set out the arrangements for managing the Council's financial affairs and are a key element of the overall governance and control framework. They apply to every Member and officer of the Council and anyone acting on its behalf, including School Governors operating under local delegation arrangements.

7.2 Compliance with the provisions of the Finance and Contract Procedure Rules is essential in ensuring the security of Council assets and the appropriate and lawful use of resources. It is also essential in maintaining appropriate standards of stewardship and accountability and in demonstrating value for money for local tax payers and other stakeholders.

8.0 Legal Implications (authorised by Borough Solicitor)

8.1 Any changes to the Constitution need to be agreed by the Council following a recommendation from the Constitution Committee. Any changes which are proposed also need to comply with the relevant statutory requirements.

9.0 Risk Management

9.1 The Council is undergoing continual change both in terms of the way it works and the climate in which it operates. It is essential that there is a clear framework of rules in place to guide officers and Members in both their financial and operational decision making, in order to ensure proper control and to safeguard both the reputation and the resources of the Council and its employees.

9.2 The Finance and Contract Procedure Rules provide this guidance and give assurance both to the Council and its stakeholders with regard to proper financial management. They are an important control in mitigating against the risk of fraud and misappropriation as well as waste, inefficiency and poor decision making. In order to be effective however, they need to be regularly reviewed and updated so that they remain relevant and usable, and reflect best practice developments at local and national level.

- 9.3 Section C of the Finance and Contract Procedure Rules deals specifically with Risk Management and the Control of Resources and establishes the key principles for wider risk management practice across the Council.

10.0 Background and Options

- 10.1 The current version of the Finance and Contract Procedure Rules was developed during the shadow period leading up to 1 April 2009 launch of Cheshire East Council. It was modelled on the Good Practice Guide issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) in 2001.
- 10.2 No significant changes to the original Rules have been made since 2009 and in general they have provided a robust and effective framework for financial decision making and financial management. The amendments currently proposed do not therefore, seek to introduce any fundamental changes either to the underlying principles of the Finance and Contract Procedure Rules or to the financial limits and thresholds which apply to key decisions.
- 10.3 The changes proposed fall broadly into three main categories:-

Amendments required to align the Finance and Contract Procedure Rules with the overall Constitution

- 10.4 Following recent changes to the Council's senior management and directorate structure a number of amendments to the Officer Scheme of Delegation were agreed by Council in October, including changes to job titles and service responsibilities. The amended Finance and Contract Procedure Rules included at Appendix 1 have been updated to reflect these changes, so that for example, references to the 'Borough Treasurer and Head of Assets' have been replaced by 'Director of Finance and Business Services', in order to maintain consistency.
- 10.5 The opportunity has also been taken to redraft the summary of financial responsibilities set out in Section A of the Finance and Contract Procedure Rules, so that the wording aligns with that included in Part 3 of the Constitution, which sets out the Responsibility for Functions at both officer and Member level. This eliminates a number of unintended, and potentially confusing, anomalies between the wording in separate parts of the Constitution, and also removes some unnecessary duplication.

Amendments to reflect changes in Council operation and national best practice recommendations

- 10.6 The key changes here relate to Section B, where the overview section and regulations B4 to B6 have been updated to reflect recent changes to the Council's strategic planning framework, following the introduction of a revised approach to Business Planning; and Section C, where regulations C37 to C41 have been updated to reflect the role of the Corporate Landlord.
- 10.7 In line with national best practice recommendations, regulation A19 has also been updated to include reference to recently published CIPFA Statement on the Role of the Chief Financial Officer in Local Government.

Amendments to improve general clarity and readability

10.8 Since the Finance and Contract Procedure Rules came into effect, a number of presentational issues in terms of wording, typography and grammar have come to light. Whilst they do not materially detract from the usability of the overall document, they do cause frustration and occasionally interpretational uncertainties. The opportunity has therefore, been taken to correct as many of these discrepancies as possible, so that terminology is clearer and more consistent. Once all sections of the Finance and Contract Procedure Rules have been updated a comprehensive review of the Glossary of Terms/Definitions and Contents lists will be undertaken to further improve readability and interpretation.

10.9 Beyond this general proof editing, the following specific areas of clarification have been addressed:-

Ring-fenced budgets - an additional sub-paragraph has been added to regulation A31 to explain the nature of ring-fenced budgets and the restrictions that apply to their management. This addresses an omission in the current version of the Finance and Contract Procedure Rules, which refer to 'ringfenced budgets' (in a footnote to the table of approval limits for virements included at A32), but without a proper definition of this term.

Schemes of Financial Delegation - regulation A24-A27 have been redrafted with a view to distinguishing more clearly between local Schemes of Delegation, which document the assignment of functions and general decision making powers from the Corporate Management Team to Heads of Service and other subordinate officers; and Schemes of Financial Delegation, which are intended to set out approval responsibilities and limits for specific financial and budgetary transactions.

This distinction is not generally well understood, and the proposed revisions are intended to provide greater clarity and eliminate any potential confusion.

10.10 The changes outlined above were endorsed by the Constitution Task Group at its meeting on 16th December. In addition, the Task Group agreed a number of further amendments, which are set out in the minutes attached at Appendix 2. The Finance and Contract Procedure Rules included at Appendix 1 have been updated accordingly, with the key changes highlighted for ease of reference.

11.0 Access to Information

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

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Designation: Finance Manager

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FINANCE AND CONTRACT PROCEDURE RULES



APPENDIX 1

**FINANCE AND CONTRACT
PROCEDURE RULES**

**Proposed revisions to Foreword &
Sections A- D (January 2012)**



FINANCE AND CONTRACT PROCEDURE RULES

Foreword

- 1 Finance and Contract Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every Member and Officer of the Council and anyone acting on its behalf, including School Governors operating under local delegation arrangements
- 2 The Rules identify the financial responsibilities of the full Council, Cabinet, Overview and Scrutiny Members, statutory officers and the Corporate Management Team. Cabinet Members and the Corporate Management Team **must** maintain a written record where decision making has been delegated to Members of their staff, including seconded staff.
- 3 All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 4 The Director of Finance and Business Services is responsible for maintaining a continuous review of the Finance and Contract Procedure Rules and submitting any additions or changes necessary to the full Council for approval. The Director of Finance and Business Services is also responsible for reporting, where appropriate, breaches of the Finance and Contract Procedure Rules to the Council and/or to the Cabinet Members.
- 5 Corporate Management Team are responsible for ensuring that all staff in their Services are aware of the existence and content of the Council's Finance and Contract Procedure Rules and other internal regulatory documents and that they comply with them, as required by the Council's Code of Conduct for Employees. Failure to comply with the Code of Conduct will be dealt with in accordance with the Council's Disciplinary Policy and Procedure.. They must also ensure that an adequate number of copies are available for reference within their Services.
- 6 The Director of Finance and Business Services, as Section 151 Officer, is responsible for issuing advice and guidance to underpin the Finance and Contract Procedure Rules that Members, officers and others acting on behalf of the Council are required to follow. Internal Audit provides assurance to the Section 151 Officer with regard to the effectiveness of the Council's internal control environment. The Internal Audit Manager reports to the Director of Finance and Business Services



FINANCE AND CONTRACT PROCEDURE RULES

- 7 The Rules set out the framework for managing the Council's financial affairs and although they can not cover every eventuality, the spirit of the Rules must always be followed. Where there is any uncertainty in matters of interpretation, you are advised to consult the Director of Finance and Business Services, the Internal Audit Manager and/or the Monitoring Officer. You are also advised to consult the Employee Code of Conduct or Members Code of Conduct .



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A Financial Management

Why is this important?

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

What's covered in this Section?

The roles and responsibilities of:

- The full Council
- The Cabinet
- The committees of the Cabinet
- The statutory officers
- The Corporate Management Team

Other financial accountabilities:

- Virement
- Supplementary estimates
- Treatment of year end balances
- Accounting policies
- Accounting records and returns
- The Annual Statement of Accounts



FINANCE AND CONTRACT PROCEDURE RULES

The Full Council

- A.1** The responsibilities of the full Council are set out in Chapter 4 and Part 3 of the Constitution. In respect of financial matters, this includes approving the Policy Framework and Budget within which the Cabinet operates.
- A.2** The Budget comprises the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base and Council Tax rate, and decisions relating to the control of the Council's borrowing requirement, the control of capital expenditure and the setting of virement limits.

The Cabinet

- A.3** The Cabinet's responsibilities , in respect of financial matters include :-
- Developing and reviewing the Council's plans and policies.
 - Advising on budget setting.
 - Ensuring proper arrangements exist for the effective and efficient management of the Council's executive affairs.
 - Monitoring and auditing the lawful, proper and efficient conduct of the Council's financial affairs, including the extent to which budgets and financial policies are being met and any appropriate remedial action.
 - Ensuring officers exercising delegated powers on behalf of the Cabinet discharge their responsibilities efficiently and effectively.

Cabinet Members

- A.4** Individual Cabinet Members or Portfolio Holders have specific decision making powers which are set out in Part 3 of the Council's Constitution. Cabinet Members responsibilities in respect of financial matters include:-
- The proper administration of the Council's services.
 - Ensuring adequate staffing, premises and other resources to secure agreed standard and target outcomes within the scope of their portfolio.



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- The efficient use and day to day maintenance of Council premises.
- Ensuring budget control and financial monitoring within the scope of their portfolio.
- Submitting to the Cabinet, annual estimates of expenditure and income in respect of services within their portfolio.
- Making recommendations to the Cabinet in respect of strategic policy concerning matters within their portfolio.

A.5

Cabinet Members must consult with relevant officers before exercising their delegated decision making powers. In doing so, the individual Member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

Committees

Overview and Scrutiny Committees

A.6

Overview and Scrutiny Committees are responsible for discharging the Council's functions under Section 21 of the Local Government Act 2000, including:-

- scrutinising Cabinet decisions before or after they have been implemented;
- undertaking general policy reviews and making recommendations in respect of the development of future policies and strategies.
- establishing task and finish reviews as they see fit.

Audit and Governance Committee

A.7

The Audit and Governance Committee has right of access to all the information it considers necessary and can consult directly with internal and external auditors.

A.8

The committee is responsible for :

- Overseeing the Council's role and responsibilities in respect of Corporate Governance and Audit.
- Supporting the Council's audit function, both internal and external.
- Supporting the Chief Financial Officer in relation to the



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performance of their duties.

- Approving any Council Statement of Accounts as may be required by the relevant Account and Audit Regulations.
- Reviewing and approving the Annual Governance Statement.
- Ensuring the Council's Risk Management arrangements are operating effectively.
- Ensuring the Council has in place appropriate policies and mechanisms to safeguard resources.

Standards Committee

A.9 The Standards Committee is established by the full Council and its responsibilities include:-

- promoting and maintaining high standards of ethical behaviour by developing, maintaining and monitoring codes of Conduct for Members of the Council and its employees.
- promoting high standards of responsiveness by the Council to its clients and contacts.

Statutory Officers

Head of Paid Service (Chief Executive)

A.10 The Chief Executive is the Head of the Council's Paid Service. The responsibilities of the Chief Executive are set out in full in Part 3 of the Council's Constitution, they include:-

- Leading and directing the strategic management of the Council.
- Ensuring the effective pursuit and achievement of the Council's objectives.
- Ensuring the Council's activities are carried out with maximum effectiveness and efficiency.

A.11 The Chief Executive must report to and provide information for the Cabinet, the full Council, the Overview and Scrutiny Committees and other committees.

Monitoring Officer

A.12 The Borough Solicitor is the Council's Monitoring Officer pursuant to Section 5 and 5A of the Local Government and Housing Act 1989 (as amended) and is responsible for exercising the functions of that role,



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This includes reporting, in consultation with the Chief Executive and Director of Finance and Business Services, to the full Council (or to the Executive in relation to an Executive function), if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to a finding of maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. Cabinet

- A.13** The Borough Solicitor must ensure that Cabinet decisions and the reasons for them are made public. He or she must also ensure that Council Members are aware of decisions made by the Cabinet and of those made by officers who have delegated responsibility.
- A.14** The Borough Solicitor is responsible for advising all Members and officers about who has authority to take a particular decision.
- A.15** The Borough Solicitor is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the Policy Framework.
- A.16** The Borough Solicitor (together with the Director of Finance and Business Services) is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:
- initiating a new policy which may have financial implications;
 - committing expenditure in future years to above the budget level;
 - agreeing budget transfers above virement limits;
 - causing the total expenditure financed from Council tax, grants and corporately held reserves to increase, or to increase by more than a significant amount ("Significant" to be defined by the Director of Finance and Business Services or their representative).
- A.17** The Borough Solicitor is responsible for maintaining an up-to-date Constitution.

Responsible Financial Officer

- A.18** The Director of Finance and Business Service is the financial adviser to the Council, the Cabinet and officers and is the Council's 'responsible financial officer' under the Accounts and Audit Regulations. He or she is



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responsible for the proper administration of the Council's affairs as specified in, and undertaking the duties required by, Section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Local Government and Housing Act 1989, the Local Government Act 2003 and all other relevant legislation.

A.19

The Director of Finance and Business Services is responsible generally, for discharging, on behalf of Cheshire East Council, the responsibilities set out in the CIPFA Statement on the Role of the Chief Financial Officer in Local Government , including :-

- in conjunction with the other Corporate Management Team, the proper administration of the Council's financial affairs;
- setting and monitoring compliance with financial management standards.
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- providing financial information
- preparing the revenue budget and capital programme
- treasury management.

A.20

Section 114 of the Local Government Finance Act 1988 includes a requirement for the Director of Finance and Business Services to report to the full Council, Cabinet and external auditor if the Council or one of its officers:

- has made, or is about to make, a decision which involves incurring unlawful expenditure
- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council
- is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- the Director of Finance and Business Services to nominate a properly qualified Member of staff to deputise should he or she be unable to perform the duties under section 114 personally. The designated deputy for this purpose is the Finance Manager.
- the Council to provide the Director of Finance and Business Services with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to



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carry out the duties under section 114.

Money Laundering Reporting Officer

- A.21** The Director of Finance and Business Services is appointed as the Council's Money Laundering Reporting Officer and will maintain and advise on Anti-Money Laundering procedures.
- A.22** They will be responsible for notifying the Serious Organised Crime Agency (SOCA) of any suspected cases of money laundering committed within the accounts of the Council as soon as possible and fulfil other duties as defined by legislation or regulation related to the post. Simultaneously, the Resources Portfolio Holder will be kept informed of any notifications to SOCA and of any issues arising from them.

Corporate Management Team

- A.23** The officer management arrangements for the Council are overseen by a Corporate Management Team comprising the Chief Executive, the Strategic Director (Places and Organisational Capacity), the Strategic Director (Children, Families and Adults), the Head of Human Resources and Organisational Development, the Director of Finance and Business Services, and the Borough Solicitor. Each member of the Corporate Management Team is accountable to the Chief Executive for leading the Services within his or her area of responsibility and ensuring that the Services are managed in accordance with the objectives, plans, policies programmes, budgets and processes of the Council.
- A.24** Within these arrangements, powers are delegated to Corporate Management Team members, who will establish, operate and keep under review Local Schemes of Delegation, to cascade powers and responsibilities to Heads of Service and other subordinate officers. Every such sub-delegation will be recorded in writing within a Local Scheme of Delegation. The sub-delegation of functions shall not in any way diminish the overall responsibility and accountability of the delegator.
- A.25** Corporate Management Team members are responsible for financial management within their directorates. They shall manage the development of budget policy options with a detailed assessment of financial implications within the budget process and resource framework agreed by the Council.



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Schemes of Financial Delegation

A.26 Corporate Management Team members will establish, operate and keep under review Local Schemes of Delegation, in consultation with the Director of Finance and Business Services, to ensure that:-

- The day to day financial management of services within their directorate is carried out in a secure, efficient and effective manner, and in accordance with the Finance Procedure Rules and associated relevant guidance.
- Budgetary problems are contained wherever possible, within the directorate, and if necessary, specific in year approval for the transfer of resources between budgets is sought.
- Reports are made to the appropriate bodies on the management of resources and performance against targets set out in the business plan.
- Risks are appropriately assessed, reviewed and managed.
- All members of staff are fully trained, aware of and comply with the requirements of Financial Procedure Rules, including the Contract Procedure Rules.
- All allegations of suspected fraud, corruption and financial irregularity are promptly reported to the Director of Finance and Business Services and Borough Solicitor, and that any local investigations are undertaken thoroughly, consistently and impartially.

A27 Schemes of Financial Delegation will set out all financial responsibilities and approval limits as delegated by the Corporate Management Team to Heads of Service, and any sub-delegations within services. Authorised Officers are those officers given specific delegated authority by their Head of Service as documented in that service's Scheme of Financial Delegation. The financial limits specified in the Scheme of Financial Delegation will be used to control access to financial systems and on-line transaction approvals.

Managing Expenditure

Scheme of Virement

A.28 A virement constitutes the movement of existing approved budgets from one area to another and is not an increase in overall budgets through



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the addition of new monies.

- A.29** The Scheme of Virement is intended to enable the Cabinet, Corporate Management Team and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the full Council, and therefore to optimise the use of resources.
- A.30** The full Council is responsible for agreeing procedures for virement of expenditure between budget headings.
- A.31** Corporate Management Team are responsible for agreeing in-year virements within delegated limits, in consultation with the Director of Finance and Business Services where required.

Key controls for the scheme of virement are:

(a) It is administered by the Director of Finance and Business Services within guidelines set by the full Council. Any variation from this scheme requires the approval of the full Council

(b) The overall budget is agreed by the Cabinet and approved by the full Council. Corporate Management Team and budget managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. Income received cannot be used to defray expenditure. The rules below cover virement; that is, switching resources between approved estimates or heads of expenditure. For the purposes of this scheme, a budget head is considered to be a division of service as identified in the approved Budget Report, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA's Service Expenditure Analysis.

(c) Virement does not create additional overall budget liability. Corporate Management Team are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Corporate Management Team must plan to fund such commitments from within their own budgets.

(d) The Director of Finance and Business Services may determine that specific budgets are 'ringfenced' for budget management purposes. This means that they may only be used for the approved purpose and



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are exempt from the normal scheme of virement. Resources may not be vired into or out of ringfenced budgets and any year-end under or overspends are not available for carry forward.

A.32

Approval limits for virements are as follows:

Approval Level	Virement Amount/Percentage
Head of Service	Up to £100,000 or 10% of their net Service budget, whichever is the lowest. (Revenue)
Corporate Management Team	Greater than 10% of a net Service budget but less than £100,000 (Revenue) Up to £100,000 between net Service budgets (Revenue) within their area of responsibility Up to £100,000 funded from underspends within the approved Service budget (Capital)
Corporate Management Team in consultation with Resources Portfolio Holder	Over £100,000 and up to and including £500,000 (Revenue/Capital)
Cabinet Members	Over £500,000 and up to and including £1,000,000 (Revenue/Capital)
Council	<ul style="list-style-type: none"> ▪ £1,000,000 or more; and/or ▪ Significant ongoing financial implications; and/or ▪ Significant policy change. (Revenue/Capital) “Significant” to be defined by the Director of Finance and Business Services or their representative.

- No virements are permitted from ringfenced budgets.

Supplementary Estimates

A.33

Where services wish to undertake an activity not originally identified in the budget or extend an existing capital scheme where additional income or ringfenced funding becomes available in year, approval must be sought for a fully funded supplementary capital or revenue estimate in accordance with A36 below. The Director of Finance and Business Services must be consulted to establish that the funding identified can be legitimately linked to the expenditure in question.



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- A.34** Any request for a supplementary capital or revenue estimate for £1,000,000 or more, whether or not it is fully funded, must be approved by Council.
- A.35** Supplementary estimates which are not fully funded and are to be met from reserves or balances or general purpose funding (i.e Council tax or non-ringfenced grant) regardless of value, must be approved by Council. Council approval is also required where there are significant implications (as determined by the Director of Finance and Business Services) for future year's budgets.
- A.36** Approval limits for fully funded supplementary capital and revenue estimates, as defined in A36 above, are as follows:

Approval Level	Supplementary Estimate Amount
Corporate Management Team	Up to £100,000
Corporate Management Team in consultation with Resources Portfolio Holder.	Between £100,000 and £500,000
Cabinet Members	Between £500,000 and £1,000,000
Council	Over £1,000,000

Treatment of Year End Balances

- A.37** The full Council is responsible for agreeing procedures for carrying forward under- and overspendings on budget headings.
- A.38** A budget head is considered to be a division of service as identified in the approved Budget Report, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA's Service Expenditure Analysis.
- A.39** Any residual overspending on a Service budget will be carried forward as the first call on the following year's budget.
- A.40** Any revenue underspending at the year end may be carried forward, subject to the agreement of the Cabinet, and on the advice of the Resources Portfolio Holder. All carryforward proposals must be supported by an appropriate business case demonstrating that the underspend was planned and that the resources carried forward will be earmarked for a specific purpose or issue. Corporate Management Team should include provisional indications of likely carry forward requests in their reports on the mid-year and three-quarter review of



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performance.

- A.41** Capital block provisions are allocations within which the full starts value of approved schemes must be contained. Any uncommitted sum at the year end may, exceptionally, be carried forward subject to consideration by the Resources Portfolio Holder, of the business case supporting the proposal. Any uncommitted sum which is not justified on this basis will be returned to Council balances. Equally, any overspending will be carried forward as the first call on the following year's provision.

Accounting Policies

- A.42** The Director of Finance and Business Services is responsible for selecting accounting policies and ensuring that they are applied consistently.

- A.43** The key controls for accounting policies are:

- Systems of internal control are in place to ensure that financial transactions are lawful.
- Suitable accounting policies are selected and applied consistently.
- Accurate and complete accounting records are maintained.
- Financial statements are prepared which present fairly the financial position of the Council and its expenditure and income.

- A.44** The Director of Finance and Business Services is responsible for:

- selecting suitable accounting policies and ensuring that they are applied consistently.
- exercising supervision over financial and accounting records and systems.
- preparing and publishing reports containing the statements on the overall finances of the Council including the Council's Annual Report and Accounts.

- A.45** Corporate Management Team are responsible for adhering to the accounting policies and guidelines set by the Director of Finance and Business Services.

Accounting Records and Returns

- A.46** The Director of Finance and Business Services is responsible for determining the accounting procedures and records for the Council.



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- A.47** All accounting procedures will be approved by the Director of Finance and Business Services.
- A.48** All accounts and accounting records will be compiled by the Director of Finance and Business Services or under his/her direction. The form and content of records maintained in other directorates will be approved by the Director of Finance and Business Services.
- A.49** The key controls for accounting policies are:
- calculation, checking and recording of sums due to or from the Council will be separated as completely as possible from their collection or payment.
 - officers responsible for examining and checking cash transaction accounts will not process any of these transactions themselves.
 - reconciliation procedures are carried out to ensure transactions are correctly recorded.
 - procedures are in place to enable accounting records to be reconstituted in the event of systems failure.
 - prime documents are retained in accordance with legislative and other requirements.

The Annual Statement of Accounts

- A.50** The Director of Finance and Business Services is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Council Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC). Approval of the statutory accounts has been delegated by Council to the Audit and Governance Committee.



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B Financial Planning

Why is this important?

The full Council is responsible for agreeing the authority's Policy Framework and Budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:

The Business Plan – this sets out:-

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

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

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

The Treasury Management Strategy – which sets out the arrangements for the management of the Council's borrowing, lending, cash flows and investments.

Specific Service Plans and Strategies which have a financial implications.

What's covered in this Section?

- Policy Framework
- Strategic Planning Framework



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- Budgeting
 - Format of the Budget
 - Revenue Budget Preparation, Monitoring and Control
 - Determination, Monitoring and Control of Affordable Borrowing
 - Resource Allocation
 - Capital Programmes
- Leasing and Rental Agreements
- Maintenance of Reserves
- Reporting



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Policy Framework

- B.1** The full Council is required by law, to agree a Policy Framework. The Policy Framework is defined in Chapter 4 of the Council's Constitution.
- B.2** The full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the Policy Framework.
- B.3** The full Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the Policy Framework within the financial limits set by the Council.

Strategic Planning Framework

- B.4** Each year the Council produces a Business Plan, including an approved budget, capital programme, treasury management strategy asset management strategy and reserves strategy detailing the financial and service scenario over a three year planning horizon and the policy and expenditure changes required to respond to this scenario.
- B.5** The Director of Finance and Business Services will advise the Council on the financial environment, financial policies (including the appropriate levels of reserves and contingencies, prudential borrowing and treasury management) and the policy and expenditure options to assist in the determination of its Budget. The Corporate Management Team and Heads of Service will support this process by assessing and advising on the service scenario and policy and expenditure options for revenue and capital, in their area of responsibility, in a form determined by the Director of Finance and Business Services.
- B.6** The Cabinet, advised by the Director of Finance and Business Services, Corporate Management Team and Heads of Service, will develop a budget package including financing options, policy and expenditure options and capital programme. This will be subject to scrutiny by the Overview and Scrutiny Committee before the Cabinet finalises its recommendations to Council. The final Budget policy and Council Tax precept will be determined by Council.



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Budgeting

Format of the Budget

- B.7** The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.
- B.8** The general format of the budget will be approved by the full Council and proposed by the Cabinet on the advice of the Director of Finance and Business Services. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

Revenue Budget Preparation, Monitoring and Control

Revenue expenditure

- B.9** Revenue expenditure is broadly defined as any expenditure incurred on the day to day running of the Council. Examples of revenue expenditure include salaries, energy costs, and consumable supplies and materials.

Preparation

- B.10** The Director of Finance and Business Services is responsible for ensuring that a revenue budget is prepared on an annual basis and a general revenue plan on a three-yearly basis for consideration by the Cabinet, before submission to the full Council. The full Council may amend the budget or ask the Cabinet to reconsider it before approving it in accordance with the Constitution.
- B.11** The Cabinet is responsible for issuing guidance on the general content of the budget in consultation with the Director of Finance and Business Services as soon as possible following approval by the full Council.
- B.12** It is the responsibility of Corporate Management Team to ensure that budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet.
- B.13** The Cabinet will then submit a 'final budget' to the full Council for approval.
- B.14** The Director of Finance and Business Services is responsible for reporting to the full Council on the robustness of estimates contained within the



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budget proposed by the Cabinet and the adequacy of reserves allowed for in the budget proposals.

- B.15** The Council shall not approve additional net expenditure to either revenue or capital budgets without first having considered the advice of the Cabinet and the Director of Finance and Business Services on the financial implications arising.

Monitoring and Control

- B.16** The Director of Finance and Business Services is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations at a corporate level and report to the Cabinet on the overall position on a regular basis.

- B.17** It is the responsibility of Corporate Management Team to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Director of Finance and Business Services. They **must** report on variances within their own areas. They **must** also take any action necessary to avoid exceeding their budget allocation and alert the Director of Finance and Business Services to any problems.

- B.18** The Director of Finance and Business Services is responsible for the following:

(a) Establishing an appropriate framework of budgetary management and control which ensures that:

- budget management is exercised within annual cash limits unless the full Council agrees otherwise
- timely information on receipts and payments is made available, which is sufficiently detailed to enable officers to fulfil their budgetary responsibilities
- expenditure is committed only against an approved budget head
- all officers responsible for committing expenditure comply with relevant guidance, and Finance and Contract Procedure Rules
- each cost centre has a single named manager, determined by the relevant Head of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure
- significant variances from approved budgets are investigated and reported by budget managers regularly.



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- (b) Administering the Council's scheme of virement.
- (c) Submitting reports to the Cabinet and to the full Council, in consultation with the relevant Director or Head of Service, where they are unable to balance expenditure and resources within existing approved budgets under their control.
- (d) Preparing and submitting reports on the Council's projected income and expenditure compared with the budget on a regular basis.

B.19 Corporate Management Team are responsible for the following:

- (a) Maintaining budgetary control within their Services, in adherence to the principles in B.17, and ensuring that all income and expenditure is properly recorded and accounted for.
- (b) Ensuring that an accountable budget manager is identified for each item of income and expenditure under their control. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- (c) Ensuring that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- (d) Ensuring that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- (e) Preparing and submitting to the Cabinet reports on the service's projected expenditure compared with its budget, in consultation with the Director of Finance and Business Services.
- (f) Ensuring prior approval by the full Council or Cabinet (as appropriate) for new proposals, of whatever amount, that:
 - create financial commitments in future years



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- change existing policies, initiate new policies or cease existing policies or materially extend or reduce the Council's services.

(g) Ensuring compliance with the scheme of virement.

(h) Agreeing with the appropriate Director or Corporate Management Team member any budget proposal, (including a virement proposal) which impacts across their respective service areas, after having consulted with the Director of Finance and Business Services and the Resources Portfolio Holder.

(i) Ensuring Schemes of Financial Delegation are maintained for all Services within their area of responsibility.

(j) Ensuring best value is obtained.

Determination, Monitoring and Control of Affordable Borrowing

B.20 Under the Local Government Act 2003 the Council is required by regulation to have regard to the Chartered Institute of Public Finance and Accountancy's (CIPFA) Prudential Code for Capital Finance in Local Authorities. The key objectives of the Prudential Code are to ensure that within a clear framework, the capital investment plans of local authorities are affordable, prudent and sustainable. A further objective is to ensure that treasury management supports prudence, affordability and sustainability.

B.21 The Council is responsible for approving prior to the commencement of the financial year the prudential indicators for the forthcoming financial year and at least the two subsequent financial years required by the Code. The indicators required as a minimum are:

For the three year period:

- Estimates of the ratio of financing costs to net revenue stream
- Estimates of capital expenditure
- Estimates of the Council Tax that would result from the totality of the estimated capital expenditure
- Estimate of capital financing requirement (underlying need to borrow for a capital purpose)
- Authorised limit for external debt
- Operational boundary for external debt

After the year end actual values are to be calculated for:

- Ratio of financing costs to net revenue stream



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- Capital expenditure
- Capital financing requirement
- External debt

B.22 The Director of Finance and Business Services is responsible for:

- establishing procedures to both monitor performance against all forward looking prudential indicators and for ensuring that net external borrowing does not exceed the capital financing requirement.
- reporting to Council any significant deviations from expectations.
- ensuring that regular monitoring is undertaken in year against the key measures of affordability and sustainability, by reviewing estimates of financing costs to revenue and the capital financing requirement.
- reporting to Council, setting out management action, where there is significant variation in the estimates used to calculate these prudential indicators, for example caused by major overruns of expenditure on projects or not achieving in-year capital receipts.

Resource Allocation

B.23 The Director of Finance and Business Services is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's Policy Framework.

B.24 The Director of Finance and Business Services is responsible for:

- Advising on methods available for the funding of resources, such as grants from central government and borrowing requirements.
- Assisting in the allocation of resources to budget managers.

B.25 Corporate Management Team are responsible for:

- Working within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- Identifying opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

Capital Programmes

Capital Expenditure



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- B.26** Capital expenditure is broadly defined as expenditure in excess of £10,000, on the acquisition of a tangible asset, or expenditure which adds to (rather than merely maintains), the value of an existing asset and/or extends the useful life of an asset and increasing usability, provided that the asset yields benefits to the Council and the services it provides is for a period of more than one year.

Capital Approvals

- B.27** Capital approvals referred to in these Finance Procedure Rules relate to the total cost or “starts value” of each provision or scheme rather than the anticipated expenditure in each year. Individual items estimated to cost in excess of £250,000 will be treated as separate schemes or provisions.
- B.28** An Option Appraisal in the form of a detailed Business Case Template, in a form agreed by the Director of Finance and Business Services, must be prepared for all capital proposals with a gross estimated cost in excess of £250,000, including the replacement of individual vehicles or items of equipment, before being submitted for inclusion in the Capital Programme or before approval is sought from Members in year. A summarised version of the Business Case Template will also be required for all proposals over £100,000. These will be used as the basis for assessing the affordability and deliverability of the scheme, as well as for monitoring, reporting and post-implementation review.
- B.29** Option Appraisals, in the form of a Business Case Template, must also be prepared for all revenue proposals with a significant financial impact, risk profile or policy change, as specified by the Director of Finance and Business Services. The proforma, in a form agreed by the Director of Finance and Business Services, must include an assessment of the Service consequences, risk and impact on users, and include any differential impact on particular groups or localities.

Capital Block Provisions

- B.30** As part of the annual policy and planning process, schemes in the capital programme which have not reached an advanced state will be reconsidered.
- B.31** Services are expected to develop reserve capital schemes which can be brought forward in the event of changes in the approved programme, subject to approval via the normal routes.
- B.32** Block provisions will be approved within the Capital Programme for individual schemes costing less than £250,000. A detailed breakdown of



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the expenditure proposed must be submitted for approval by the appropriate Cabinet Member as part of the policy and planning process. This requirement will also apply to block provisions included in the vehicle and equipment replacement programme.

Capital Monitoring and Amendments to the Capital Programme

- B.33** Where possible, all capital schemes contained within the block provision should be approved through the annual capital programme setting process, within the timetable set out by the Director of Finance and Business Services and approved by Council in February. Any subsequent further breakdown of block approvals must follow the appropriate approval route, with completion of a delegated decision proforma where necessary.
- B.34** Any 'in year' approval sought for capital schemes in excess of £250,000 must be supported by a complete Business Case Template, in the format prescribed by the Director of Finance and Business Services, which has been endorsed by the Capital Asset Group prior to submission to the appropriate Members.
- B.35** Project managers must ensure that the project specification remains consistent with the approved capital appraisal and continues to represent value for money for the Council. Where project outcomes or costs alter significantly from those set out in the original appraisal a revised Business Case Template must be completed and submitted to the officer Capital Asset Group.
- B.36** Wherever possible, expenditure in respect of Highways improvements funded by developers and Rechargeable works should be included in the Capital Programme. Where this is not possible Heads of Service may approve capital expenditure in respect of:
- Highway improvements fully funded by developers under Section 278 of the Highways Act 1980, provided that a formal agreement has been completed with the developer
 - Other rechargeable reinstatement work costing in excess of £10,000
 - Urgent work to repair, replace or reinstate vehicles, buildings or equipment, where the work is to be fully funded from insurance monies following consultation with the Finance Manager.
- B.37** In addition, Heads of Service may authorise essential design work required in advance of the start of the financial year on capital schemes



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which are in the programme approved by Council in February.

Capital Receipts

- B.38** The Director of Finance and Business Services must be informed of all proposed sales of land and buildings so that the effect on financial and property management can be assessed.
- B.39** The Council will determine the amount of receipts to be set aside for the repayment of debt and how the balance of such receipts is to be used.

Leasing and Rental Agreements

- B.40** Leasing or renting agreements must not be entered into unless the service has established that they do not constitute a charge against the Council's prudential borrowing limits. Advice can be obtained from the Director of Finance and Business Services on general leasing arrangements and on whether the lease is a finance or operating lease. Director of Finance and Business Services approval must be obtained for all agreements which may involve a leasing charge.
- B.41** Leases relating to land or property also require the approval of the Director of Finance and Business Services. Only the Monitoring Officer or his/her authorised deputies, or persons specifically authorised by the Service Scheme of Financial Delegation, may sign such agreements.

Maintenance of Reserves

- B.42** It is the responsibility of the Director of Finance and Business Services to advise the Cabinet and/or the full Council on prudent levels of reserves for the Council.
- B.43** The key controls are:
- Professional standards as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC) and agreed accounting policies.
 - Clear agreement of the purpose for which reserves are held and the type of expenditure which they may be used to fund.
 - Clear processes for the authorisation of appropriations to and from reserves.
- B.44** The Director of Finance and Business Services is responsible for:



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- Advising the Cabinet and/or the full Council on prudent levels of reserves for the Council, and to take account of the advice of the external auditor in this matter.

B.45 Corporate Management Team are responsible for:

- Ensuring that resources are used only for the purposes for which they were intended.

Reporting

B.46 Heads of Service are responsible for preparing regular reports on overall financial and non-financial performance and progress against service plan targets, and for submitting these to the Cabinet, and the Overview and Scrutiny Committee after consulting the Director of Finance and Business Services in accordance with procedures agreed from time to time. These reports must include specific reference to the implementation of policy changes and new developments agreed as part of the budget setting process and other specific requirements as notified in the reporting guidance. Capital Project Managers will report periodically to their relevant Cabinet Member on the progress and forecast of all capital expenditure and income against the approved programme.

B.47 These regular reports are also to include specific reference to Service performance against the expected non-financial outcomes in the form of key performance targets. Heads of Service are expected to achieve value for money in the delivery of services and the reports should demonstrate how this has been achieved together with an analysis of how key policy and expenditure proposals have been implemented.

The key reporting stages are:

- Approval of the service plan, including budget statement and performance targets.
- Approval of the Business Case, which will be in a form prescribed by the Director of Finance and Business Services for any scheme estimated to cost in excess of £250,000, before it can be included in the Capital Programme.
- Quarterly reviews of revenue and capital expenditure with the first quarter report concentrating on the emerging budget issues resulting from a budget risk analysis, together with details of the action plans in place to mitigate budget risk.
- Final outturn reports for both revenue and capital expenditure, including full post-implementation review, on all major capital



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schemes completed during the year. This will also include a report on the use of block provisions.

- Summary quarterly reviews and outturn position statements of both capital and revenue expenditure will also be reported to Council through its relevant subordinate bodies.

B.48 In addition, the reports will be specifically required to give details in respect of the following:-

- Potential overspends and proposed remedial action, including any impact on balances and future year's budgets which may need to be factored in to future financial scenario planning
- Amendments to approved budgets (virements, SCE's etc) where Member approval is required.



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C Risk Management and Control of Resources

Why is this important?

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

What's covered in this Section?

- Risk Management
- Insurance
- Internal Controls
- Audit Requirements
 - Internal Audit
 - External Audit
- Preventing Fraud and Corruption
- Financial Irregularities
- Assets
 - Property
 - Security
 - Inventories
 - Stocks and Stores
 - Cash
 - Intellectual Property
 - Asset Disposal
 - Write offs
- Treasury Management
 - Treasury Management and Banking
 - Investments and Borrowings
 - Trust Funds and Funds held for Third Parties
- Staffing
 - Salaries and Wages
 - Early Retirement/Severance
 - Travelling and Subsistence
 - Code of Conduct
- Third Party Funds
- Retention of Records



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Risk Management and Insurance

- C.1** The Cabinet is responsible for advising Council on an appropriate risk management policy statement and strategy, including risk appetite/tolerance levels, and for reviewing the effectiveness of risk management. The Cabinet is also responsible for ensuring that proper insurance exists where appropriate.
- C.2** The Head of Policy and Performance is responsible for preparing the Council's risk management policy statement and for promoting it throughout the Council.

Insurance

- C.3** The Director of Finance and Business Services will maintain and administer the Council's insurances. The Director of Finance and Business Services is responsible for authorising the settlement or repudiation of insurance claims and associated costs. Advice will be sought from the Council's solicitors, insurers, and claim handlers.
- C.4** Corporate Management Team and Heads of Service are responsible for informing the Director of Finance and Business Services immediately of:
- Any insurance claims received
 - Any events which may result in an insurance claim against the Council
 - The terms of any indemnity which the Council is required to give prior to entering into any contracts etc.
 - Any new risks which might require to be insured, together with any changed circumstances affecting existing risks. Consideration should be given to new projects, new ways of working, changes in legislation requiring new ways of delivery etc where the insurance impact is often overlooked.
- C.5** No new insurances may be taken out without prior consultation with the Director of Finance and Business Services.
- C.6** Corporate Management Team must ensure that there is co-operation with the Insurance Team in providing the correct documentation and that the correct retention of documents is observed.
- C.7** Service budgets will be charged with the cost of legal penalties or losses incurred by the Council as a result of any failure to comply with the



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requirements of the Civil Procedure Rules and these Finance and Contract Procedure Rules relating to claims.

Risk Management

- C.8** The Council's approach to Risk Management is that it should be embedded throughout the organisation at both a strategic and an operational level, through integration into existing systems and processes.
- C.9** The Head of Policy and Performance develops the strategy and supporting framework on behalf of the Corporate Management Team, The Audit and Governance Committee scrutinise the risk management process ensuring the Council's risks are managed effectively and that strategic decisions are informed by, and influence the Risk Register.
- C.10** Corporate Management Team are responsible for ensuring the Risk Management Strategy is implemented and that the full risk management cycle operates within their Service.

The full cycle consists of:

- Identification of risks, both negative and positive, in relation to the objectives of the Council.
- Evaluation of risks scored for likelihood and impact, both gross (before any controls) and net (with existing controls)
- Treatment of the risk either by: avoidance, mitigation, transfer or to consciously accept the risk.
- Actions and risks monitored and reviewed on a regular basis.
- The Council's Risk Register will be maintained and co-ordinated by the Head of Policy and Performance.

- C.11** There are two levels to the Risk Register:

Corporate - those risks that impact on the organisation's overall objectives either because of their frequency of occurrence or the significance of the impact.

Service - those risks that impact on the service objectives. There should be a movement of risks both upwards and downwards throughout the levels and treatment addressed at the most appropriate level of the organisation.

- C.12** Heads of Service are responsible for ensuring risk management is carried out at both an operational and strategic level in accordance with the agreed guidance and procedures.



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- C.13** Service strategic risk assessments will be carried out annually to inform the service plan. These risk assessments will form the basis of the Service element of the Council's risk register.
- C.14** Heads of Service will take account of, and address, corporate risks where appropriate and inform the Head of Policy and Performance of any service risks that should be considered significant enough to raise to the corporate level.
- C.15** Service Risk Registers, and associated actions, will be monitored and reviewed on a regular basis (at least quarterly) as part of the performance management process.
- C.16** The corporate risk register will be reported to the Corporate Management Team and to the Audit and Governance Committee in accordance with the budget reporting cycle.

Internal Controls

- C.17** Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- C.18** The Director of Finance and Business Services is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- C.19** It is the responsibility of Corporate Management Team to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

Audit Requirements

Internal Audit

- C.20** The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their



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financial affairs". The Accounts and Audit Regulations 2011 more specifically require that a "relevant body must undertake an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control".

- C.21** The CIPFA Internal Audit Code of Practice defines internal audit as "an assurance function that primarily provides an independent and objective opinion to the organisation on the control environment comprising risk management, control and governance by evaluating its effectiveness in achieving the organisation's objectives."
- C.22** The Council's Internal Audit function provides assurance to the Section 151 officer and the Audit and Governance Committee, with regard to the effectiveness of the Council's internal control environment.
- C.23** The Council must, on an annual basis, produce an Annual Governance Statement. This statement must provide a description of the system of internal control within the Council, a description of any work undertaken to assess the effectiveness of the internal control framework, and any significant internal control weaknesses.
- C.24** To contribute to the production of the Annual Governance Statement, the Internal Audit Manager is responsible for planning and delivering a programme of independent review of the Council's activities, the scope of the programme being based on the Council's objectives and an assessment of the risk which may affect the achievement of these objectives.
- C.25** The Internal Audit Manager is also responsible for reporting to those charged with Governance and currently satisfies this requirement by presenting an annual report to the Audit and Governance Committee, summarising the audit plans for the coming year and a commentary on audit activity which is completed or in progress. A mid year report setting out progress against the annual audit plan is taken to the Audit and Governance Committee. In addition any matters of material importance in relation to audit matters are also reported to the Cabinet and Audit and Governance Committee.
- C.26** Audit staff will have full access to all premises, assets, records and third party fund transactions. With regards to organisations participating in partnering arrangements, Internal Audit staff shall have such access to premises, assets and records of the partner as is necessary for the purposes of the partnering arrangement, as detailed in Procedure Rule F.17. Partners will be required to grant reasonable access when requested



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and details of such access should be agreed with the partner and set down in the Partnering Agreement. Where the right of access has not been specified in existing arrangements then appropriate discussions with partners should take place.

External Audit

- C.27** The Audit Commission is responsible for appointing external auditors to each local Council. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.
- C.28** The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

Preventing Fraud and Corruption

- C.29** The Director of Finance and Business Services is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.
- C.30** The Council has an approved Anti Fraud and Corruption Strategy which places responsibility for maintaining an anti fraud culture with all Members, Managers and individual Members of staff. Any matters which involve, or are thought to involve, any fraud or other significant irregularity involving Council assets or those of a third party fund, must be notified immediately to the Internal Audit Manager, in conjunction with other officers detailed in the Council's Anti Fraud and Corruption Strategy, will decide what steps are necessary.
- C.31** In line with the Anti Fraud and Corruption Strategy the Borough Solicitor will, in consultation with the appropriate Corporate Management Team member and Internal Audit Manager, decide whether any matter under investigation should be recommended for referral to the Police or the appropriate enforcement agency.

Assets

- C.32** In the context of these Rules, assets are defined as the resources, other than people, that the Council uses to deliver its service functions. Assets include buildings, land and infrastructure; furniture; equipment; plant; stores and "intellectual property" such as computer software, data and information of all kinds.
- C.33** Corporate Management Team and Heads of Service are responsible for



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the care, control and proper and economical use of all assets used in connection with the operation and delivery of their Services. Proper records should be maintained for these assets, together with appropriate arrangements for their management and security.

- C.34** Heads of Service are responsible for ensuring that assets are used only for official purposes and that all appropriate rights, licenses and insurances are obtained.
- C.35** Heads of Service are responsible for ensuring that all computer software used is properly licensed.
- C.36** Corporate Management Team are expected to have policies in place for:
 - the effective disposal of surplus assets
 - asset replacement programme
 - compilation of and regular review of Asset inventories.

Property

- C.37** The Council's Asset Management Strategy sets out the vision, core values and objectives that form the context for the preparation of the Corporate Asset Management Plan and Service Asset Management Plans.

The Council has adopted a Corporate Landlord approach to the ownership and management of its property assets. The Corporate Landlord approach means that the ownership of property assets and the responsibility for their management and maintenance is transferred from service directorates to the Corporate Landlord, which is a centralised corporate function.

- C.38** In this way the Corporate Landlord approach :
 - Enables the Council to utilise its assets to deliver better, more efficient services to our communities.
 - Unlocks the value of assets, seeks efficiencies through joint arrangements with our public sector partners and maximises private sector investment.
 - Ensures the provision of a consistent, corporate and strategic approach to the management of the Council's property portfolio, consolidating resources, eliminating duplication, improving efficiency, procurement and the establishment of corporate property standards
 - Supports the delivery of the Council's Corporate Plan
- C.39** Individual services are occupiers of land and property for the purposes of



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delivering their functions.. There are specific responsibilities that fall to both Corporate Landlord and occupiers depending on the nature of the asset and service. The occupiers priority is to plan and deliver their operational service. The Corporate Landlord's priority is to ensure the service is adequately accommodated and to maintain and manage the property asset.

- C.40** The Corporate Landlord's responsibility extends to the acquisition, development and disposal of land and property. This means that the Corporate Landlord would be responsible for asset review, feasibility and options appraisal across all services.
- C.41** All property acquisitions, lettings and disposals must first be discussed with the Strategic Director of Places and Organisational Capacity. Separate rules apply to specific processes, such as the use of capital receipts from property sales to pay for new schemes, and guidance should be sought from the Director of Finance and Business Services and the Strategic Director of Places and Organisational Capacity where this arises.

Inventories

- C.42** Heads of Service must ensure that proper arrangements are made to maintain inventories of all valuable and transportable items, including vehicles, furniture, computer and other equipment (including software), visual aids, expensive tools and sports equipment.
- C.43** The inventory must be updated for all acquisitions and disposals and checked at least annually. Items acquired under leasing arrangements must be separately identified for disclosure in the published final accounts.

Stocks

- C.44** Stock is defined as consumable items constantly required and held by a Service in order to fulfil its functions. Heads of Service are responsible for the control of stocks. They must ensure that stocks are appropriately secured and recorded, do not exceed reasonable requirements and that all significant stock is accounted for in the year end accounts. Stocks should be checked at least once a year, more frequently in the case of expensive items.

Cash

- C.45** Cash held on any Council premises should be held securely and should not exceed any sums for which the Council is insured. (Detailed guidance on limits is available from the Council's Insurance Team. If this is



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unavoidable in exceptional circumstances, the Head of Service is responsible for making appropriate security arrangements.

Asset disposal/Write off

- C.46** Corporate Management Team and Heads of Service or their authorised officers, as specified in the appropriate Scheme of Financial Delegation, may authorise the write off of losses up to £5,000, or disposals, of obsolete or surplus equipment, materials, vehicles or stores up to a disposal value of £5,000. Where the sum exceeds £5,000 approval must be sought from the Resources Portfolio Holder. Any write off which arises as a result of theft or fraud must be notified to the Internal Audit Manager immediately.

Treasury Management

- C.47** The Council has adopted CIPFA's *Code of Practice for Treasury Management in Local Authorities*.
- C.48** The full Council is responsible for approving the treasury management policy statement setting out the matters detailed in paragraph 15 of CIPFA's *Code of Practice for Treasury Management in Local Authorities*. The policy statement is proposed to the full Council by the Cabinet. The Director of Finance and Business Services has delegated responsibility for implementing and monitoring the statement.
- C.49** All money in the hands of the Council is controlled by the Director of Finance and Business Services as designated for the purposes of section 151 of the Local Government Act 1972, referred to in the code as the finance director.
- C.50** The Director of Finance and Business Services is responsible for reporting to the Cabinet a proposed treasury management strategy for the coming financial year at or before the start of each financial year.
- C.51** All Cabinet decisions on borrowing, investment or financing shall be delegated to the Director of Finance and Business Services, who is required to act in accordance with CIPFA's *Code of Practice for Treasury Management in Local Authorities*.
- C.52** The Director of Finance and Business Services is responsible for reporting to the Cabinet not less than four times in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.



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Banking

- C.53** It is the responsibility of the Director of Finance and Business Services to operate bank accounts as are considered necessary. Opening or closing any bank account shall require the approval of the Director of Finance and Business Services.

Investments and Borrowings

- C.54** It is the responsibility of the Director of Finance and Business Services to:
- To ensure that all investments of money are made in the name of the Council or in the name of approved nominees.
 - To ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in safe custody..
 - To effect all borrowings in the name of the Council.
 - To act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council.

Trust Funds and Funds Held for Third Parties

- C.55** It is the responsibility of the Director of Finance and Business Services to:
- To arrange for all trust funds to be held, wherever possible, in the name of the Council (e.g. 'Cheshire East Borough Council on behalf of.....'). All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Director of Finance and Business Services, unless the deed otherwise provides.
 - To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Director of Finance and Business Services, and to maintain written records of all transactions.
 - To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

Staffing

Salaries and Wages

- C.56** Corporate Management Team and Heads of Service are responsible, in consultation with the Head of Human Resources and Organisational Development, for providing accurate and appropriate information and



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instructions to the Human Resources and Finance Shared Service to enable the calculation and prompt payment of salaries, expenses and pensions, including details of appointments, promotions, regradings, resignations, dismissals, retirements and absences from duty. Human Resources and Organisational Development will advise the Human Resources and Finance Shared Service of relevant changes in respect of employee's pensions. The Head of the Human Resources and Finance Shared Service will make arrangements for payment to the appropriate bodies, of all statutory, including taxation, and other payroll deductions.

- C.57** Time sheets and other pay documents which are used to generate payment of salaries, wages or other employee-related expenses must be on official forms or via authorised electronic inputs. Heads of Service are responsible for ensuring that they are certified by an authorised officer and that they are submitted to the Human Resources and Finance Shared Service in accordance with the specified timetable. This includes on-line input entered locally. The names and specimen signatures of authorised officers must be secured by Corporate Management Team and Heads of Service and included in the service Scheme of Financial Delegation notified to the Director of Finance and Business Services.
- C.58** The Head of Human Resources and Organisational Development will implement national and local pay agreements as soon as possible after their notification from the appropriate body. Arrangements for funding such awards will be determined each year as part of the budgetary process.

Early Retirement/Severance

- C.59** Where Heads of Service wish to bring forward proposals under the Council's policies on severance and early retirement, they must be accompanied by a full cost and affordability assessment, in a form agreed by the Chief Executive, the Director of Finance and Business Services and the Head of Human Resources and Organisational Development. The approval of the relevant Portfolio Holder and Resources Portfolio Holder is required for proposals relating to SM1 and above..
- C.60** Heads of Service will generally be required to meet the costs of severance and early retirement from within their approved budget, subject to phasing over an agreed period. A corporate budget may also be established for this purpose and access to this budget will be subject to the agreement of the Director of Finance and Business Services and the Head of Human Resources and Organisational Development.



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Travelling and Subsistence

- C.61** Heads of Service are responsible for instructing the Head of Human Resources and Organisational Development and for providing appropriate and accurate information to enable the prompt and accurate payment of travelling, subsistence and other expenses to authorised employees in accordance with the terms of employment agreed by the Council.
- C.62** Heads of Service are responsible for ensuring that Council employees who use their cars for official business are properly insured to indemnify the Council against any loss and for ensuring that payments are only made in respect of journeys which are necessary and actually undertaken. Heads of Service should ensure that the most economical available means of transport is used, including pool cars, hire cars and car sharing.
- C.63** All claims for reimbursement must be made using appropriate official claim forms, always using electronic processing where available.

Code of Conduct

- C.64** The Code of Conduct for Employees applies to, and will be followed by all officers. It covers standards, disclosure of information, political neutrality, relationships, appointments and other employment matters, outside commitments, personal interests, equality issues, separation of roles during tendering, gifts and hospitality, use of financial resources and sponsorship.
- C.65** Where an outside organisation wishes to sponsor or is asked to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts and hospitality applies, as detailed in the Code of Conduct for Employees.

Third Party Funds

- C.66** A third party fund is defined as any fund financed other than by the Council, controlled wholly or partly by a member of the Council's staff in connection with the clients, establishments or activities of the Council such as School Funds, Amenity Funds or Criminal Injuries Compensation Payments for children in care.
- C.67** Officers maintaining third party funds are responsible for informing the Internal Audit Manager of their nature and purpose.
- C.68** Money or goods belonging to the third party fund must be kept completely



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separate from other money or goods belonging to the Council. Similarly, completely separate records must be kept of the money or goods involved.

- C.69** An independent auditor must be appointed who has suitable qualities though not necessarily professionally qualified, to audit the third party fund on an annual basis. The Internal Audit Manager will advise on such appointments. Annual Statements of Account and Audit Certificates must be formally presented to a Management Committee or other appropriate governing body.
- C.70** Corporate Management Team are responsible for ensuring that any third party funds controlled by Council staff are:-
- formally declared to the Internal Audit Manager as part of a register kept by the Service/Service
 - maintained separately and correctly in accordance with these Finance Procedure Rules, and
 - subject to the same standards of stewardship and probity as Council funds.
- C.71** The Returning Officer will be responsible for maintaining complete and accurate records and for reconciliation with regard to elections accounts.

Retention of Records

- C.72** The Council, in common with other public and private organisations, has certain statutory obligations it has to meet for the retention of its records. It also has to fulfil the requirements of HM Revenue and Customs, other legislative requirements and the external auditors in respect of its financial records.
- C.73** All records held should have an appropriate retention period assigned to them, which meet the statutory obligations to retain financial records, but also takes into account legislative requirements such as the Limitation Act and Data Protection Act; Freedom of Information requirements; and the business needs of the Service.
- C.74** The majority of financial records must be kept for 6 years from the end of the tax year to which they relate. Some records however, may need to be kept for longer periods e.g. if required to defend future insurance claims. It is possible others can be destroyed within shorter periods.



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D Financial Systems and Procedures

Why is this important?

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

What's covered in this Section?

- Income and Expenditure
 - Income
 - Banking Arrangements
 - Generating Income
 - Collection of Income
 - Bad Debts
 - Ordering and paying for work, goods and services
 - General Principles
 - Payment of Invoices
 - Non-invoice payments
 - Purchase Cards/Credit Cards
 - Imprest Accounts
 - Payments to Members
- Taxation
- Trading Accounts and Business Units



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Income and Expenditure

Banking Arrangements

- D.1** The Council will approve the terms under which banking services, including overdraft facilities, are provided.
- D.2** All bank accounts must be titled impersonally in the name of Cheshire East Borough Council.
- D.3** Subject to any directions given by the Council, all arrangements with the Council's bankers must be made solely through the Director of Finance and Business Services. No bank accounts may be opened or arrangements made with any other bank except by agreement with the Director of Finance and Business Services.
- D.4** Bank transfers from the General Fund and subsidiary accounts must be signed by the Director of Finance and Business Services, or those officers authorised to sign through the agreed Scheme of Financial Delegation.
- D.5** Cheques drawn must bear the mechanically impressed or facsimile signature of the Director of Finance and Business Services or be signed by the Director of Finance and Business Services or other officer authorised to sign through the agreed Scheme of Financial Delegation.

Income

Generating Income

- D.6** Local Authorities do not have general powers to trade with, or levy charges upon, other organisations or private individuals. The use of flexibilities in the Local Government Act 2003, its interpretation and application needs to be agreed in consultation with the Borough Solicitor. Corporate Management Team are responsible for ensuring that the appropriate legal authority for all income generating activities has been identified and for maintaining an Income and Charging Strategy in a format specified by the Director of Finance and Business Services.



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- D.7** Charges must be reviewed annually in the light of all relevant information, including consideration of appropriate inflation factors. Where changes have significant financial consequences, approval is required in accordance with the limits set out below:-

Approval Level	Financial Impact of Change in Charges
Corporate Management Team	Up to and including £100,000
Director of Finance and Business services in consultation with Resources Portfolio Holder	More than £100,000 and up to and including £500,000
Cabinet Members	Over £500,000 and up to and including £1,000,000
Council	£1,000,000 or more

Collection of Income

- D.8** Council officers must comply with guidelines issued by the Director of Finance and Business Services for the safe and efficient collection and recording of all money due to the Council.
- D.9** Corporate Management Team are responsible for ensuring that accounts for income due to the Council, including grant claims, reimbursements and third party contributions, are raised immediately and accurately in a form approved by the Director of Finance and Business Services. These must include VAT where appropriate.
- D.10** The cost of collection should be taken into account when raising accounts. Corporate Management Team must ensure that the method of collection is the most cost effective relative to the value of the transaction.
- D.11** Corporate Management Team are responsible for ensuring that all income received is receipted, where required, recorded correctly against the appropriate budgets, and in the case of cash and cheques, banked with



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the minimum of delay. The frequency of banking should follow guidelines provided by the Director of Finance and Business Services to avoid incurring disproportionate banking charges on relatively low value transactions, taking into account local security arrangements.

- D.12** Corporate Management Team are responsible for monitoring income collection and ensuring appropriate recovery action is taken. A summary of the position on the level of outstanding debt and collection issues should be included in quarterly financial updates and the final outturn report. Full provision for income still outstanding six months after the due date should be made in Service accounts. This should not however preclude pursuit of the debt.
- D.13** The Director of Finance and Business Services will monitor compliance with Finance Procedure Rules D.11 and D13 and may, in circumstances where avoidable adverse cash flow has resulted, determine an appropriate interest charge against Service budgets.
- D.14** Credit notes must be authorised by appropriate officers nominated in the local Scheme of Financial Delegation.
- D.15** Any receipts, tickets or other documents used as receipts should be in a format agreed by the Director of Finance and Business Services. All controlled stationery issued to a Head of Service must be recorded in a register, which is held by a single officer within each Service.

Bad Debts

- D.16** Bad debts may be written off as follows:

Approval Level	Bad Debt Amount
Corporate Management Team and Heads of Service, or Authorised Officer as contained in the Scheme of Financial Delegation, in consultation with the Director of Finance and Business Services.	Up to and including £2,500
Corporate Management Team and Heads of Service, in consultation with the Director of Finance and Business Services and Borough Solicitor.	Over £2,500 and up to and including £5,000.
Corporate Management Team and Heads of Service, in consultation with the Director of Finance and Business Services and Borough Solicitor and	Over £5,000 and up to and including £10,000.



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appropriate Portfolio Holder.	
Corporate Management Team and Heads of Service, in consultation with the Director of Finance and Business Services, Borough Solicitor, appropriate Portfolio Holder and Resources Portfolio Holder.	Over £10,000 and up to and including £50,000.
Cabinet Members	Over £50,000.

- D.17** Corporate Management Team are responsible for ensuring that an adequate provision for bad debt is made in the Council's accounts at year end and that contributions to this provision are included in budgetary projections and outturn reports.

Ordering and paying for work, goods and services

General Principles

- D.18** Corporate Management Team and Heads of Service are responsible for providing all appropriate information and instructions to the Head of the Human Resources and Finance Shared Service to allow for prompt and accurate payment for goods and services provided and for the analysis of expenditure.
- D.19** Except for purchases by visa purchase card, all purchases must be supported by an official requisition and purchase order unless previously agreed with the Director of Finance and Business Services. All purchases, including by visa purchase card, must have regard to these Finance Procedure Rules.
- D.20** All requisition and purchase orders must be authorised in accordance with the relevant service Scheme of Financial Delegation to ensure that funds are available to pay for the purchase.
- D.21** Where a requisition for the purchase of goods or services exceeds £10,000 in value Finance and Contract Procedure rules E.33 – E.36 apply.
- D.22** All official purchase orders must include, as a minimum, the order number, the price agreed with the supplier, description of the goods or services to be provided, the delivery address, the address where invoices must be received and the terms and conditions for the goods and services to be provided.



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- D.23** Heads of Service must ensure that there is adequate separation of duties in the raising and authorisation of requisitions, authorising of purchase orders, receipt of goods and authorisation of payments to creditors.
- D.24** Heads of Service must ensure robust processes to continually maintain computer records and accesses, and Schemes of Financial Delegation so that electronic workflows associated with core financial systems are not compromised.
- D.25** All purchasing activity must be carried out in accordance with the Council's Procurement Strategy and advice issued about efficient and effective use of the Council's core financial and e-procurement systems and processes. Such processes will include the deployment of VISA purchase cards.
- D.26** Approval of the Director of Finance and Business Services must be sought in advance of entering into any supply agreement with a commercial creditor who has not been set up on the Council's core financial system.
- D.27** Heads of Service must consult the the Director of Finance and Business Services on appropriate arrangements for purchases of goods and services which can not be accommodated within standard ordering and payment processes.

Payment of Invoices

- D.28** All invoices must be sent directly by the creditor to the address stated on the official purchase order to enable prompt payment.
- D.29** All invoices, as a minimum, must include the official purchase order number, the description of the goods or services provided, the quantity delivered, the delivery address, the date of the invoices and/ or date of delivery of the goods or services, the address and VAT registration number of the supplier and the price and VAT at the prevailing rate.
- D.30** Invoices received without a valid purchase order number will be returned to the creditor as unauthorised for payment.
- D.31** The Council's standard payment terms are 30 days from receipt of a correct invoice by BACS (Bankers Automated Clearing System). Alternative terms may not be negotiated or agreed with suppliers without the explicit approval of the Director of Finance and Business Services. Heads of Service are responsible for notifying suppliers of these terms and for ensuring that they are observed by all those involved in the purchasing and payment processing.



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- D.32** Payment will only be made for goods and services which have been formally receipted in accordance with receipting procedures set out by the Director of Finance and Business Services .
- D.33** All purchasing activity must be carried out in accordance with the Council's Procurement Strategy and advice issued about efficient and effective use of the Council's core financial and e-procurement systems and processes. Invoices received for payment must comply with the Council's best practice processes.

Non-invoice payments

- D.34** Where Heads of Service wish to initiate a payment to a third party without a supporting invoice, an official request for payment must be submitted in a form approved by the Director of Finance and Business Services.
- D.35** Any such requests must be authorised by an officer designated with an appropriate approval limit in the relevant service Scheme of Financial Delegation. They are responsible for ensuring that all payment details provided are accurate and that supporting records and documentation are available to substantiate the payment, including an official VAT receipt to allow for the reclaim of any VAT element.
- D.36** Appropriately authorised requests for payment will be processed by the Director of Finance and Business Services and paid by BACS. Cheques will only be used in exceptional cases and by prior agreement.
- D.37** Non-invoice payments should be requested on an exceptional basis only. Where payments of this type need to be made on regular basis Heads of Service must consider, in conjunction with the Director of Finance and Business Services, other alternative options which may be more appropriate.
- D.38** Payments or reimbursements in respect of salaries and wages, travelling expenses or other employment allowances must be processed through the Payroll system and not treated as a non-invoice payment.

Purchase Cards

- D.39** Heads of Service are responsible for the appropriate deployment and management of VISA purchase cards within their service.

Local Bank and Imprest Accounts

- D.40** Local bank and imprest accounts may only be used as alternatives to



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purchase orders and VISA purchase cards by prior consent and in accordance with specific guidance and instructions issued by the Director of Finance and Business Services.

D.41 Heads of Service are responsible for ensuring that where local arrangements are in place:

- Local Schemes of Financial Delegation set out clearly the responsibilities and approval limits of individual officers in respect of these arrangements; and that these are reviewed and updated regularly.
- They are operated in accordance with guidance issued and that appropriate management supervision and compliance monitoring is undertaken.
- Adequate records are maintained to allow for the verification and reconciliation of all payments made to the Council's general ledger and bank accounts, and to allow for the proper treatment of VAT.
- Arrangements are being operated for legitimate Council business only.

D.42 Local arrangements may not be used in any circumstances to circumvent either the Councils Corporate Procurement Strategy or agreed approval and authorisation procedures, nor must they be used for any payments in respect of salaries and wages, travelling or other employment expenses, or payments for work carried out under the Construction Industry Tax Deduction Scheme.

Payment to Members

D.43 The Director of Finance and Business Services is responsible for paying all allowances to Members.

D.44 The Director of Finance and Business Services will make payments to any Members entitled to claim allowances on receipt of the proper form, completed and certified in accordance with the Council's scheme for allowances.

Taxation

D.45 It is the responsibility of the Director of Finance and Business Services, in conjunction with the Head of the Human Resources and Finance Shared Service, to:

- To complete all Inland Revenue returns regarding PAYE.
- To complete a monthly return of VAT inputs and outputs to HM



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Revenue and Customs.

- To provide details to HM Revenue and Customs regarding the construction industry tax deduction scheme.
- To maintain up-to-date guidance for Council employees on taxation issues.

D.46 It is the responsibility of Corporate Management Team to:

- To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue and Customs regulations.
- To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- To ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- To follow the guidance on taxation issued by the Director of Finance and Business Services.

Trading Accounts and Business Units

D.47 Separate Trading Accounts are required when services are provided to either internal or external clients, on a basis other than a straightforward recharge of full cost. These accounts are also required where there is a minimum turnover of £1,000,000.

D.48 It is the responsibility of the Director of Finance and Business Services to advise on the establishment and operation of trading accounts and business units.

D.49 It is the responsibility of Corporate Management Team to:

- To consult with the Director of Finance and Business Services and Borough Solicitor where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the Council. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
- To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.



FINANCE AND CONTRACT PROCEDURE RULES

- To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.
- To ensure that each business unit prepares an annual business plan.

Appendix 2

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Task Group**
held on Friday, 16th December, 2011 at Committee Suite 2/3 - Westfields,
Middlewich Road, Sandbach, CW11 1HZ

PRESENT

Councillors D Marren, G Morris and P Whiteley

In attendance

Councillor M Jones, Cabinet Member for Resources
Councillor P Groves, Cabinet Support Member for Resources

Officers

Lisa Quinn, Director of Finance and Business Services
Christine Mann, Finance Manager
Paul Jones, Democratic Services Team Manager
Paul Mountford, Democratic Services Officer

1 APPOINTMENT OF CHAIRMAN

RESOLVED

That Councillor D Marren be appointed Chairman of the Task Group.

Councillor Marren in the chair

2 DECLARATIONS OF INTEREST

No interests were declared.

3 FINANCE PROCEDURE RULES

The Constitution Committee at its meeting on 17th November 2011, in considering progress with its review of the Constitution, had appointed a Task Group of five members to consider and advise on detailed changes to the Finance Procedure Rules.

It was intended that a report on the Finance Procedure Rules would be taken to the Committee's meeting on 26th January 2012 with a view to making recommendations to Council on 23rd February. The Task Group was therefore asked to consider the proposed amendments to the Finance Procedure Rules.

Councillor M Jones, Cabinet Member for Resources, welcomed the Task Group's consideration of the draft Finance Procedure Rules and explained briefly the nature and purpose of the proposed changes.

Members had regard to a draft report to the Constitution Committee which explained in more detail the background to and purpose of the proposed changes to the Finance and Contract Procedure Rules. The report sought approval for proposed amendments to the Foreword and Sections A, B, C and D of the Rules, and a recommendation to the Council for their endorsement. Section E (Contract Procedure Rules) had already been approved and Section F would be considered at a later date.

The amendments sought to reflect the recent changes made to the Officer Scheme of Delegation and to improve the alignment of the Finance and Contract Procedure Rules, in terms of wording and content, with other parts of the Constitution. The amendments also took into account updated national best practice recommendations and changes to the way the Council operated. Some minor re-wording had also been undertaken to clarify points which had given rise to interpretational ambiguity and to improve clarity and readability.

The summary of financial responsibilities set out in Section A of the Rules had been redrafted so that the wording aligned with that included in Part 3 of the Constitution which set out the Responsibility for Functions at both Officer and Member level. The overview section of Section B, and regulations B4 to B6, had been updated to reflect recent changes to the Council's strategic planning framework, following the introduction of a revised approach to Business Planning. Regulations C37 to C41 had been updated to reflect the role of the Corporate Landlord. Regulation A19 had also been updated to include reference to recently a published CIPFA Statement on the Role of the Chief Financial Officer in Local Government.

The following specific areas of clarification had also been addressed:

Ring-fenced budgets: an additional sub-paragraph had been added to regulation A31 to explain the nature of ring-fenced budgets and the restrictions that applied to their management.

Schemes of Financial Delegation: regulation A24-A27 had been redrafted with a view to distinguishing more clearly between local Schemes of Delegation, which documented the assignment of functions and general decision-making powers from the Corporate Management Team to Heads of Service and other subordinate officers, and Schemes of Financial Delegation, which were intended to set out approval responsibilities and limits for specific financial and budgetary transactions.

The Task Group considered the draft Finance Procedure Rules and agreed the following amendments:

Foreword, paragraph 2 to read: the Corporate Management Team *must* maintain a written record where decision-making has been delegated to staff.

A.31(b) – the Director of Finance and Business Services to consider providing a clearer definition of a budget head.

B.17 to read: [the Corporate Management Team] *must* also take any action to avoid exceeding their budget allocation.

B.28 to read: A summarised version of the Business Case Template will also be required for all *proposals* over £100,000.

C.7 (failure to comply with Civil and Contract Procedure Rules) – it was suggested that this should include reference to the possibility of disciplinary action. The Director of Finance and Business Services undertook to include an appropriate wording in the Foreword which would be consistent with the Officer Code of Conduct.

C.46 (asset disposal/write-off) – it was suggested that a time constraint should be placed on disposals/write-offs. The Director commented that there could be legitimate reasons for delaying a disposal/write-off; she undertook to include an appropriate form of wording in the Foreword.

D.13 (monitoring and reporting on the level of outstanding debt) – this should refer to *quarterly* and outturn reports.

RESOLVED

That subject to the amendments agreed by the Task Group, the draft Finance Procedure Rules be recommended to the Constitution Committee for approval by Council.

The meeting commenced at 10.45 am and concluded at 11.50 am

Councillor D Marren (Chairman)

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CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 26th January 2012
Report of: Democratic Services and Registration Manager
Subject/Title: Re-Appointment of Independent Remuneration Panel

1.0 Report Summary

- 1.1 The report invites the Committee to confirm the appointment of five individuals to Cheshire East Council's Independent Remuneration Panel.

2.0 Recommendations

- 2.1 That the five individuals to be named at the meeting be appointed to sit on Cheshire East Council's Independent Remuneration Panel for a period of three years; and
- 2.2 That a vote of thanks be recorded to the outgoing members of the Panel (Mr David Routs, Professor Michael Burdekin, Mrs Jan Charles, Mrs Christine Crowe and Mr Peter Foden) for their service to the Council.

3.0 Reasons for Recommendations

- 3.1 The term of office for the existing Panel members expired on 1 December 2011 and the Council is now required to re-appoint an Independent Remuneration Panel.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 Not applicable

6.0 Policy Implications including

- 6.1 No policy implications have been identified

7.0 Financial Implications

- 7.1 Individuals appointed to sit on the Independent Remuneration Panel are entitled to claim a meeting allowance of £30 plus reasonable travel and subsistence expenses incurred in the performance of their duties. As the

number of individuals on the Independent Remuneration Panel has not changed, there are no financial implications in respect of the appointments.

8.0 Legal Implications

- 8.1 Failure to re-appoint an Independent Remuneration Panel would result in the Council being in breach of the Local Authorities (Members' Allowances) (England) Regulations 2003.

9.0 Risk Management

- 9.1 No significant risks have been identified.
- 9.2 The appointment of an Independent Remuneration Panel will ensure that the Council receives independent advice on the level of allowances which should be paid to reflect the time and commitment of elected Members.

10.0 Background

- 10.1 The Local Authorities (Members' Allowances) (England) Regulations 2003 requires the Council to establish an Independent Remuneration Panel ('the Panel') for the purpose of making recommendations to it ('the Council') on the amount of allowances which should be paid to elected members.
- 10.2 The existing Panel, comprising five independent individuals was appointed by the former Governance and Constitution Committee on 1 December 2008 to serve for a period of three years. As the Panel's term of office came to an end in December 2011, arrangements were put in place to re-appoint the Panel.

11.0 Appointment Process

- 11.1 To ensure that the Panel is independent of the Council, restrictions are placed on who can apply to sit on the Panel. Individuals cannot be a member if they -
- are a member of any of the local authorities (borough or parish) in respect of which the Panel makes recommendations;
 - would be disqualified from being a Councillor of any local authority;
 - are a member of a political party;
 - are a close relative or friend of any elected member of the Council.
- 11.2 To advertise the vacancies on the Panel, a press release seeking expressions of interest from applicants was issued on 30 November 2011 which was reported in the local press. The release was also displayed on the Council's website. In addition, an e-mail shot was undertaken to alert the borough's business community and appropriate partners to this opportunity in order to attract a wide variety of candidates.

- 11.3 A number of application packs explaining the role of the Panel and its Members, were issued in response to enquires received. Due to a significant number of enquiries being received close to the original closing date of 23 December 2011, the deadline for return of applications was extended to 6 January 2012. In total, 8 application forms have been returned for consideration.

12. Appointment of Candidates

- 12.1 Interviews for the five posts are to be held on Thursday, 19th January 2012; the names of the preferred candidates will be reported at the meeting.

13.0 Access to Information

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

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CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 26th January 2012
Report of: Borough Solicitor
Subject/Title: Local Service Delivery Committees

1.0 Report Summary

- 1.1 The Committee is asked to give further consideration to this matter following reference back by Council.

2.0 Recommendation

- 2.1 That the Committee consider the matter and make an appropriate recommendation to Council.

3.0 Reasons for Recommendations

- 3.1 The Local Service Delivery Committees require Terms of Reference in order to operate effectively.
- 3.2 The Constitution Committee is required to consider the arrangements for the Local Service Delivery Committees and to formulate advice and report back to Council.

4.0 Wards Affected

Crewe

Crewe North
Crewe East
Crewe South
Crewe West
Crewe Central
Crewe St. Barnabas
Leighton

Macclesfield

Macclesfield West and Ivy
Macclesfield Hurdsfield
Broken Cross and Upton
Macclesfield South
Macclesfield Central
Macclesfield Tytherington
Macclesfield East

5.0 Local Ward Members

Crewe

Cllrs Grant, M Martin, Newton, Thorley, Flude, Hogben, Nurse, Sherratt, Faseyi, Cartlidge, Bebbington.

Macclesfield

Cllrs Andrew, Harewood, Boston, L Brown, Hardy, Jeuda, Druce, K Edwards, Jackson, Murphy, Roberts, Neilson.

6.0 Policy Implications (including carbon reduction and health)

- 6.1 The Council's agreed arrangements must be clearly documented in the Constitution.

7.0 Financial Implications

- 7.1 No such implications arise from the proposals contained in this report.

8.0 Legal Implications

- 8.1 Once agreed, the arrangements will be included in the Constitution which can be amended by Council, following a recommendation of the Committee.

9.0 Risk Management

- 9.1 No risks would appear to arise from the proposals contained in this report.

10.0 Background and Options

- 10.1 The Committee considered the attached report at its meeting on 17th November 2011 and resolved as follows:

"That Council be recommended to approve the revised terms of reference for the Local Service Delivery Committees as set out in the Appendix to the report, subject to the addition of the Leighton ward for the Crewe Committee."

Council at its meeting on 15th December 2011, having considered the Committee's recommendation, resolved as follows:

"That this matter be referred back to the Constitution Committee for further consideration, with a report back to the next meeting of the Council."

11.0 Access to Information

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

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CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 17th November 2011
Report of: Borough Solicitor
Subject/Title: Local Service Delivery Committees Terms of Reference/membership

1.0 Report Summary

- 1.1 Council approved the constitution of two Local Service Delivery Committees for the unparished areas of Crewe and Macclesfield, whose membership should be constituted on a proportionate basis 'to make representations to Cabinet and Council about the delivery of local services in the area and to monitor local services where a town or parish council acting under local devolution arrangements would have been expected to do so (but not otherwise)'.
- 1.2 At the first meeting of each of the Committees consideration was given to the Terms of Reference, which the Committees would operate under. The draft Terms of Reference, are appended to the report. The first paragraph has been amended slightly, to reflect the current position with regard to membership, which is currently on a politically proportionate basis. Each Committee gave consideration to the draft Terms of Reference and suggested the following changes:

Crewe Committee

- 1.3 The original resolution made by Council in respect of the membership of the Committee (i.e. that Ward Members representing the un-parished areas of Crewe be appointed) had been superseded by the resolution made by Council on 15 December 2010, which resolved that the Committee be appointed on a politically proportionate basis. The current membership of 4 Conservative, 1 Labour and 2 Independents reflects this decision. It was also noted that Leighton should also have been included in the list of wards affected, as a small proportion of the ward fell outside the parish boundary. The Committee resolved that, subject to the wording relating to membership of the Committee being amended to reflect the political proportionality of the Council and the inclusion of Leighton in the wards affected, that the Terms of Reference for the Local Service Delivery Committee (Crewe) be recommended to Council for approval.

Macclesfield Committee

- 1.4 With regard to the positions of Chairman and Vice-Chairman there was agreement that the Committee should nominate the Chairman and Vice-

chairman, rather than nominations coming via the political groups and it was, recommended that this be added to the proposed Terms of Reference.

- 1.5 It was agreed that the process for speaking at Committee meetings would be that Members of the Committee would be invited to speak on a matter in the first instance, followed by Participating/Ward Members. In the light of the above, it was agreed that the following additions be made to the proposed Terms of Reference:

- That the nomination and appointment of the Chairman and the Vice-Chairman of the Committee be a function of the Committee.
- That the procedure for Participating Members be that they be invited to speak and to participate, after Committee Members, but prior to any decisions being taken. (Note - The Crewe Committee also agreed to adopt this approach and it is, therefore, suggested that it would be appropriate to include this in the terms of reference for both Committees).

Notice of Motion Relating to Membership of the Local Service Delivery Committee (Macclesfield)

- 1.6 At the meeting of the Council held on 13 October 2011, it was resolved that the following Notice of Motion, submitted by Councillors D Neilson and B Murphy, should stand referred to the Constitution Committee for consideration:
- 1.7 “In view of the consultative role of the Local Service Delivery Committee for Macclesfield, plus the request from the Cabinet in relation to precepting powers for the Committee and in order to enhance its mandate, to reflect opinion across the town, the Council requests the Constitution Committee to re-consider the Committee's composition, with a view to incorporating into its membership all elected Councillors for the unparished area.”
- 1.8 If the above change to membership is agreed, it will not be necessary to include details of the procedure/order of speaking in the Terms of Reference, as recommended by the Local Service Delivery Committee (Macclesfield), as all Councillors for the unparished area would be members of the Committee.

2.0 Recommendation

2.1 That

- (1) the Committee recommend to Council that the Terms of Reference be approved and consider whether to also recommend the changes suggested by the Local Service Delivery Committees for Crewe and Macclesfield.
- (2) the Committee decide whether to recommend to Council that the membership of the Local Service Delivery Committee (Macclesfield)

should be amended to comprise all elected Councillors for the unparished area, as proposed in the above Notice of Motion to Council.

3.0 Reasons for Recommendations

- 3.1 The Committees require Terms of Reference in order to operate effectively.
- 3.2 The Constitution Committee is required to consider the Notice of Motion, as submitted and to formulate advice and report back to Council.

4.0 Wards Affected

Crewe

Crewe North
Crewe East
Crewe South
Crewe West
Crewe Central
Crewe St. Barnabas
Leighton

Macclesfield

Macclesfield West and Ivy
Macclesfield Hurdsfield
Broken Cross and Upton
Macclesfield South
Macclesfield Central
Macclesfield Tytherington
Macclesfield East

5.0 Local Ward Members

Crewe

Cllrs Grant, M Martin, Newton, Thorley, Flude, Hogben, Nurse, Sherratt, Faseyi, Cartlidge, Bebbington.

Macclesfield

Cllrs Andrew, Harewood, Boston, L Brown, Hardy, Jeuda, Druce, K Edwards, Jackson, Murphy, Roberts, Neilson.

6.0 Policy Implications (including carbon reduction and health)

- 6.1 The Council's agreed arrangements must be clearly documented in the Constitution.

7.0 Financial Implications

- 7.1 No such implications arise from the proposals contained in this report.

8.0 Legal Implications

- 8.1 Once agreed, the arrangements will be included in the Constitution which can be amended by Council, following a recommendation of the Committee.

9.0 Risk Management

- 9.1 No risks would appear to arise from the proposals contained in this report.

10.0 Background and Options

- 10.1 The Committee will need to consider the options as set out in the decision requested and consider whether to recommended the proposed changes to the draft terms of Reference, as suggested by the Local Service Delivery Committees and the change in membership arrangements for the Macclesfield Committee, as proposed in the Notice of Motion, as set out in paragraph 1.2 of the report.

11.0 Access to Information

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

Name: Julie North

Designation: Senior Democratic Services Officer

Tel No: 01270 686460

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LOCAL SERVICE DELIVERY COMMITTEES - TERMS OF REFERENCE

Council has agreed that two Local Service Delivery Committees be constituted for the unparished areas of Crewe and Macclesfield, whose membership shall be constituted on a politically proportionate basis 'to make representations to Cabinet and Council about the delivery of local services in the area and to monitor local services where a town or parish council acting under local devolution arrangements would have been expected to do so (but not otherwise)'.

Membership

The Committees will be appointed at the Annual meeting of the Council.

Other Ward Members for the unparished areas, who are not members of the Committee will receive copies of all agenda papers and will be invited to participate.

Wards Affected**Crewe**

Crewe North
Crewe East
Crewe South
Crewe West
Crewe Central
Crewe St. Barnabas

Macclesfield

Macclesfield West and Ivy
Macclesfield Hurdsfield
Broken Cross and Upton
Macclesfield South
Macclesfield Central
Macclesfield Tytherington
Macclesfield East

Proposed Terms of Reference

1. To consider the delivery of services in the relevant unparished area in relation to those services or asset types being transferred or devolved, as part of the overall local delivery arrangements across Cheshire East, consistent with the parished areas.
2. To consider the cost implications of the delivery of services or cost of assets in the relevant unparished area consistent with the agreed policy in parished areas.

3. To consider the cost and delivery implications in the context of a potential special expenses levy in the unparished area to represent the cost of delivery to provide consistency across Cheshire East
4. To make recommendations to Cabinet on the level of service provision for those services/assets being considered as part of the local delivery arrangements (in parished areas)
5. To make recommendations to Cabinet on any special expenses levy arising from point 4 above.

CHESHIRE EAST COUNCIL

Corporate Scrutiny Committee Constitution Committee

Date of Meeting: 10th January 2012
26th January 2012
Report of: Borough Solicitor
Subject/Title: Cheshire East Governance Arrangements – Localism Act 2011

1.0 Report Summary

- 1.1 To explore the options available to the Council to review its governance arrangements under the Localism Act 2011.
- 1.2 The Corporate Scrutiny Committee considered this report at its meeting on 10th January 2012. The Committee's resolutions are set out in the Appendix.

2.0 Recommendations to Council

That

- (1) the report be noted and the Monitoring Officer be requested to report back to both committees as soon as is appropriate; and
- (2) the Corporate Scrutiny Committee and Constitution Committee set up a Joint Member Working Group on a 5:1:1 basis with a view to investigating in detail all available options to review governance arrangements under the Localism Act 2011, to begin when additional guidance has been issued by DCLG.

3.0 Reasons for Recommendations

- 3.1 Although the Act received Royal Assent on 15 November, the sections relating to the powers which allow local authorities to change governance arrangements have not yet been enacted, although it is anticipated that the Secretary of State will issue regulations which underpin the process in the spring of 2012.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 Not applicable.

6.0 Policy Implications (including carbon reduction and health)

- 6.1 In accordance with the requirements of the Local Government and Public Involvement in Health Act 2007, the Council resolved to adopt the 'Strong Leader' and Cabinet Model of executive arrangements. These arrangements came into effect in May 2011.

7.0 Financial Implications

- 7.1 Not known at this stage.

8.0 Legal Implications

- 8.1. The Localism Act describes the process that needs to be followed to change governance arrangements. These are set out below. A change in governance arrangements will require the constitution to be redrafted.

9.0 Risk Management

- 9.1 There are no identifiable risks.

10.0 Background and Options

- 10.1 Council at its meeting held on 15 December 2011, referred the following notice of motion, submitted by Councillor Brickhill, to the Constitution Committee for consideration:
- 'In view of the obvious and continued failure of the Cabinet system, as evidenced by their inability, for a second year running, to manage their budget, letting it overrun by a predicted £16,000,000, with the resultant reductions of reserves to a dangerously low level, this Council instructs its Constitution Committee to prepare the necessary amendments to bring about a proven successful system of governance, similar to the earlier committee systems of the successful predecessor Councils, to begin from the start of the 2012/13 financial year.'
- 10.2 Corporate Scrutiny Committee had previously expressed an interest in this subject and accordingly, this report will also be considered by that committee.
- 10.3 The Localism Act proposes to devolve greater powers to councils and neighbourhoods and to give local communities more control over housing and planning decisions.
- 10.4 In addition the Act allows Councils to choose to return to the 'committee system' of governance and also allows for referendums for elected mayors in certain authorities.

- 10.5 So far, there has been little additional information released by the government to guide authorities as to the options likely to be available to return to a committee based structure or to any variation of hybrid models which would retain some kind of Overview and Scrutiny function.
- 10.6 Any return to a Committee based system or a more hybrid model involving decision making committees to replace the current Executive arrangements will have to have regard to secondary legislation which is expected to follow which will provide detail about delegation of powers.
- 10.7 Most authorities last used a committee based system in 2000. The change to that system was brought about by the Local Government Act 2000. This was influenced in part by the Audit Commission paper 'We can't go on meeting like this' published in 1990. The report highlighted many aspects of the old style committee system and in particular commented about the amount of time that Members spent on Committee business and the fact that rather than concentrating on performance and strategic issues, committees were often drawn into the detail of operational issues. To illustrate the amount of time Members were spending on committee business, the report reported the findings of the Widdicombe committee which stated that the average councillor spent 74 hours in a typical month on Council duties, of which 60% of that time was accounted for by attending, preparing for and travelling to and from official meetings of the Council.
- 10.8 The 2000 Act therefore was intended to provide an opportunity for members to break out of the traditional committee-dominated way of doing business and to be more community based.

11.0 Options within the Localism Act

- 11.1 The Act requires all authorities to operate governance arrangements in one of 3 forms:
- Executive arrangements (either Leader, cabinet and scrutiny or executive mayor, cabinet and scrutiny);
 - Committee system
 - Another prescribed arrangement (where a local authority submits a proposal to the Secretary of State for a different form of governance, which the Secretary of State must then approve).
- 11.2 Authorities operating Executive arrangements must continue to have at least one Scrutiny Committee. Authorities operating under a committee system may have one or more scrutiny committees.

12.0 The Process to Change Governance Arrangements

- 12.1 In order to change governance arrangements, a local authority will be required to pass resolution at Full Council giving notice that the Council intends to change its governance arrangements. An authority will also have to give public notice of that decision in the local press. The relevant proposals will also have to be placed on deposit for a prescribed amount of time. The precise details of the process are not yet known and will be contained in regulations to be issued by the Secretary of State (but it is likely some form of public consultation may be required). It is anticipated that arrangements can then only be changed with effect from an Annual Council meeting.
- 12.2 There are also provisions to allow referenda to be held when it is proposed to change governance arrangements in certain circumstances. This can be at the request of the local authority or as directed by the Secretary of State. There would be no requirement, however, for Cheshire East to hold a formal referendum if it wished to return to a committee system unless it resolved to do so.
- 12.3 It is intended that in May 2012 Mayoral referendum will be held in the 11 core cities, including Manchester and Liverpool, to determine whether the public would wish to move to an Elected Mayor and Cabinet Executive. This will not however directly impact upon Cheshire East and there will be no requirement to hold a similar referendum in May 2012.

13.0 Health and Social Care Bill and other Statutory Scrutiny Requirements

- 13.1 The Health and Social Care Bill establishes Health and Wellbeing Boards and will be extending scrutiny powers in respect of health matters. The Council will also have regard to statutory requirements that exist in relation to community safety, flood risk management and to any additional duties that may be put in place in respect of such matters as Police and Crime Panels.

14.0 Other Local Authorities considering a return to the committee system

- 14.1 The National Overview and Scrutiny Forum reports that, anecdotally, around 45 authorities in England appear to be taking significant steps to prepare for a return to the committee system. Of these, perhaps 15 (again, the figure is a supposition) will actually take the step. The most likely authorities appear to be Nottinghamshire, Brighton and Hove, Bristol and Barnet, although a number of small districts are also considering making the change. However, rather than a “return” to a committee system it is expected to be more likely that councils will adopt a streamlined, hybrid model.

15.0 Conclusion

- 15.1 Although a number of authorities have expressed an interest in exploring alternative arrangements to the Executive/ Scrutiny model, all are awaiting further advice from government as to how this may be achieved. That advice is not expected to be issued until the spring of 2012. Those authorities which decide to revert back to a system analogous to the pre- 2000 governance arrangements, will have to await the publication of regulations which will spell out delegation arrangements under a committee system. Authorities preferring to adopt a hybrid model may have to seek Secretary of State approval.
- 15.2 In the absence of further evidence and in the light of the Health and Social Care Bill, it is suggested that the prudent way to proceed would be to await the publication of regulations which underpin the new legislation and then to consider all options which will also involve assessing the budgetary implications which will include such matters as the likely impact on the Members allowances scheme and on resources generally within the Council and specifically within Democratic Services to support a new system. It should also be noted that any change in governance arrangements will mean that significant changes to the constitution will be required.

16 Joint Member Working Group

- 16.1 In order to consider the various options in greater detail once the legislation is in force and guidance available it is recommended that the Corporate Scrutiny Committee and Constitution Committee jointly establish a Joint Member Working Group on a 5·1·1 basis with a view to reporting back to the main Committees and full Council

17 Access to Information

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

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Resolutions of the Corporate Scrutiny Committee at its meeting on 10th January 2012

RESOLVED

- (1) That a Joint Member Working Group be created comprising members of this Committee and the Constitution Committee, consisting of 10 Members (on a 6:2:1:1 basis) the working group to include at least one member from each of the political groups represented on the Council, at least one Member to represent the Council's Regulatory Committees and one Member of the Cabinet, with a view to investigating in detail all available options to review governance arrangements under the Localism Act 2011;
- (2) That the Joint Member Working Group meet initially on a provisional basis subject to ratification by Council on 23 February 2012;
- (3) That appointments to the Joint Member Working Group be pursued through the group whips; and
- (4) That the Chairman and Vice-Chairman of the Joint Member Working Group be appointed at its first meeting.

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