

# Constitution Committee

## Agenda

---

<b>Date:</b>	<b>Monday, 26th November, 2012</b>
<b>Time:</b>	<b>2.00 pm</b>
<b>Venue:</b>	<b>Committee Suite 1,2 &amp; 3, Westfields, Middlewich Road, Sandbach CW11 1HZ</b>

---

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 disclosable pecuniary and non-pecuniary 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 - 12)

To approve the minutes of the meeting held on 20<sup>th</sup> September 2012.

---

For requests for further information

**Contact:** Paul Mountford

**Tel:** 01270 686472

**E-Mail:** paul.mountford@cheshireeast.gov.uk with any apologies

5. **Re-Organisation of Community Governance (Crewe) Order 2012 and Mini Review of Electoral Arrangements for the Parish of Leighton** (Pages 13 - 24)

To consider the recommendations of the Community Governance Review Sub-Committee on a review of the electoral arrangements for the Parish of Leighton, arising from the proposed boundary change to the Leighton Urban Ward.

6. **Notice of Motion - Motions to Council** (Pages 25 - 28)

To consider the motion referred by Council.

7. **Notice of Motion - Right to Speak at Meetings** (Pages 29 - 32)

To consider the motion referred by Council.

8. **Notice of Motion - Confidentiality** (Pages 33 - 50)

To consider the motion referred by Council.

9. **Notice of Motion - Start Time of Council Public Meetings** (Pages 51 - 52)

To consider the motion referred by Council.

10. **New Outside Organisation - the Nantwich Partnership** (Pages 53 - 64)

To consider appointments to the Nantwich Partnership.

11. **Council Governance Arrangements** (Pages 65 - 94)

To consider a report on proposed changes to the governance arrangements of the Council.

12. **Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012** (Pages 95 - 110)

To consider a report which outlines the new provisions introduced by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, and which informs Members of amendments to current practice to ensure compliance with the new provisions.

13. **Scheme of Members' Allowances: Report of the Independent Remuneration Panel** (Pages 111 - 136)

Cheshire East Council's Independent Remuneration Panel ('the Panel') is nearing the completion of its 2012 review of the Scheme of Members' Allowances.

During the course of the review, the Panel has met with several elected Members, most recently on 15<sup>th</sup> November 2012 with the Leader of the Council and the Council's Interim Chief Executive. Accordingly, the Panel gives notice that it now has sufficient information available to it to complete its review and make recommendations to Constitution Committee for consideration by Council in December.

It is anticipated that the Panel's final report will be published in the next few days.

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Constitution Committee**  
held on Thursday, 20th September, 2012 at Committee Suite 1, 2 & 3,  
Westfields, Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

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

Councillors G Baxendale, S Hogben, S Jones, W Livesley, A Moran,  
B Murphy, D Newton, A Thwaite, D Topping and P Whiteley

**Officers**

Caroline Elwood, Borough Solicitor  
Brian Reed, Democratic and Registration Services Manager  
Lisa Quinn, Director of Finance and Business Services  
Lindsey Parton, Registration Service and Business Manager  
Paul Mountford, Democratic Services Officer  
Rose Hignett, Senior Electoral Services Officer

**In attendance**

Councillors D Brickhill, H Davenport, L Gilbert, P Mason and B Moran

**Apologies**

Councillors P Groves and G Wait

The Chairman welcomed Honorary Alderman David Cannon to the meeting.

**12 DECLARATIONS OF INTEREST**

Councillor S Hogben declared a disclosable pecuniary interest in an item on the agenda relating to the Crewe Community Governance Review on the grounds that he was the holder of a Council allotment within the unparished area of Crewe. He indicated that he would withdraw from the meeting when the matter was considered.

**13 PUBLIC SPEAKING TIME/OPEN SESSION**

Honorary Alderman David Cannon spoke in relation to the Crewe Community Governance Review, having previously submitted comments during the final stage of consultation on the review. He suggested that the wards for the new Crewe parish council should be approximately the same size, with each parish councillor representing approximately the same number of electors. He added that the wards should be medium-sized, representing identifiable localities. While he was in favour of 20 parish councillors for the parish council, he wished to emphasise in particular the need for smaller wards.

#### **14 MINUTES OF PREVIOUS MEETING**

##### **RESOLVED**

That the minutes of the meeting held on 5<sup>th</sup> July 2012 be approved as a correct record.

#### **15 CREWE COMMUNITY GOVERNANCE REVIEW - FINAL OUTCOME**

Having declared a disclosable pecuniary interest earlier in the meeting, Councillor S Hogben withdrew from the meeting.

The Committee considered a report on the outcome of the final stage of consultation for the review and the results of a ballot of electors in the unparished part of Leighton.

Nine responses to the consultation were received and were appended to the report. The results of the Leighton ballot showed that 85% of respondents were in favour of being included in Leighton Parish.

The Sub-Committee had recommended that the unparished part of the Leighton Borough Ward be included in the adjoining Leighton Parish. The Sub-Committee had left it to the Committee to determine the number of parish councillors for Crewe.

A re-organisation Order was required to be approved by the Council to bring any new arrangements into effect, following the final outcome of the Review. Within this Order, for the purposes of regulation 3 of the Local Government Finance (New Parishes) (England) Regulations 2008, a sum had to be included for the budget for the first year of operation of the new parish council, which could not be exceeded. The Sub-Committee has therefore prepared a draft budget. The draft re-organisation Order and the draft budget were attached as Appendices to the report. In developing the budget figure, consideration had been given to the transfer of assets to the new parish council, having taken into consideration advice from Counsel. The Sub-Committee had recommended that all Council allotments within the unparished area and the public conveniences in Lyceum Square, Crewe should transfer as part of the re-organisation order.

The minutes of the meetings of the Sub-Committee held on 18<sup>th</sup> July 2012 and 4<sup>th</sup> September 2012 were appended to the report.

In considering the results of the consultation, ballot and recommendations of the Community Governance Sub-Committee, and in formulating its recommendations to Council, Members ensured that the proposed community governance arrangements within the area under review were reflective of the identities and interests of the community in the area; and were effective and convenient.

The Committee was asked to authorise the Sub-Committee to take all necessary actions in preparation for the new Crewe parish council.

**RESOLVED**

That

(1) Council be recommended to approve that

- (a) the interests of effective and convenient local government and community identities in the area would be served by the creation of a new parish with a Parish Council for the unparished area of Crewe and that Parish Council be advised to consider its designation as a Town Council;
- (b) having taken into account the representations received, the Parish should be divided into 6 wards for the purposes of election to the Parish Council, such wards to be coterminous with the existing Borough wards (except for Polling District 1GM2 of the Crewe South ward which is already parished), with each ward having the number of parish councillors as follows:

Crewe St Barnabas	2
Crewe Central	2
Crewe North	2
Crewe South	3
Crewe East	4
Crewe West	3
TOTAL	16

- (c) having considered the results of the ballot of electors, the unparished part of the Borough ward of Leighton be included within the Leighton Urban ward of Leighton Parish;
- (d) elections to the Crewe Parish Council be held on 4<sup>th</sup> April 2013;
- (e) the public conveniences in Lyceum Square, Crewe be transferred to the new parish council with effect from 1<sup>st</sup> April 2013 but Cheshire East Council continue to manage the facilities for the first three months; a sum of £30,000 to be included in the budget for the first year of the parish council to cover the cost of managing these assets;
- (f) the Council allotments within the unparished part of Crewe be transferred to the new parish council with effect from 1<sup>st</sup> April 2013 on the basis of a 150 year lease; a sum of £30,000 to be included in the budget for the first year of the parish council to cover the cost of managing these assets;

- (g) the draft budget be approved, as attached to the report, subject to the addition of a contingency fund of £100,000, the budget totalling £442,000;
  - (h) the draft re-organisation order be updated as required and submitted to Council on 13<sup>th</sup> December for approval, following a mini-review of the electoral arrangements for the Parish of Leighton arising from the proposed boundary change to the Leighton Urban Ward;
- (2) the terms of reference of the Community Governance Review Sub-Committee be extended to enable the Sub-Committee to take all necessary actions in preparation for the new Crewe parish council.

At the conclusion of this matter, Councillor S Hogben was invited to return to the meeting.

#### **16 NOTICE OF MOTION - VENUE FOR MEETINGS OF THE STRATEGIC PLANNING BOARD**

The Committee considered the following motion which had been proposed by Councillor D Brickhill and seconded by Councillor S Hogben, and referred by Council to the Committee for consideration:

“That when the Strategic Planning Board agenda contains a majority of items from the south of the Borough, the meeting will be held in Crewe or Sandbach.”

The Committee considered a number of options for ensuring that meetings of the Strategic Planning Board would be held at the most appropriate venue.

Councillor D Brickhill, the proposer of the motion, and Councillor H Davenport, the Chairman of the Strategic Planning Board, were present at the meeting and spoke on this matter.

#### **RESOLVED**

That Council be recommended to agree that the venue arrangements for meetings of the Strategic Planning Board should be as follows:

That the Capesthorne Room, Macclesfield Town Hall and the Council Chamber, Municipal Buildings, Crewe be reserved in advance for every scheduled meeting of the Strategic Planning Board, with the room that is not required for a particular meeting being released at the appropriate time, the choice of venue to be at the discretion of the Chairman of the Strategic Planning Board in consultation with officers.

## 17 KEY DECISIONS - DEFINITION AND THRESHOLDS

The Committee considered revised definitions with regard to key decisions.

The definition of a key decision was two-fold. The first limb related to those executive decisions where either expenditure or savings were significant having regard to either the service or the function to which the decision related. The Council's current definition of a key decision did not specify any financial thresholds. Guidance indicated that the Council ought to look at specifying limits, both in the interests of consistency and so that the public were clear about which decisions were considered to be significant in financial terms.

The second limb of the definition of a key decision related to its impact and effect upon local communities. Although the statutory definition required the impact to be on two or more wards, guidance recognised that in some instances there would be a significant impact on one ward.

Information had been obtained on the definition of a "key decision" adopted by Cheshire East Council's 15 near statistical neighbours and was appended to the report.

The Director of Finance and Business Services advised the Committee that for Cheshire East Council, a financial threshold of £1M would be appropriate. Members felt, however, that a lower threshold would allow more openness and scrutiny of decisions and as a result should lead to better decisions.

### **RESOLVED**

That Council be recommended to approve that the following definition of a key decision be adopted:

"an executive decision which is likely –

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the local authority.

For the purpose of the above, savings or expenditure are "significant" if they are equal to or greater than £250,000."

## 18 REVIEW OF CONTRACT PROCEDURE RULES

The Committee considered proposed amendments to the Council's contract procedure rules.

The Audit and Governance Committee on 14<sup>th</sup> June 2012 had resolved that the Council's contract procedure rules be submitted to the next meeting of the Constitution Committee for further review with a view to increasing the level of Member involvement in decision-making. At its meeting on 5<sup>th</sup> July this Committee resolved that the Task Group previously appointed by the Committee to review detailed changes to the Constitution be asked to undertake the further review and report back to the Committee's next meeting.

The Task Group had met on 9<sup>th</sup> August to review the contract procedure rules and had agreed as follows:

- Clarity was required around the responsibilities of Directors which would include ensuring that they took all reasonable steps for the proper administration of contracts and procurement in their Departments.
- Revisions were required to clarify the process, actions and approvals required in respect of exceptions to the rules and non-compliance with the rules and urgency.
- Other matters including retaining records, specifications, whole life costs (excluding VAT) and quotations.
- The need for a short Guide to Procurement for Officers to complement the existing Knowledge Map.

The contract procedure rules had been amended in the light of the Task Group's comments and were appended to the report for the Committee's consideration. The Shared Services Manager had undertaken to produce the additional guidance on contracts and procurement as requested by the Task Group.

The Director of Finance and Business Services circulated a number of additional proposed amendments at the Committee's meeting.

The Committee was asked to consider the amended contract procedure rules and the further amendments proposed by the Director. A number of additional amendments were suggested by Members relating to:

- The definition of financial thresholds
- The recording of training needs
- The need for a breakdown of non-compliances against heads of service

**RESOLVED**

That

- (1) the proposed amendments to the contract procedure rules, including the additional amendments proposed by the Director of Finance and Business Services at the meeting, be approved for recommendation to Council subject to the further amendments agreed by Members;
- (2) the Vice-Chairman of the Committee be authorised to determine any final amendments to the contract procedure rules in consultation with the Director of Finance and Business Services;
- (3) a final updated version of the rules incorporating all amendments be produced for consideration by Council; and
- (4) Council be recommended to approve the amended contract procedure rules and the consequential amendments to the Constitution.

**19 PROPOSED AMENDMENTS TO THE COUNCIL'S FINANCE AND CONTRACT PROCEDURE RULES/PROJECT GATEWAY**

The Committee considered proposed amendments to Sections A and B of the Council's Finance and Contract Procedure Rules and the creation of a 'Project Gateway' to provide a strong quality assurance model for major projects and programmes in Cheshire East.

The new Project Gateway would bring about a more robust discipline to the management of major Projects and Programmes across the Council. The new governance arrangements associated with the Project Gateway impacted on the decision-making process and the required financial controls and therefore a review of the Finance and Contract Procedure Rules was required.

A key aspect of effectively operating the Project Gateway was the formation of a high-level, Member-led Governance group called the Executive Monitoring Board which would take on the challenge role as part of the development of the Council's Business Plan and the monitoring of its delivery. The Board would replace the Capital Asset Group by taking on the Capital Modelling, Planning and Monitoring role as described in the current Capital Strategy. One of the key aims of the Board would be to provide consistent and robust direction for all major Projects and Programmes in Cheshire East through the Project Gateway model. Further details of the Gateway model were set out in the report.

The proposed amendments to the Finance and Contract Procedure Rules were set out in Appendix 1 to the report and fell broadly into two main categories:

1. Amendments to Section A with regard to Virements and Supplementary Estimates
2. Amendments to Section B with regard to Capital Approvals, Capital Block Provisions, Capital Monitoring and Amendments to the Capital Programme

**RESOLVED**

That Council be recommended to approve that

- (1) the proposed amendments to Sections A and B of the Finance and Contract Procedure Rules be approved subject to the following amendment:

“That projects with an estimated cost of between £100,000 and £250,000 are to be brought to the appropriate Policy Development Group for consideration and/or noting.”

- (2) the Constitution be amended accordingly.

**20 NOTICE OF MOTION - MOTIONS TO COUNCIL**

The Committee considered a report on the current arrangements for dealing with Notices of Motion, together with a number of proposed amendments to those arrangements.

This followed a motion proposed and seconded at the last Council meeting by Councillors D Brickhill and A Moran respectively as follows:

“That all motions that are referred by Council to a Committee or Cabinet must be put on the agenda of the next meeting of that body or brought back to the next Council meeting for vote on a final decision.”

The motion had been referred to the Committee for consideration and advice.

Members felt that further work was needed on the proposed changes to the current arrangements and that the matter should be considered further at the next meeting.

**RESOLVED**

That the matter be considered further at the next meeting.

**21 NOTICE OF MOTION - RIGHT TO SPEAK AT MEETINGS**

With the agreement of the proposer of the motion, Councillor A Moran, this matter was deferred for consideration at the next meeting.

**22 NOTICE OF MOTION - CONFIDENTIALITY**

With the agreement of the proposer of the motion, Councillor B Murphy, this matter was deferred for consideration at the next meeting.

**23 DECISIONS TAKEN IN THE ABSENCE OF A PORTFOLIO HOLDER**

The Committee agreed to defer consideration of this matter to the next meeting.

**24 SPECIAL RESPONSIBILITY ALLOWANCE: LOCAL SERVICE DELIVERY COMMITTEES FOR CREWE AND MACCLESFIELD**

The Committee considered the Independent Remuneration Panel's recommendations regarding the award of a Special Responsibility Allowance to the Chairmen and Vice-Chairmen of the Local Service Delivery Committees for Crewe and Macclesfield.

The recommended allowances related to the 2011-12 municipal year only in recognition of the work undertaken by the Committees in that year.

**RESOLVED**

That Council be recommended to approve that

- (1) a Special Responsibility Allowance be awarded to the Chairman and Vice-Chairman of the Local Service Delivery Committee (Crewe) and the Local Service Delivery Committee (Macclesfield), of £5,600 (Chairman) and £1,000 (Vice-Chairman) for 2011/2012 in recognition of the work undertaken during the Committees' inaugural year and in line with the requirements of Cheshire East Council's Scheme of Members' Allowances which states that a Member can only be in receipt of one Special Responsibility Allowance; and
- (2) the matter be included as part of the Independent Remuneration Panel's Review of the Scheme of Members' Allowances for 2012/2013 which will consider whether the posts merit the awarding of a Special Responsibility Allowance from 16<sup>th</sup> May 2012 onwards.

**25 PETITIONS - THE LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2000, THE LOCAL AUTHORITIES (PETITIONS) (ENGLAND) ORDER 2010 AND THE LOCALISM ACT 2011**

The Committee considered proposed amendments to the Council's Petitions Scheme.

Section 46 of Chapter 10 of the Localism Act 2011 had repealed the provisions relating to facilities for receiving and dealing with petitions and

e-petitions. In the light of these changes the Committee was asked to review the scheme for dealing with petitions.

Following its previous consideration of this matter, the Committee had sought the views of the Corporate Management Team and Cabinet on any proposed changes to the Petitions Scheme. Those bodies had now considered the matter and it was recommended that:

- (a) the right of a petitioner to request an overview and scrutiny committee to review the steps taken or action proposed by the Council should be removed; and
- (b) the provisions to hold an officer to account should be removed.

CMT and the Cabinet were of the view that the existing provisions requiring a petition in excess of 3,000 signatories to be submitted to full Council for debate if a petitioner so requested should be retained and therefore no amendments to this provision were proposed.

A revised Petitions Scheme was set out at Appendix 1 to the report.

## **RESOLVED**

That Council be recommended to approve that

- (1) the Council's petitions scheme be amended to:
  - (a) remove the right of a petitioner to request an overview and scrutiny committee to review the steps taken or action proposed by the Council;
  - (b) remove the provisions to hold an officer to account; and
- (2) the revised petitions scheme as set out in Appendix 1 be approved and the Constitution be amended accordingly.

## **26 REVIEW OF THE PLANNING PROTOCOL OF CONDUCT AND THE PLANNING PUBLIC SPEAKING PROTOCOL**

The Committee considered proposed amendments to the Council's Planning Protocol of Conduct and Planning Public Speaking Protocol.

The proposed amendments were required to bring the protocols in line with the new Member Code of Conduct.

The proposed amendments to the Protocols were set out in the Appendix to the report. The Strategic Planning Board at its meeting on 12<sup>th</sup> September 2012 had approved the amendments subject to a number of further amendments, details of which were circulated at the meeting.

The proposals were due to be considered by the Audit and Governance Committee on 27<sup>th</sup> September 2012 following which final recommendations would be made to Council.

**RESOLVED**

That having noted the recommendations of the Strategic Planning Board, the Committee makes no further comments on the proposed amendments to the Planning Protocols and recommends to Council that, subject to the views of the Audit and Governance Committee, the proposed amendments be approved and the Constitution be amended accordingly.

**27 URGENT ITEM - EXECUTIVE ARRANGEMENTS**

The Chairman was satisfied that this matter was urgent and could not await the next scheduled meeting of the Committee.

The officers reported that new regulations had come into effect on 10<sup>th</sup> September 2012 which had implications for the Council's executive arrangements. The regulations provided that where an executive meeting, such as a Cabinet or Portfolio Holder meeting, were to be held in private, the Council had to give a minimum of 28 days' notice of any executive meeting. In addition, the regulations provided that any executive decision taken by an officer should be published. The implications of this latter provision could be significant and there appeared to be uncertainty about whether it related to all decisions taken by officers under delegated powers. It would therefore be necessary to seek advice and report back.

**RESOLVED**

That the report be noted and a further report be submitted to the next meeting.

The meeting commenced at 2.00 pm and concluded at 5.00 pm

Councillor A Martin (Chairman)

This page is intentionally left blank

## CHESHIRE EAST COUNCIL

### Community Governance Review Sub-Committee

---

<b>Date of Meeting:</b>	22 <sup>nd</sup> November 2012
<b>Report of:</b>	Borough Solicitor
<b>Subject/Title:</b>	Re-Organisation of Community Governance (Crewe) Order 2012 and Mini Review of Electoral Arrangements for the Parish of Leighton
<b>Portfolio Holder:</b>	Councillor P Findlow

---

#### 1.0 Report Summary

- 1.1 Council at its meeting held on 11<sup>th</sup> October 2012 agreed that the draft re-organisation of Community Governance (Crewe) Order 2012 be updated as required and submitted to Council on 13<sup>th</sup> December for approval, following a mini-review of the electoral arrangements for the Parish of Leighton, arising from the proposed boundary change to the Leighton Urban Ward.
- 1.2 Members are asked to give consideration to when elections in the affected ward of the parish should take place and to consider whether the current number of parish Councillors for that ward should be amended.
- 1.3 A copy of the draft re-organisation Order is attached as an appendix. Paragraph 10 of the Order relates to the area of Leighton parish and states:
- "The area of the Leighton parish shall be varied to include within the Leighton Urban Ward of that parish the unparished part of the borough ward of Leighton (polling district 1FJ4) as indicated by the red line on the map."*
- 1.4 The Sub- Committee is asked to give consideration to advice obtained from the Boundary Commission which indicates that it is usual practice, when parish boundary lines are altered, that it is done to co-incide with the parish council elections. In the case of Leighton Parish, 407 electors will be added to the Leighton Urban Ward as a result of the re-organisation order. This means that these electors would be required to pay a parish precept for two years, without having had a vote on who is representing them, as the next ordinary elections are not scheduled until May 2015.
- 1.5 The options are:
- i) To include paragraph 10 in the re-organisation order as currently worded i.e. that the boundary change be made as stated and elections would not then be held until the ordinary year of election in May 2015;
  - ii) To delete paragraph 10 from the re-organisation order; and defer any boundary changes to the Leighton Parish until 2015, when the ordinary

elections are scheduled. This would require a separate re-organisation to be made in early 2015 to bring this change into effect.

- iii) To insert a new paragraph after paragraph 10 as follows:

**“11. Elections for Leighton Urban Ward of Leighton Parish**

- (1) *elections for all parish councillors for the Leighton Urban Ward (Leighton Parish) shall be held on 4 April 2013;*
- (2) *The term of office of every parish councillor elected on 4 April 2013 for the Leighton Urban Ward of Leighton Parish shall be two years until 2015 and thereafter co-incide with the ordinary day of election of parish councillors every four years in accordance with s16(3) of the Local Government Act 1972.”*

- 1.6 There are 8 seats for the Leighton Urban Ward (Leighton Parish) only 3 of which were filled by election on 5 May 2011. There are 4 seats currently vacant. The Grouped Parish Council has 22 seats in total. The current electoral arrangements for the Minshull Vernon and District Parish Council are as follows:

Parish	Electorate	No of Seats	Elector to Councillor Ratio
Leighton Urban Ward (Leighton Parish)	3677	8	460
Leighton Rural Ward (Leighton Parish)	79	3	26
Minshull Vernon	195	7	28
Woolstanwood	596	4	149

- 1.7 The table below shows the addition of the 107 electors on the Leighton Urban ward and the effect on the elector to councillor ratio which increases from 460 to 510. The table also shows the effect if an additional councillor was added for the Leighton Urban Ward, which would reduce the elector ratio to 453. Research by the Ashton Business School indicates that for an electorate of upto 10,000 between 9 -16 parish councillors would be the norm.

Parish	Electorate	No of Seats	Elector to Councillor Ratio
Leighton Urban Ward (Leighton Parish)	New electorate 4084	If 8 seats	510
Leighton Urban Ward (Leighton Parish)	New electorate 4084	If 9 seats	453

- 1.8 Minshull Vernon and District Parish Council has been consulted on the proposed boundary change and at a meeting on 12 September 2012 agreed its support of the proposal that the unparished area comprising polling district 1FJ4 form part of the existing Leighton Parish (Leighton Urban ward). In addition on 24<sup>th</sup> September the Parish Council considered the current level of elector representation and the potential impact of 407 additional electors being added as part of the Crewe Community Governance Review. The Grouped Parish Council was of the view that no additional representation, over and above the current 22 parish councillors, was required. Members of the Grouped Parish Council also discussed the possibility of elections in the Leighton Urban Ward in April 2013 and asked the parish clerk to convey their hope that the cost of such an election would not be passed on to the Parish Council, on the basis that the governance review was an initiative by Cheshire East Council and, therefore, it should be the Borough Council which ought to bear the cost. The Parish Council has asked that if the Borough Council is minded to insist that the cost be borne by the Parish Council, the clerk would need to know by the end of December 2012, so that this can be factored into their budget proposals for 2013-2014.
- 1.9 Based on the feedback from the Parish Council, and given the relatively high levels of electoral representation it is proposed that no increase in the number of parish councillors is required.
- 1.10 In respect of the cost of elections, the Council's policy is for Cheshire East Council to fund the cost of parish elections when these are held at the same time as the Ordinary Borough elections. In the case of all other parish elections, the cost is recharged to the parish council concerned. The new Crewe Parish Council will therefore be required to stand the cost of the parish elections on 4 April 2013. The same arrangement would need to apply for Minshull Vernon and District Council if an election was held for the Leighton Urban ward on 4 April 2013. However, the cost is expected to be low, given that it is very unlikely that 8 or more nominations would be received, thereby necessitating a full election. If 8 or less nominations were received, then the candidates would be elected unopposed and polling would not take place.

## **2.0 Recommendations**

- 2.1 The Sub-Committee is asked to recommend to the Constitution Committee the proposed wording of the Re-Organisation order including any amendments deemed necessary for:
- (a) the timing of elections to the Leighton Urban Ward of Leighton Parish; and
  - (b) any changes required to the number of parish councillors for the Leighton Urban Ward of Leighton Parish.

## **3.0 Reasons for Recommendations**

- 3.1 As set out in the report above.

**4.0 Wards Affected**

- 4.1 Wards covering the unparished area of Crewe and the Borough Ward of Leighton.

**5.0 Local Ward Members**

- 5.1 As Above

**6.0 Policy Implications**

- 6.1 The Council's policy is for the cost of parish by elections to be met by the parish councils concerned.

**7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 Financial implications of the community governance review for Crewe have previously been considered by Council on 11 October 2012.

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

- 8.1 The review has been conducted in accordance with the provisions of the Local Government and Public Involvement in Health Act 2007

**9.0 Risk Management**

- 9.1 The review has been conducted with due regard to the Government's Guidance on the conduct of Community Governance Reviews.

**10.0 Background and Options**

- 10.1 The background to the review and options are detailed earlier in the report.

**11.0 Access to Information**

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

Name: Mrs Lindsey Parton

Designation: Registration Service and Business Manager

Tel No: 01270 686477

Email: [Lindsey.parton@cheshireeast.gov.uk](mailto:Lindsey.parton@cheshireeast.gov.uk)

## LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

### The Cheshire East Borough Council (Reorganisation of Community Governance) (Crewe) Order 2012

*Made [ ....December 2012]*

*Coming into force in accordance with article 1(2)*

Cheshire East Borough Council ("the Council"), in accordance with section 83 of the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act"), has undertaken a community governance review and after having made recommendations on 16 May 2012 and having undertaken the processes described below, has made a decision dated 11 October 2012 to which this Order gives effect.

In accordance with section 93 of the 2007 Act, the Council has consulted with the local government electors and other interested persons and has had regard to the need to secure that community governance reflects the identities and interests of the community and is effective and convenient:

The Council, in accordance with section 100 of the 2007 Act, has had regard to guidance issued under that section.

The Council makes the following Order in exercise of the powers conferred by sections 86, 98(3), 98(4), 98(6) and 240(10) of the 2007 Act and of all other powers enabling it in that behalf.

#### **1. Citation and commencement**

- (1) This Order may be cited as the Cheshire East Borough Council (Reorganisation of Community Governance) (Crewe) Order 2012.
- (2) Subject to paragraphs (3) and (4) below, this Order comes into force on the 1st April 2013
- (3) Article 8 and Schedule 1 shall come into force on 4 April 2013
- (4) For the purposes of:
  - (a) this Article
  - (b) Article 11, and
  - (c) Article 13 – and all proceedings preliminary or relating to the election of parish councillors for the parish of Crewe to be held on 4 April 2013,this Order shall come into force on the day after that on which it is made.

#### **2. Interpretation**

In this Order—

"borough" means the borough of Cheshire East

"existing" means existing on the date this Order is made

"map" means the map marked "Map referred to in the Cheshire East Borough Council (Reorganisation of Community Governance) (Crewe) Order 2012" and deposited in

accordance with section 96(4) of the 2007 Act: and any reference to a numbered sheet is a reference to the sheet of the map which bears that number

“new parish” means the parish constituted by article 4

“ordinary day of election of councillors” has the meaning given by section 37 of the Representation of the People Act 1983 and

“electoral registration officer” means an officer appointed for the purpose of, and in accordance with, section 8 of the Representation of the People Act 1983.

### **3. Effect of Order**

This Order has effect subject to any agreement under section 99 (agreements about incidental matters) of the Local Government and Public Involvement in Health Act 2007 relevant to any provision of this Order.

### **4. Constitution of new parish**

- (1) With effect from 1 April 2013, a new parish, comprising the area outlined in yellow and shaded green on the map, shall be constituted within the borough.
- (2) The name of the new parish shall be Crewe.

### **5. Parish Council**

- (1) There shall be a parish council for the parish of Crewe.
- (2) The name of that council shall be “Crewe Parish Council”.

### **6. Elections for the parish of Crewe**

- (1) Elections of all parish councillors for the parish of Crewe shall be held on 4 April 2013.
- (2) The term of office of every parish councillor elected on 4 April 2013 for the parish of Crewe shall be two years until 2015 and thereafter coincide with the ordinary day of election of parish councillors every four years in accordance with s.16 (3) of the Local Government Act 1972.

### **7. Number of parish councillors**

The number of councillors to be elected for the new parish Council shall be 20.

### **8. Wards of the new parish of Crewe and numbers of parish councillors**

- (1) The Parish of Crewe shall be divided into six wards which shall be named as set out in column (1) of Schedule 1.
- (2) Each parish ward shall comprise the area of the borough ward in Crewe specified in respect of each ward in column (2) of Schedule 1 and designated on the map by reference to the name of the ward and demarcated by green lines.
- (3) The number of councillors to be elected for each ward shall be the number specified in column (3) of Schedule 1.

### **9. Annual meeting of parish council**

The annual meeting of the new parish council in 2013 shall be convened by the Chief Executive of Cheshire East Borough Council. The meeting for the new parish council shall take place no later than 14 days after the day on which the councillors elected to the new parish council take office.

**10. Variation to the area of Leighton Parish**

The area of the Leighton parish shall be varied to include within the Leighton Urban ward of that parish the unparished part of the borough ward of Leighton (polling district 1FJ4) as indicated by the red line on the map.

**11. Calculation of Budget Requirement**

For the purposes of regulation 3 of the Local Government Finance (New Parishes) (England) Regulations 2008, there is specified in relation to the parish of Crewe the sum of £442,000.

**12. Transfer of property, rights and liabilities**

The land, property, rights and liabilities described in Schedule 2 shall transfer from the borough to the new parish council on the date specified in column (2) of that Schedule.

**13. Electoral register**

The Electoral Registration Officer for the borough shall make such rearrangement of, or adaptation of, the register of local government electors as may be necessary for the purposes of, and in consequence of, this Order.

**14. Order date**

1st April 2013 is the order date for the purposes of the Local Government (Parishes and Parish Councils) (England) Regulations 2008.

Sealed with the seal of the council on the [     ] day of [December 2012].

**Borough Solicitor**

**SCHEDULE 1 (ARTICLE 8)****WARDS OF THE PARISH OF CREWE****NAMES AND AREAS OF WARDS AND NUMBERS OF COUNCILLORS**

Column 1 Name of parish Ward	Column 2 Area of Ward	Column 3 Number of parish councillors
Crewe St Barnabas	The whole of the borough ward of St Barnabas as shown on the map	2
Crewe Central	The whole of the borough ward of Crewe Central as shown on the map	2
Crewe North	The whole of the borough ward of Crewe North as shown on the map	2
Crewe South	The whole of the borough ward of Crewe South, except for Gresty Brook (Polling District 1GM2), as shown on the map	4
Crewe East	The whole of the borough ward of Crewe East as shown on the map	6
Crewe West	The whole of the borough ward of Crewe West as shown on the map	4

**SCHEDULE 2 (ARTICLE 12)****LAND AND PROPERTY TO BE TRANSFERRED**

Column 1	Column 2
Land and property to be transferred	Date
Public Conveniences at Lyceum Square, Crewe	1 April 2013
Allotments holdings on the basis of 150 year leases situated at: Alton Street; Brookhouse Drive; Claughton Avenue; Electricity Street; Ford Lane; Henry Street; Hungerford Road; Hulme Street; Manor Way; Ruskin Road; and Walker Street	1 April 2013

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order gives effect to a decision made by Cheshire East Borough Council for the creation of a new parish and a parish council for Crewe within the borough of Cheshire East.

The new parish will be created with effect from 1 April 2013. The electoral arrangements for the parish council apply in respect of parish elections to be held on 4 April 2013.

Article 6 provides for the first parish elections in the parish of Crewe in 2013, and then in 2015 and every four years thereafter according to the established system of parish elections.

Article 7 specifies the number of parish councillors for the new parish of Crewe.

Article 8 and Schedule 1 establish the names and areas of the wards of the new parish of Crewe (as indicated on the map) and the numbers of councillors for each ward.

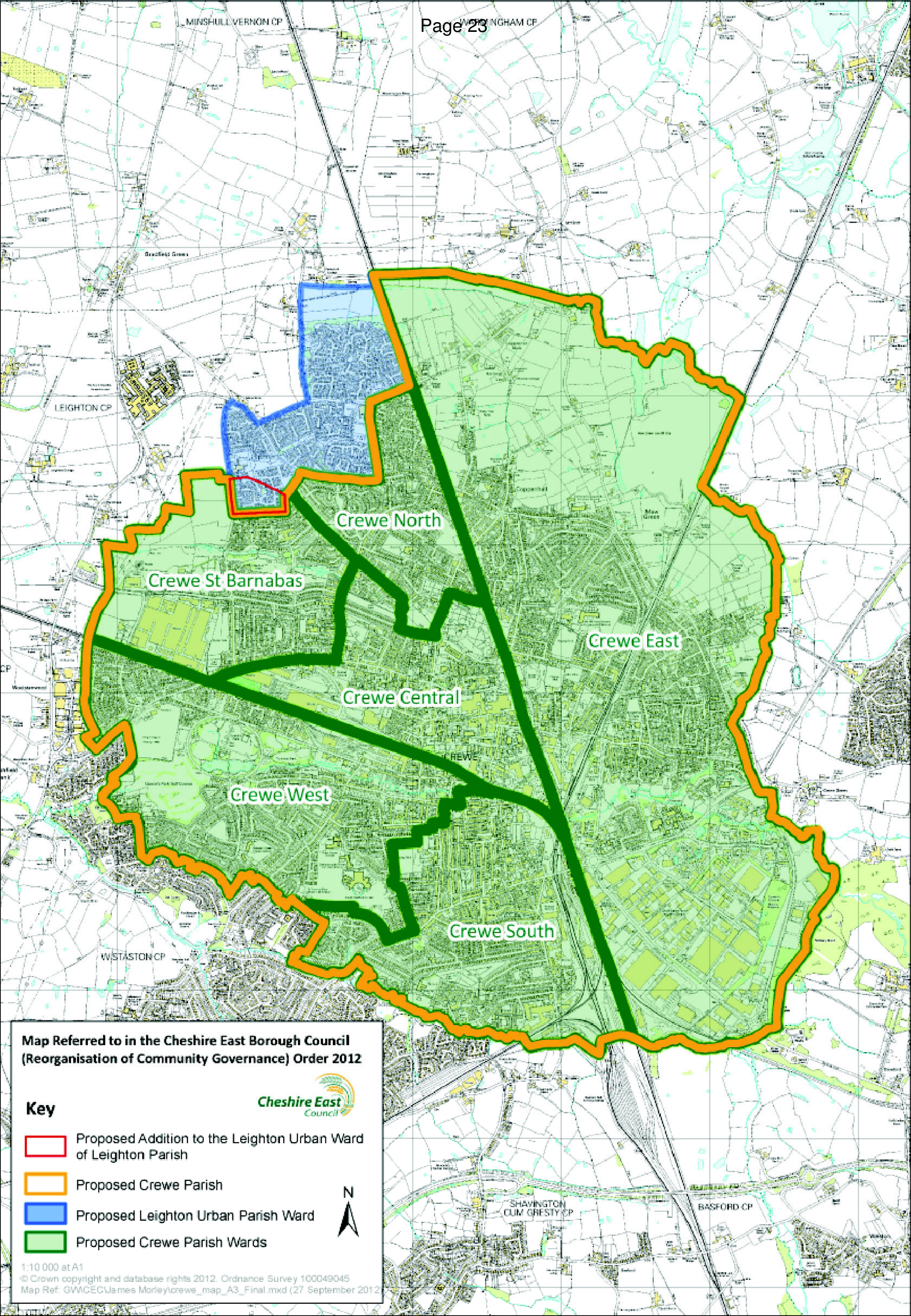
Article 10 provides for a consequential amendment to the area of the Leighton Urban ward of Leighton Parish.

Article 11 specifies the amount of the initial precept for the new parish to be applied in the 2013 – 14 financial year.

Article 13 obliges the Electoral Registration Officer to make any necessary amendments to the electoral register to reflect the new electoral arrangements.

The map defined in Article 2 shows the area comprising the new parish of Crewe and the wards of the new parish, together with the change to the area of the Leighton Urban Ward of the Leighton parish. It is available for inspection, at all reasonable times, at the offices of Cheshire East Borough Council.

This page is intentionally left blank



Map Referred to in the Cheshire East Borough Council  
(Reorganisation of Community Governance) Order 2012



### Key

- Proposed Addition to the Leighton Urban Ward of Leighton Parish
- Proposed Crewe Parish
- Proposed Leighton Urban Parish Ward
- Proposed Crewe Parish Wards



This page is intentionally left blank

## CHESHIRE EAST COUNCIL

### Constitution Committee

---

**Date of Meeting:** 26<sup>th</sup> November 2012  
**Report of:** Democratic and Registration Services Manager  
**Subject/Title:** Notice of Motion - Motions to Council

---

#### **1.0 Report Summary**

- 1.1 This report responds to a motion, referred from Council on 19<sup>th</sup> July to the Constitution Committee, and seeks a recommendation back to Council.
- 1.2 The Committee had considered the main proposals within the report at its previous meeting and had then deferred the report for further consideration.

#### **2.0 Recommendation**

- 2.1 That the recommendations contained in paragraph 9 of the report be considered by the Committee, and that if Council is recommended to make changes to the Constitution, the Borough Solicitor be authorised to make such changes to the Constitution as she considers are necessary to give effect to the wishes of Council.

#### **3.0 Wards Affected**

- 3.1 There are no direct ward implications and therefore no direct implications for ward members.

#### **4.0 Policy Implications**

- 4.1 Any decision by Council to make changes to the way in which motions are dealt with would need to be reflected in changes to the Constitution.

#### **5.0 Financial Implications**

- 5.1 No financial implications would appear to directly arise from the issues addressed in this report.

#### **6.0 Legal Implications**

- 6.1 If any changes are to be made to the way in which motions are dealt with, these would need to result in a recommendation from the Committee to Council, following which constitutional change would be required.

## **7.0 Risk Management**

- 7.1 No risks would appear to arise directly from the issues addressed in this report although a more focussed and succinct process for dealing with motions would result in fewer risks of motions being overlooked or delayed.

## **8.0 Background and Options**

- 8.1 At the Council meeting on 19<sup>th</sup> July 2012, the following motion was proposed by Councillor Arthur Moran, and was seconded by Councillor David Brickhill:

“That all motions that are referred by Council to a Committee or Cabinet must be put on the agenda of the next meeting of that body or brought back to the next Council meeting for vote on a final decision.”

- 8.2 As this motion related to a non-executive matter, it stood referred without discussion to the decision-making body in question (in this case the Constitution Committee), in order for advice to be offered to Council on the matter.
- 8.3 The motion would appear to seek to address the need for motions to be dealt with quickly in order to respond to Member concerns. This touches on the speed with which officers respond to motions from Council, and the procedure which applies to motions.

## **9.0 Procedure**

- 9.1 Appendix 2 to the Council Procedure Rules (pg 209 of the Constitution) deals with the procedure relating to motions. Once a motion has been referred to a body for consideration, the mover of the motion is notified of the meeting at which it will be considered and is provided with a copy of the report. The mover is invited to attend the meeting in order to explain the motion. The mover and seconder are informed of the outcome in writing or by email.
- 9.2 Paragraph 1 requires signed notices of motion to be given in writing to the Monitoring Officer seven clear working days before the Council meeting.

**Recommendation:** it is recommended that these provisions should be retained, except that:

- the Democratic and Registration Services Manager should also be a nominated recipient of notices of motion in order to enable Members to lodge them when the Monitoring Officer is on leave;
- given that Members often need to submit notices of motion by email, a signature should not be a requirement of the process;

- 9.3 Paragraph 2 requires motions to be listed in the Council “summons”.

**Recommendation:** it is recommended that the Rules should be amended to make it clear that the full text of motions will be reproduced in the agenda papers for each Council meeting.

- 9.4 Paragraph 3: permits the mover of a motion to withdraw it if the seconder consents in writing.

**Recommendation:** it is recommended that the consent of the seconder to the withdrawal of the motion should be permitted to be given orally at the meeting, rather than being required to be given in writing.

- 9.5 Paragraph 4: says that a motion will be treated as withdrawn if not moved by or on behalf of the Member who gave notice of it.

**Recommendation:** It is recommended that that a motion should be treated as withdrawn if it is not also seconded.

- 9.6 Paragraph 5: seeks to deal with those motions which refer to non-executive (ie “regulatory” or non-Cabinet/Portfolio matters) functions. This paragraph is complicated by the fact that reference is made to the Cabinet within the text of the paragraph. The Rules go on to require the Mayor to determine which Council body should deal with the motion and says that the views of that body will be sought before a report is brought back to Council on the matter.

The Rule presumes that the matter will stand referred to that body without discussion unless the Mayor considers it “conducive to the despatch of business” for the motion to be determined at the initial Council meeting.

It could be said that the procedure for non-executive functions is problematic in that it results in delay. Unless motions are dealt with at the initial Council meeting (which is very much the exception) the matter must await the research and writing of a report by officers; the presentation of the report to a committee or other body of the Council; the recommendations of that body, and then for the matter to be presented back to Full Council. As is explored in the next piece of commentary relating to Paragraph 6, there is also a question as to why motions should have a different procedure depending upon whether they are “executive” or “non-executive” in nature.

Paragraph 6: seeks to deal with those matters which refer to executive (ie Cabinet/Portfolio matters) functions. These motions stand referred to Cabinet, but are allowed to be debated for up to 15 minutes at the Council meeting, following which the appropriate Portfolio Holder may respond.

**Recommendations:**

- That there should be no distinction in the Rules between executive and non-executive functions. There should be one Rule, which simply requires

the motion in question to be referred to the relevant decision-making body, which will be announced at Council by the Mayor.

- That each motion, should simply be referred to the relevant decision-making body for determination.
- That the relevant decision-making body determines the issues referred to in the motion rather than these being referred back to Council (in those cases where the existing Rules would currently require this); the only circumstances in which a report being required to be made back to Council would be when Constitutional change was recommended by the Constitution Committee.
- That, following the motion being moved and seconded at Council, the motion stands referred without debate to the appropriate decision-making body.
- That a decision be made upon whether a provision should be built into the Rules that, once moved and seconded, Council could decide to take no further action whatsoever on a motion if this is moved, seconded, and resolved. If it is proposed that this should be built into the Rules, recommendations would be required as to how this Rule should operate eg that debate would be allowed.
- That, unless it is agreed with the Chairman of the appropriate decision-making body that there are good reasons to the contrary (eg the need for extensive research or consultation with other bodies), motions must be referred to the appropriate decision-making body within two meeting cycles (ie to enable the officers to report to two meetings, taking into account reporting deadlines).
- That the existing provision which allows the Mayor to determine that it is conducive to the despatch of business for a motion to be dealt with in full at the initial Council meeting should be retained.

## **10.0 Access to Information**

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

Name: Brian Reed  
Designation: Democratic and Registration Services Manager  
Tel No: 01270 686670  
Email: [brian.reed@cheshireeast.gov.uk](mailto:brian.reed@cheshireeast.gov.uk)

## **CHESHIRE EAST COUNCIL**

### **Constitution Committee**

---

**Date of Meeting:** 26<sup>th</sup> November 2012  
**Report of:** Borough Solicitor  
**Subject/Title:** Notice of Motion - Right to Speak at Meetings

---

#### **1.0 Report Summary**

- 1.1 This report responds to a motion, referred by Council on 19<sup>th</sup> July 2012 to the Constitution Committee, and seeks a recommendation back to Council.

#### **2.0 Recommendation**

- 2.1 That the Committee consider the motion and decide what advice to offer to Council.

#### **3.0 Reasons for Recommendations**

- 3.1 To offer advice to Council.

#### **4.0 Wards Affected**

- 4.1 N/A

#### **5.0 Local Ward Members**

- 5.1 N/A

#### **6.0 Policy Implications (including carbon reduction and health)**

- 6.1 None

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

- 7.1 None

#### **8.0 Legal Implications (authorised by Borough Solicitor)**

- 8.1 Any changes to the arrangements for speaking at meetings may require an amendment to the Constitution.

#### **9.0 Risk Management**

- 9.1 There are no risks identified with this matter.

## **10.0 Background**

- 10.1 At the Council meeting on 19<sup>th</sup> July 2012, Councillor A Moran proposed and Councillor P Edwards seconded the following motion under Council Procedure Rule 12:

“That visiting members to all Cabinet meetings, committees and sub-committees have the right to speak once on each separate item on the agenda before the debate proper commences. This will apply to all items on the agenda including part 2 items.”

The motion was referred to the Constitution Committee for consideration.

## **11.0 Current Arrangements**

- 11.1 Under the current arrangements as set out in the Constitution, any member may attend any meeting and, with the consent of the chairman or person presiding, speak on any matter on the agenda. This includes Part 2 business except where this concerns vulnerable adults or children, or individual members of staff, in which case the member must demonstrate a need to know in accordance with the Access to Information Procedure Rules.
- 11.2 Special circumstances apply to planning meetings and Licensing Act Sub-Committee meetings. Planning meetings are governed by a public speaking protocol which allows non-committee members to speak for a limited period provided they have registered beforehand. Licensing Act Sub-Committee meetings are governed by a statutory procedure which restricts participation by non-committee members.
- 11.3 Certain categories of members already have the right to speak at meetings. These include local ward members where a matter specifically affects their ward, and scrutiny chairmen and spokesmen who may attend and speak at the Cabinet and relevant Portfolio Holder meetings. Members who have submitted a motion at Council under Procedure Rule 12 may speak on that motion at the meeting to which the motion has been referred.

## **12.0 The proposal**

- 12.1 The motion proposes that all visiting members should have the right to speak once on any item on the agenda and that this right should be exercised ‘before the debate proper commences’. The motion does not suggest how long a visiting member should be allowed to speak on a matter.
- 12.2 The proposal would enable visiting members attending a meeting to speak without having to rely on the discretion of the chairman.
- 12.3 It is currently the practice at Cabinet meetings to invite visiting members to speak immediately after the report has been introduced. At other meetings, a less formal approach has been adopted hitherto.

- 12.4 The officers have informally consulted the Chairman and Vice-Chairman of this Committee who are of the view that because of the need to manage the business of the meeting efficiently and effectively, and given the potential for delay if a significant number of visiting members wished to speak on a number of items, the ability of visiting members to speak at meetings should continue to be left to the discretion of the Chairman.

### **13.0 Access to Information**

Background papers:

Cheshire East Council Constitution (available as a public document on the website):

Committee Procedure Rules, paragraph 38

Cabinet Procedure Rules, paragraph 45

Access to Information Act Procedure Rules, paragraph 19

Planning Protocol on Public Speaking

Local Ward Member Protocol

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

Name: Paul Mountford

Designation: Democratic Services Officer

Tel No: 01270 696472

Email: paul.mountford@cheshireeast.gov.uk

This page is intentionally left blank

## **CHESHIRE EAST COUNCIL**

### **Constitution Committee**

---

<b>Date of Meeting:</b>	26 <sup>th</sup> November 2012
<b>Report of:</b>	Borough Solicitor
<b>Subject/Title:</b>	Notice of Motion - Confidentiality

---

#### **1.0 Report Summary**

- 1.1 This report invites the Committee to consider the following Motion, proposed by Councillor B Murphy and seconded by Councillor P Edwards - "In the light of the ever-growing demand for public accountability in public services and the need to sustain public trust and confidence in democratic governance, this Council calls for a review of its policies and protocols in relation to confidentiality." which has been referred by Council to the Committee for consideration.

- 1.2 Councillor Murphy has provided the following additional comments by way of explanation:

"My aim is to maximise transparency and openness. I believe "confidentiality" is frequently applied when it need not be so and, in the context of the values and attitudes that now prevail, there should be a tighter definition of confidentiality and "need-to-know". I would also like to have consideration of the rules on audio/visual recording of meetings open to the press and public.

Clearly, information about personal affairs or 3rd party commercial information that are not relevant or material to an item under consideration and cannot be redacted or securely "anonymised" or are protected by statutory or judicial rulings against publication or have not been placed in the public domain should always be subject to confidentiality.

Commercial contracts should be open to public scrutiny except for those elements which do not relate to the terms and conditions of the contract or that contain confidential technical information or information that has no bearing on the "value for money" considerations or is likely to restrict the Council's freedom of choice.

Where there is doubt, the first option should be to determine whether the information at issue could be redacted."

#### **2.0 Recommendation**

- 2.1 That Committee consider the Motion and offer its advice to Council.

**3.0 Reasons for Recommendations**

3.1 To enable Council to consider the Committee views on the matter.

**4.0 Wards Affected**

4.1 None

**5.0 Local Ward Members**

5.1 All Members are affected by this matter.

**6.0 Policy Implications**

6.1 None identified.

**7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

7.1 None identified.

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

8.1 None identified.

**9.0 Risk Management**

9.1 None identified.

**10.0 Background and Options**

10.1 On 19<sup>th</sup> July Council considered a Notice of Motion submitted by Councillor Murphy on a review of its policies and protocols in relation to confidentiality.

10.2 Cheshire East Council is committed to making as much information as possible available to the general public while at the same time protecting the privacy and confidentiality of our citizens. The Council has a compliance unit which ensures that Cheshire East Council abides by the following legislation:-

The Freedom of Information Act 2000 - which entitles the public to ask for any recorded information the Council keeps.

The Environmental Information Regulations 2004 - which gives the public and organisations the right to access environmental information.

The Data Protection Act 1998 - which requires anyone who handles personal information to comply with eight principles regarding privacy and disclosure. It also gives individuals rights over their own personal information.

The Re-use of Public Sector Information Regulations 2005 - which provides a framework for encouraging the re-use of public sector information.

10.3 Every public authority subject to the Freedom of Information Act 2000 (FOI) is required to adopt and maintain a publication scheme. A publication scheme is a commitment to routinely and proactively provide information to the public. A publication scheme contains seven classes of information, they are;

- Who we are and what we do
- What we spend and how we spend it
- What our priorities are and how we are doing
- How we make decisions
- Our policies and procedures
- Lists and registers
- The services we offer

Cheshire East Council provides this information through its website. In addition it also publishes details of:

- Payments over £500 made by the council
- an organisational chart of the staff structure of the local authority
- salaries for staff earning over £55,000 a year,
- the powers and responsibilities of senior officers
- Councillor allowances and expenses
- the democratic running of the Council

10.4 Wherever possible information will be provided on the website. Where it is impracticable to make information available on the website or when an individual does not wish to access the information in this way, the Council will indicate how information can be obtained by other means.

10.5 In certain circumstances information may only be available by viewing in person. Where this is specified contact details will be provided and an appointment can be made within a reasonable timescale.

10.6 The Councils Access to Information rules set out the framework that governs the publication of information in relation to the Councils formal decision making arrangements. These are set out in Appendix 1. Minutes and Agenda and decisions of formal meetings are published on the website.

- 10.7 Within the Council there is a culture of openness and transparency, and this is supported by the amount of information published on the website.
- 10.8 If Committee Members believe that a review is required then Committee might wish to invite officers to review the approaches in other local authorities and consult further with all members of the Council on this matter before submitting a comprehensive report on the matter.

#### **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer. There are no specific background documents.

Name: Paul Jones  
Designation: Democratic Services Team Manager  
Tel No: 01270 686458  
E-mail: [paul.jones4@cheshire.gov.uk](mailto:paul.jones4@cheshire.gov.uk)

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **INTRODUCTION**

The access to information rules which apply to Council meetings and committees of the Council are set out in sections 100A-H and Schedule 12A of the Local Government Act 1972. As the Council is functioning under an executive form of governance it is bound by further access to information rules contained in The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended). These rules comply with both statutory provisions.

#### **1.0 SCOPE**

- 1.1 These rules cover all meetings of the Council and its Committees, Sub-Committees, Advisory Panels, Cabinet (together called meetings) and (where specified) executive decisions made by individual Members and Key Decisions made by Officers.
- 1.2 These rules also cover Members' rights of access to information.
- 1.3 These rules do not cover public rights of access to information under the Freedom of Information Act 2000, and the Data Protection Act 1998. These can be found on the Council's website or obtained from the Westfields
- 1.4 These rules do not affect any more specific right to information contained elsewhere in this Constitution in any Act.

#### **2.0 PUBLIC ACCESS TO MEETINGS**

- 2.1 Members of the public may attend all meetings subject only to the exceptions in these rules.

#### **3.0 NOTICE OF MEETINGS**

- 3.1 The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at Westfields, Middlewich Road, Sandbach, CW11 1HZ (the designated office) and on its website. The notice will specify the business proposed to be transacted at the meeting.
- 3.2 Members entitled to attend a meeting, will receive a summons giving five clear working days' notice to attend and specifying the business proposed to be transacted at the meeting. Except in the case of business required by law to be transacted at the annual meeting, or other business brought before the meeting as a matter of urgency in

accordance with the Constitution, no business shall be transacted at a meeting other than that specified in the summons.

#### **4.0 PUBLIC ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

- 4.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least 5 clear working days before the meeting, except that where a meeting is convened at shorter notice, the copies of the agenda and reports shall be open to inspection from the time the meeting is convened.
- 4.2 Where an item is added to the agenda, and the report is open to the public, copies of any report for the meeting relating to the item, and the revised agenda shall be available for inspection from the time the item is added to the agenda.
- 4.3 Where copies of the agenda and reports open to the public are not made available for inspection in this way, an item of business will not be considered unless, by reason of special circumstances, which shall be specified in the minutes, the chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

#### **5.0 PUBLIC ACCESS TO COPIES**

- 5.1 The Council will supply copies of:
- (a) any agenda and reports which are open to public inspection;
  - (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
  - (c) if the Proper Officer thinks fit, copies of any other documents supplied to Members in connection with an item to any person on payment of a charge for postage, copying and any other costs.
- 5.2 Copies of the agendas of Cabinet meetings will be circulated to all Members.
- 5.3 The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public.

#### **6.0 PUBLIC ACCESS TO MINUTES ETC AFTER THE MEETING**

- 6.1 The Council will make available for inspection copies of the following for six years after a meeting:

- (a) the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information (as defined in Rules 9 and 10);
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public

## **7.0 PUBLIC ACCESS TO BACKGROUND PAPERS**

### **7.1 List of Background Papers**

The author of a report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report

but this does not include published works or those which disclose exempt or confidential information (as defined in Rules 9 and 10), nor in respect of executive reports, does this include the advice of a political advisor, or any draft report or document.

### **7.2 Public inspection**

- (a) A copy of each of the documents listed will be available for inspection at the same time as the report is available for public inspection.
- (b) The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **8.0 EXCLUSION OF PUBLIC ACCESS TO REPORTS**

- 8.1 The Proper Officer will exclude access by the public to reports which in his opinion contain confidential information, (as defined in Rule 9).

- 8.2 If the Proper Officer thinks fit, access by the public may also be excluded to reports which in his opinion relate to items during which, in accordance with Rule 10 (Exempt Information) the meeting is likely not to be open to the public.
- 8.3 Such reports will be marked “Not for publication” together with “confidential information” or the exemption relied upon.
- 8.4 Where an exemption is relied upon, any such report must contain the reasons why, as in all in the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**9.0 CONFIDENTIAL INFORMATION – REQUIREMENT TO EXCLUDE PUBLIC ACCESS**

- 9.1 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.
- 9.2 Confidential information means
- (a) information given to the Council by a Government Department on terms which forbid its public disclosure or
  - (b) information the disclosure of which to the public is prohibited by or under another Act or by Court.

**10.0 EXEMPT INFORMATION – DISCRETION TO EXCLUDE PUBLIC ACCESS TO MEETINGS**

10. 1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed provided:
- (a) the meeting resolves so to exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies;
  - (b) that resolution states, by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (paragraph 10.4 below), the description of the exempt information giving rise to the exclusion of the public; and
  - (c) that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

- 10.2 In these circumstances, public access to reports, background papers and minutes will also be excluded.
- 10.3 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.
- 10.4 Exempt information means information falling within the following categories (subject to any condition):

Category	Condition
1. Information relating to any individual.	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
2. Information which is likely to reveal the identity of an individual.	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).  "Financial or business affairs" includes contemplated, as well as past or current, activities	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information  Information within paragraph 3 is not exempt if it must be registered under (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Category	Condition
<p>officer-holders under the authority.</p> <p>“Labour relations matter” are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Unions and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute within the meaning of that Act or any dispute about any such matter</p>	
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>
<p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p>	<p>Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	<p>Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>

### EXCEPT THAT

Information falling within any of paragraphs 1-7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992.

The following will also be exempt information for some meetings of the Standards Committee or a Sub-Committee of it.<sup>1</sup>

<sup>1</sup> Where a Standards Committee is convened to consider a matter referred under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008 or referred under section 58 (1)(c) of the Local Government Act 2000.

Category	Condition
7A. Information which is subject to any obligation of confidentiality.	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
7B. Information which relates in any way to matters concerning national security.	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information
7C. Information presented to a standards committee, or to a sub-committee of a standards committee, set up to consider any matter under regulations 13 and 16 to 20 of the Standards Committee (England) Regulations 2008, (referrals to and references from Monitoring Officers) or referred under section 58(1)(c) of the Local Government Act 2000 (failure to comply with Code of Conduct).	Information is exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

### 10.5 Procedure at Standards Committee (Complaints and reviews)

When a meeting of a Sub-Committee of the Standards Committee is convened to consider a written complaint <sup>1</sup> or to review a decision<sup>2</sup> then Part 5A of the Local Government Act 1972 does not apply to those meetings. Regulation 8 of the Standards Committee (England) Regulations 2008 applies to those meetings generally and Regulation 8(5)(a) governs the production and publication of a written summary of the sub-committees decision.

### 10.6 Disorderly Conduct – discretion to exclude public

The public may also be excluded from meetings, where the meeting so resolves, in the exercise of a lawful power of exclusion in order to maintain orderly conduct or to prevent misbehaviour at a meeting.

<sup>1</sup> Received under Section 57A(1) of the Local Government Act 2000

<sup>2</sup> Under Section 57B of the Local Government Act 2000

## **11.0 PUBLIC ACCESS TO CABINET MEETINGS**

11.1 The Cabinet has decided that all of its meetings and its Committees are to be held in public whether or not a Key Decision is to be made and the preceding rules 1 – 10 therefore apply.

11.2 However if a Key Decision is to be made Rules 11 to 16 below also apply

A "key decision" means an executive decision which, is likely

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

11.3 If the Cabinet or its Committees meet to discuss a key decision that is due to be taken collectively and

- a) an Officer (other than a political adviser) is present at the discussion
- b) the discussion is within 28 days of the date by which, according to the Forward Plan, the decision is to be made

then Rules 1 – 11 must be complied with unless Rule 15 (general exception) or

Rule 16 (special urgency) applies or the principal purpose of the meeting is for the Officer to brief the decision maker on matters connected with the making of the executive decision.

## **12.0 PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 14 (general exception) and Rule 15 (special urgency), a Key Decision may not be taken unless:

- (a) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least 5 clear days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 3

## **13.0 THE FORWARD PLAN**

### **13.1 Period of Forward Plan**

Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan. They will contain outstanding matters from the previous forward plan.

### **13.2 Content of Forward Plan**

13.2.1 The Forward Plan will contain matters which the Leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet, a Committee of the Cabinet, Officers, Area Committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. The Forward Plan must be published at least 14 days before the start of the period covered and made available to the relevant Scrutiny Committees. It will describe the following particulars in so far as the information is available or might reasonably be obtained

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

13.2.2 The Proper Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that Key Decisions are to be taken on behalf of the Council;
- (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the Key Decisions to be made for the four month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the Key Decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

13.2.3 Exempt information (as defined in Rule 10) and the advice of political advisers need not be included in a forward plan and confidential information (as defined in Rule 9) cannot be included, but the Forward Plan should contain particulars of the matter.

#### **14.0 GENERAL EXCEPTION**

14.1 If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 15 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next Forward Plan relates;

- (b) the Proper Officer has informed the chairman of a relevant scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Proper Officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 clear days have elapsed since the Proper Officer complied with (b) and (c).

14.2 Where such a decision is taken collectively, it must be taken in public.

#### **15.0 SPECIAL URGENCY**

15.1 If by virtue of the date by which a decision must be taken Rule 14 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chairman of the body making the decision, obtains the agreement of the chairman of a relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred and the decision is urgent. If there is no chairman of a relevant Scrutiny Committee, or if the chairman of the relevant Scrutiny Committee is unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Deputy Mayor will suffice.

#### **16.0 REPORTS TO COUNCIL**

16.1 When a Scrutiny Committee can require a report

Where an executive decision has been made and was not treated as a Key Decision and a relevant Scrutiny Committee thinks that it should have been treated as a Key Decision the Scrutiny Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Scrutiny Committee specifies. The power to require a report rests with the Committee but is also delegated to the Chief Executive who shall require such a report on behalf of the Committee when so requested by the Chairman of the Committee or any 5 Members. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Committee.

16.2 The Cabinet's report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the resolution of the Scrutiny Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the leader is of the opinion that it was not a key decision, the reasons for that opinion.

16.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 15 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

**17.0 PUBLIC ACCESS TO CABINET DECISIONS - RECORD OF DECISIONS**

- 17.1 After any meeting of the Cabinet or any of its Committees, the Proper Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as reasonably practicable and make it available for inspection by the public. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

**18.0 DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET OR OFFICERS**

- 18.1 Public access to reports intended to be taken into account

Where an Individual Cabinet Member or Officer receives a report which he/she intends to take into account in making any Key Decision, then he/she will not make the decision until the report has been available for public inspection for at least five clear working days.

- 18.2 Provision of copies of reports to Scrutiny Committees

On giving such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of every relevant Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

- 18.3 Public access to record of individual decision

As soon as reasonably practicable after any executive decision has been made by an individual member of the Cabinet or a Key Decision has been taken by an officer, he/she will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 6 and 7 (inspection of documents after meetings) will also apply to the making of Key Decisions by Directors. This does not require the disclosure of exempt or confidential information, or advice from a political adviser or assistant.

## **19.0 MEMBER ACCESS TO EXEMPT OR CONFIDENTIAL DOCUMENTS**

- 19.1 This section deals with Member access to documents which contain confidential or exempt information, including agenda papers, background documents and minutes.
- 19.2 Members of a committee or decision-making body of the Council or of the executive are automatically provided with, and entitled to receive, copies of confidential or exempt reports.
- 19.3 In addition, the following categories of Member shall automatically receive copies of confidential or exempt executive reports:
- Group Leaders
  - Local Ward Members for the Ward affected, in accordance with the Ward Member Protocol
  - Relevant scrutiny committee Chairmen and Vice-Chairmen
  - Members visiting the meeting in question, who would receive the papers upon arrival
- 19.4 Subject to the provisions above, and to paragraph 19.5, any Member of the Council may, upon request, receive a copy of a confidential or exempt report or agenda, or inspect an associated background document, on any matter except where the report or document contains information relating to either of the following categories:
- Staffing information, where the identity of individual officers would be revealed
  - Information relating to vulnerable children and adults
- 19.5 Any Member wishing to receive or inspect a report or document containing information of the categories referred to in paragraph 19.4 must demonstrate a 'need to know' in accordance with the following process:
- The Member will submit to the Borough Solicitor and Monitoring Officer, or to the Democratic and Registration Services Manager in writing, information in support of their claim to have a "need to know".
  - The claim will be submitted to the relevant Chairman (or Vice Chairman, in his/her absence) of the non-executive committee or sub-committee in question, or to the Portfolio Holder (or the Leader, in his/her absence), in respect of an executive decision, for determination.
  - The determination as to whether or not a "need to know" has been demonstrated will be based on officer advice and will include legal advice.

- Once a determination has been made, this will be communicated to the Member who has made the claim.

19.6 All Members of the Council shall have access to all minutes and records of decisions, subject to the provisions of paragraphs 19.4 and 19.5.

## **21. 0 NATURE OF ADDITIONAL RIGHTS**

The members rights of access in Rules 19 and 20 are additional to any other statutory or common law rights they have including the right to access to information on a 'need to know' basis in order assist in the proper discharge of their duties as a member of the Council.

## **CHESHIRE EAST COUNCIL**

### **Constitution Committee**

---

<b>Date of Meeting:</b>	26 <sup>th</sup> November 2012
<b>Report of:</b>	Borough Solicitor
<b>Subject/Title:</b>	Notice of Motion - Start Time of Council Public Meetings

---

#### **1.0 Report Summary**

- 1.1 This report invites the Committee to consider the following Motion, proposed by Councillor D Brickhill and seconded by Councillor A Moran, which has been referred by Council to the Committee for consideration:

“That in view of the increasingly bad traffic congestion in the morning rush hours all this Council’s public meetings, which cause additional traffic to travel in these periods, should never start before 10 am if held in Sandbach and not before 10.30 am if held elsewhere.”

#### **2.0 Recommendation**

- 2.1 That Committee consider the Motion and offer its advice to Council.

#### **3.0 Reasons for Recommendations**

- 3.1 To enable Council to consider the Committee views on the matter.

#### **4.0 Wards Affected**

- 4.1 None

#### **5.0 Local Ward Members**

- 5.1 All Members are affected by this matter.

#### **6.0 Policy Implications**

- 6.1 None identified.

#### **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 None identified.

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

- 8.1 None identified.

## **9.0 Risk Management**

9.1 None identified.

## **10.0 Background and Options**

10.1 On 12<sup>th</sup> October Council considered a Notice of Motion submitted by Councillor Brickhill on the start time of Council public meetings.

10.2 Work has commenced on the Calendar of Meetings for 2013/14. The vast majority of meetings are scheduled to start at 2.00pm in the afternoon and would therefore be unaffected by the proposed motion.

10.3 For those meetings that commence in the morning the start times are either 10.00am or 10.30am. Using the current Calendar of Meetings there are two Overview and Scrutiny Committees that meet at 10.00am. There are no significant operational issues arising from the motion. The Committee might therefore wish to recommend that the start times of meetings in the Calendar of Meetings for 2013/14 be prepared having regard to the motion.

10.4 The Committee is asked to note that the scheduled slot for Portfolio Holder meetings is 9.00 am to 11.00 am Mondays and it is recommended that these be unchanged to allow flexibility in setting up the meetings.

10.5 For ad hoc or special meetings, efforts will be made to use the proposed start times. However, greater flexibility is required over start times to accommodate the work and diary commitments of members including Portfolio holders and the Chairmen of Committees.

10.6 If Members feel that further information is required then Committee might wish to invite officers to review the approaches in other local authorities and consult further with all members of the Council on this matter before submitting a comprehensive report on the matter.

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer. There are no specific background documents.

Name: Paul Jones  
Designation: Democratic Services Team Manager  
Tel No: 01270 686458  
E-mail: [paul.jones4@cheshire.gov.uk](mailto:paul.jones4@cheshire.gov.uk)

## **CHESHIRE EAST COUNCIL**

### **Constitution Committee**

---

<b>Date of Meeting:</b>	26 <sup>th</sup> November 2012
<b>Report of:</b>	Democratic Services and Registration Manager
<b>Subject/Title:</b>	New Outside Organisation – the Nantwich Partnership

---

#### **1.0 Report Summary**

The report informs the Constitution Committee of a new outside organisation, The Nantwich Partnership, which has been added to the list of bodies to be appointed to by the Constitution Committee.

A request from the Partnership was received and assessed in accordance with the Procedure for adding outside Organisations to the approved list, as agreed by the Constitution Committee at its meeting on 21 March 2011.

#### **2.0 Recommendation**

##### **2.1 That**

- (1) the addition of the Nantwich Partnership to the list of Category 2 (Constitution Committee) approved Outside Organisation appointments be noted; and
- (2) subject to further clarification, up to two Cheshire East Councillors be appointed to the Partnership and the appointments be finalised in accordance with the Casual Vacancies procedure.

#### **3.0 Reasons for a Recommendations**

- 3.1 It is important for Cheshire East Council to appoint Members to outside organisations to ensure that it continues to represent the interests of the Authority and the wider community.

#### **4.0 Wards Affected**

- 4.1 Nantwich South and Stapeley, Nantwich North and West.

#### **5.0 Local Ward Members**

- 5.1 Cllrs Peter Groves, Andrew Martin, Penny Butterill and Arthur Moran.

#### **6.0 Policy Implications**

- 6.1 None identified.

**7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

7.1 None identified.

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

8.1 Whilst membership of outside bodies carries with it the potential for personal liability for elected Members undertaking such roles as ancillary to their status as a Councillor, particularly in respect of trusteeships, Cheshire East Borough Council has already resolved to put in place for elected Members the maximum indemnity which is allowed by law.

8.2 Section 111 of the Local Government Act 1972 empowers local authorities to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions, and Section 2 of the Local Government Act 2000 empowers them to do anything they consider likely to achieve the object of the promotion of the economic, social or environmental well-being of their area. Pending the coming into force of the general power of competence in the Localism Act 2011, which will be on a date yet to be announced, either or both of these existing powers would normally be the authority for appointing Members to outside bodies and/or selecting the bodies to which they are to be appointed

**9.0 Risk Management**

No risks identified.

**10.0 Background**

10.1 The Constitution Committee is asked to note the addition of the newly formed Nantwich Partnership to the list of approved outside organisations, following consideration of its request by the Outside Organisations Sub-Committee.

10.2 The Nantwich Partnership will comprise a Management Team to be known as the Nantwich Public Realm Working Group, working as part of the Nantwich Area Partnership. Members include David McGifford, Kirstie Hercules, Jeff Stubbs (Nantwich Civic Society), John Weir (Nantwich Flourish), the Chair of the Local Area Partnership, and Sharon Angus-Crawshaw. The Leader of the Council has asked for consideration to be given to Councillors David Marren, Andrew Martin and Peter Groves being nominated to be the Councils representatives on the Partnership.

- 10.3 A copy of the Constitution/Terms of Reference of the Partnership is attached for information.
- 10.4 At its meeting on 20 September 2012 the Outside Organisations Sub-Committee considered the request of the Nantwich Partnership. The procedure and criteria taken into account are given in paragraphs 10.5 and 10.6 below. In summary it had to consider:-
- (a) if the outside organisation should be added to the list of approved organisations;
  - (b) if “yes” to (a), to which category should it be added? (Category 1 – Cabinet appoints; Category 2 – the Constitution Committee appoints); and
  - (c) if it was recommended as a Category 2, the Sub-Committee could consider making nominations.

The Sub-Committee agreed that the Nantwich Partnership should be added as a Category 2 organisation. Clarification was, however, requested of the number of Cheshire East Councillor Representatives to be appointed. It was proposed that subject to that clarification approval be given for up to two representatives to be appointed and that they be dealt with by way of the Casual Vacancies Procedure.

#### 10.5 Procedure

The following procedure for considering new requests was approved by the Constitution Committee on 24 March 2011.

- (i) All new requests for representation on an outside organisation are to be considered by the Sub-Committee which will apply the appointments criteria to decide whether the organisation should be added to the list of approved organisations.
- (ii) If the organisation is considered appropriate for inclusion, the Sub-Committee will then decide which category is the most appropriate, again by applying the approved criteria. (Category 1 comprises those organisations which are regarded as top level strategic bodies to which the Cabinet appoints and Category 2 comprises all other approved outside bodies to which the Constitution Committee appoints.)
- (iii) If the Sub-Committee determines that it should be a Category 1 organisation, the matter will be referred to the Cabinet which will (a) decide whether it wishes to add the organisation to the list of Category 1 organisations; (b) if so, determine the Council’s representation on the organisation as appropriate; or (c) if not wishing to approve its inclusion, the matter will be referred back to the Constitution Committee to consider for inclusion as a Category 2, or for rejection.

- (iv) If the Sub-Committee determines that it should be a Category 2 organisation, the Sub-Committee will recommend the organisation's inclusion on the list of approved organisations and will submit nominations to the Constitution Committee.

#### 10.6 Criteria

The following are the approved criteria for consideration when adding organisations to the approved list and when making appointments to those organisations.

**(a) The Appointment is a Statutory Requirement**

There will be a limited number of bodies to which the Authority is required to appoint but “statutory requirement” should be included as a criterion. Examples include the Police Authority and Fire Authority.

**(b) Appointment Allows the Authority to Influence Policy at National or Regional Level**

This will apply to those organisations which give the Authority a voice at national or regional level and enables it to influence high-level policy decisions. Examples will include the Local Government Association and the North-West Employers Organisation.

**(c) Appointment Assists the Authority to Deliver its Strategic Objectives and Priorities**

This is a key part of any appointment system, where it can be demonstrated that the appointment will make a direct or significant contribution to the Authority's strategic objectives, in particular the Corporate Plan.

**(d) Appointment is to an Organisation which Receives Major Funding from the Authority or Provides Key Public Services**

Representation will ensure that the organisation uses its funding properly and develops in a way which the Authority considers appropriate.

Those organisations which provide key public services, for example Housing Trusts, are often created by a local authority which reserves the right to place Members on the organisation's Board.

**(e) Where an approved organisation is ward-specific, the Member appointed should be an appropriate Ward Member.**

In Wards where there is more than one Member, it will be for those Ward Members themselves to agree on the nomination. In the event of no agreement being reached, the Constitution Committee will make the decision.

ii. **Criteria for Declining to make Appointment**

In rare cases, it may not be appropriate to appoint to an outside organisation; for example, where there are significant cost or resource implications for the Authority when balanced against the benefits. These will be determined as and when the situation arises.

iii. **Issues for Consideration in Making Appointments**

In addition to adopting the approved criteria, the following should be taken into account -

○ **Political Proportionality**

When making appointments to outside organisations, there is no requirement to adopt the rules of proportionality, but there are some organisations where it is appropriate for the leading political group to take the places. These will, for the most part, be those organisations identified as Category 1.

Political proportionality is used as a starting point only by the Outside Organisations Sub-Committee to enable a fair distribution of places.

○ **Continuity/Members' Interests**

Continuity of representation can be important to outside organisations. Even where the organisation's constitution stipulates a term of office of 12 months only, the representative can build up expertise and experience which can be a loss to that organisation if a new representative is appointed after expiry of the term of office. For this reason, where possible, and provided the representative is willing to continue to serve, consideration should be given to re-appointing the same Member, if appropriate. This could depend on, for example, where elections may change the political balance or it may be appropriate to provide opportunities for newly-elected councillors to serve on organisations which reflect their interests.

Note: Following the elections in May 2011, all appointments are for the life of the Council.

○ **Potential Conflict**

Members will need to consider, when being appointed, that in taking up a formal position within an incorporated body - as director or trustee – the Member will be under a legal duty to act in the best interests of that outside body, notwithstanding the fact that he/she is there as a representative of the Authority. That duty will override a Member's duties to the Authority or the Council-tax payers it serves. It is also worth noting that where a matter is raised by the outside organisation relating to its relationship with the Authority, it is likely to give rise to a conflict of interest for the Member representative who will usually be required to absent him/herself from the meeting during the discussion. A dual-mandated role may therefore be problematic and out-weigh any perceived benefits for either the organisation or the Authority. In these

circumstances, the Member may take the view that he/she should not take up the appointment. As this would apply to any councillor appointed in these circumstances, a review of representation, for that particular organisation, would need to be undertaken.

#### **11.0 Access to Information**

The background reports can be inspected by contacting the report Author:

Contact Officer:	Cherry Foreman
Designation:	Democratic Services Officer
Tel:	01270 686463
E-mail:	<a href="mailto:cherry.foreman@cheshireeast.gov.uk">cherry.foreman@cheshireeast.gov.uk</a>

# **CONSTITUTION**

## **NANTWICH PARTNERSHIP**

### **A. NAME**

The name of the Association is **Nantwich Partnership (“the Partnership”)** and will comprise the **Management Team** (also known as **Nantwich Public Realm Working Group**) working as part of **Nantwich Local Area Partnership**.

### **B. ADMINISTRATION**

Subject to the matters set out below, the Partnership and its property shall be administered and managed in accordance with this Constitution by the members of the Management Team, constituted by clause G of this Constitution (**“the Management Team”**).

### **C. OBJECTS**

The Partnership’s Objects (**“the Objects”**) is:

**To promote, for public benefit, the improvement of economic, social, environmental and cultural health of the Nantwich area.**

### **D. POWERS**

In furtherance of the Objects but not otherwise, the Management Team may exercise the following powers:

- (i) to raise funds and to invite and receive contributions provided that in raising funds the Management Team shall not undertake any substantial permanent trading activities and shall conform to any relevant requirements of the law;
- (ii) to buy, take on, lease or exchange any property (excluding land) necessary for the achievement of the objects and to maintain and equip it for use;
- (iii) subject to any consents required by law, to sell, lease or dispose of all or any part of the property of the Partnership;
- (iv) to co-operate with charities, voluntary bodies and statutory authorities operating in furtherance of the objective and to exchange information and advice with them;
- (v) to establish or support any charitable trusts, associations or institutions formed for all or any of the objects;
- (vi) to appoint and constitute such advisory committees as the Management Team may think fit;
- (vii) to do all such other lawful things as are necessary for the achievement of the objects.

## **E. MEMBERSHIP**

Membership is open to any individual, group, organisation, body, corporate or incorporated association who are actively involved in regenerating Nantwich and furthering the Partnership's work and who supports the objects.

Conditions of membership:

- (iii) Representations to the Press or any external body relating to past, current or future business of Nantwich Regeneration Partnership by any member must be done in liaison with the Chair, or in the absence of the Chair, the Vice Chair, and/or the Nantwich LAP Manager.
- (iv) Members will enhance and develop wider partnership working, bringing together the community.

## **F. HONORARY OFFICERS OF THE MANAGEMENT TEAM**

- (i) The Honorary Officers (called the Officers) will be the Chair and Vice Chair; persons who have served for 12 months will be eligible for nominations of Chair.
- (ii) The Officers will be elected by the members, on an annual basis at the Annual General Meeting (AGM), but shall not hold office for more than a full term of 6 years.

## **G. MANAGEMENT TEAM**

- (i) Key Roles:
  - a) Provide the leadership, strategic vision and direction for Nantwich Partnership and also provide suitable performance management to assure delivery of its objectives.
  - b) Develop and agree Work Plans.
  - c) Control Finance.
  - d) Evaluate project proposals from Nantwich LAP consultations and the LAP Area Management Group.
  - e) Commission/launch projects including governance arrangements and forming Steering Committees if required.
  - f) Lead, support, reject or defer projects.
  - g) Meet regularly to discuss any issues and progress.
  - h) Provide support and advice to community groups.

- (ii) The Management Team will consist of at least 5 members and no more than 11 and shall include the following:
    - (a) The Elected Chairman and Vice Chairman.
    - (b) Representatives from each of the following:
      - Nantwich Civic Society.
      - Cheshire East Council.
      - Nantwich Town Council.
      - One representative from the Business Community.
- Note:
- The Nantwich LAP Manager provides the secretariat.
  - Finance control and accounting will be provided externally.
- (iii) The proceedings of the Management Team shall not be invalidated by any vacancy amongst their number or by any failure to appoint or any defect in the appointment or qualification of a member.
  - (iv) To maintain the political neutrality of the Partnership, all elected representatives of political parties are to be precluded from holding any Office or Chair on the Partnership.
  - (v) The Management Team will set up such “Task and Finish Groups” and Sub-Committees as deemed necessary for the running of projects required for successful operation of the Partnership. Each Task and Finish Group will have a Chair from the Management Team, or a Chair appointed from elsewhere who will be co-opted on to the Management Team for the duration of the task.

#### **H. DETERMINATION OF MEMBERSHIP OF THE MANAGEMENT TEAM**

A member of the Management Team shall cease to hold office if he or she:

- (i) Becomes incapable by reason of mental disorder, illness or injury or managing and administering his or her own affairs;
- (ii) Is absent without valid reason given to and accepted by the Management Team from all their meetings held within a period of six months and the Management Team resolve that his or her office be vacated; or
- (iii) Notifies to the Management Team a wish to resign (but only if at least five members of the Management Team will remain in office when the notice of resignation is to take effect).

#### **I. MANAGEMENT TEAM MEMBERS NOT TO BE PERSONALLY INTERESTED**

- (i) No member of the Management Team shall acquire any interest in property belonging to the Partnership or receive remuneration or be interested (otherwise than as a member of the Management Team) in any contract entered into by Management Team.

- (ii) All Management Team members should declare any interest or potential interest that may arise in respect of a project, contract or other matter to which the Partnership is or may become a party. The Nantwich LAP Manager will maintain a register of the declared interests, which details the nature and extent of those interests. The register will be made available to members of the public. Where a conflict of interest is declared the member should not influence any decision on the matter. He/she should abstain from any vote and withdraw from the meeting room whilst the relevant matter is being discussed.
- (iii) No contract or other award should be made to a member of the Management Team's company or any other organisation or group in respect of which an interest has been declared without the prior approval of the Management Team. Whenever members are unsure of the seriousness of a potential conflict of interest, they should raise the issue in advance and seek Management Team guidance. Where there is any doubt they should err on the side of caution and withdraw.

#### **J. MEETINGS AND PROCEDURES OF THE MANAGEMENT TEAM**

- (i) The Management Team shall hold at least six Ordinary Meetings each year. A Management Team meeting may be called at any time by the Chair or by any two members of the Management Team, not less than 4 days notice being given to the other members of the Management Team of the matters to be discussed but if the matters include an appointment of a co-opted member then not less than 21 days notice must be given.
- (ii) There shall be a Quorum when at least 3 members of the Management Team are present at a meeting.
- (iii) Every matter shall be determined by a majority of votes of the members of the Management Team present and voting on the question but in the case of equality of votes the Chair of the meeting shall have a second or casting vote.
- (iv) The Management Team shall keep a note of agreed actions at meetings and those of any Sub-Committees.
- (v) The Management Team may from time to time make and alter rules for the conduct of their meetings and the custody of documents. No rule may be made which is inconsistent with this Constitution.

#### **K. MANAGEMENT SUB-COMMITTEE**

A Management Sub-Committee comprising the Chair and Vice Chair of the Management Team and the Nantwich LAP Manager shall act on behalf of the Management Team in any matter that is of an urgent nature or requiring immediate action where it would be impractical or unreasonable to convene a full meeting of the Management Team. All actions of the Sub-Committee will be reported back to the Management Team for ratification at the earliest opportunity. The Quorum for decision-making shall be any two of the three members.

#### **L. INDEPENDENCE OF PARTNERSHIP**

The Officers, Management Team and Members will always ensure that the Partnership is independent of any body corporate or incorporated association at all times.

**M. RECEIPTS AND EXPENDITURE**

- (i) The funds of the Partnership, including all donations, contributions and bequests, shall be paid into an account operated by the Management Team in the name of Nantwich Partnership.
- (ii) The funds belonging to the Partnership shall be applied only in furthering the objective identified at Clause C.

**N. ACCOUNTS**

The Management Team will hold the accounts on behalf of Nantwich Partnership establishing its own bank account and accounting procedures to include:

- (i) The keeping of the accounting records for the Partnership.
- (ii) The preparation of Annual Statements of Accounts for the Partnership.
- (iii) The auditing or independent examination of the Accounts of the Partnership.
- (iv) The Management Team shall be responsible for the recovery of VAT, as permitted, on any goods or services it procures on behalf of the Partnership.

**O. ACTION PLAN**

The Partnership's Action Plan will be determined on an annual basis and will be updated periodically.

**P. ANNUAL GENERAL MEETING (AGM)**

- (i) There shall be an AGM of the Nantwich Partnership, which shall be held in the month of October in each year or as soon as practicable thereafter.
- (ii) The AGM shall be called by the Management Team. At least 21 days notice of the Annual General Meeting will be given to all the members of the Partnership. All the members of the Partnership and interested parties shall be entitled to attend the meeting which will be held in public.
- (iii) The Management Team shall present to each AGM the Annual Report and Accounts of the Partnership for the preceding year.
- (iv) Nominations for election to the Management Team must be made by members of the Partnership in writing and must be in the hands of the Nantwich LAP Manager of the Management Team at least 14 days before the AGM. Should nominations exceed vacancies, elections shall be by ballot.

**Q. EXTRAORDINARY GENERAL MEETINGS (EGM)**

The Management Team may call an EGM of the Partnership at any time. If at least one third of the members request such a meeting in writing stating the business to be considered, the Nantwich LAP Manager shall call such a meeting at least 21 days must be given. The notice must state the business to be discussed.

**R. DISSOLUTION**

If the Management Team should decide that it is necessary or advisable to dissolve the Partnership, it shall call a meeting of all members of the Partnership of which not less than 21 days notice (stating the terms of the resolution to be proposed) shall be given. If the proposal is confirmed by a two-thirds majority of those present and voting, the Management Team shall have power to realise any assets held by or on behalf of the Partnership. Any assets remaining after the satisfaction of any proper debts and liabilities shall be given or transferred to a body having objectives similar to the objectives of the Partnership as the members of the Partnership may determine or failing that shall be applied for some other charitable purpose.

**THIS CONSTITUTION WAS ADOPTED AT THE NANTWICH PARTNERSHIP**

**MEETING HELD ON 9<sup>th</sup> OCTOBER 2012**

**SIGNED: .....**

**Chairman: Jeff Stubbs**

**SIGNED: .....**

**Vice Chairman: John Weir**

## CHESHIRE EAST COUNCIL

### Constitution Committee

---

**Date of Meeting:** 26<sup>th</sup> November 2012  
**Report of:** Democratic and Registration Services Manager  
**Subject/Title:** Council Governance Arrangements

---

#### 1.0 Report Summary

- 1.1 This report sets out proposed changes to the governance arrangements of the Council, which give effect to the previous decision at the Council Annual General Meeting in May 2012. It recommends changes to the Council's scrutiny committee structure, and the formal establishment of new Policy Development Groups, in order to improve the effectiveness of these functions.

#### 2.0 Recommendations

- 2.1 That Council be recommended to agree that
- (1) the arrangements set out in this report be adopted with immediate effect;
  - (2) the new Policy Development Groups referred to in this report be formally established, with the terms of reference and compositions as set out in Appendices A and E to this report;
  - (3) the new Scrutiny Committees referred to in this report be formally established, with the terms of reference and compositions as set out in Appendices D and E to this report, and that the existing Council scrutiny structure be dissolved;
  - (4) the membership of each Policy Development Group be noted and the Chairmen and Vice-Chairmen of each Policy Development Group be formally appointed to those offices, as set out in Appendix E;
  - (5) the membership of each Scrutiny Committee be noted and the Chairmen and Vice-Chairmen of each Scrutiny Committee be formally appointed, as circulated at the meeting; and
  - (6) the Borough Solicitor be authorised to make such changes to the Council's Constitution as she determines are necessary to give effect to the wishes of Council in this matter.

#### 3.0 Policy Implications

- 3.1 These are set out in the body of this report.

- 3.2 The Council's governance arrangements must be reflected in the Constitution.

#### **4.0 Financial Implications**

- 4.1 The financial implications of the proposed arrangements are not expected to lead to an increase in the resources required to service the new structure, as current resources can be realigned, but the impact of the changes will need to be regularly monitored, and reviewed after 12 months. There are no other known financial implications, although the Independent Remuneration Panel will receive a report on the proposals. Any recommendations from the Panel on these changes will be reported to Council.

#### **5.0 Legal Implications**

- 5.1 The proposals contained in this report, if agreed by Council, will need to be reflected in changes to the Council's Constitution. The Constitution Committee must make a formal recommendation to Council, and this must then be agreed by full Council, before Constitutional change can take place.

#### **6.0 Risk Management**

- 6.1 No risks would appear to arise from the proposals contained in this report. Indeed, wider Member involvement in the formulation of policy would appear to result in reduced risk to the Council, although care will need to be taken that the Council's decision-making process is not slowed down as a result of these changes, at a time when the Council will need to be agile and responsive.

#### **7.0 Background**

- 7.1 At the Annual Meeting of Council on 16<sup>th</sup> May 2012, Council resolved "that:

1. with effect from the end of a shadow period of operation, which shall end no earlier than September 2012, the existing Overview and Scrutiny Committees will be dissolved and be replaced with two Overview and Scrutiny Committees with the names and provisional terms of reference set out in Appendix 1 of the submitted report;
2. with immediate effect Council establishes, initially in shadow form, up to nine Policy Groups, aligned with the Cabinet, with the provisional terms of reference set out in Appendix 2 of the submitted report;
3. the Leader will determine the size and cross party composition of the Policy Groups and invite the Political Groups to notify the Borough Solicitor of their nominations;

4. the consideration of the terms of reference of the two new Overview and Scrutiny Committees be referred to the Overview and Scrutiny Chairmen in the June/July cycle of meetings and the terms of reference thereafter be finalised by Council, following consideration by the Constitution Committee;
  5. the consideration of the terms of reference of the new Policy Groups be referred to the shadow Policy Groups in the June/July cycle of meetings and thereafter be finalised by Council, following consideration by the Constitution Committee; and
  6. the Borough Solicitor submit a further report to Council which will enable Council to formalise all remaining arrangements following the shadow period”.
- 7.2 Since the Annual Meeting of Council, significant work has been undertaken by Members, on a cross-party basis, and officers, to develop the proposals for Policy Development Groups (PDGs) and in respect of the revised arrangements which might apply to the Council’s scrutiny function.
- 7.3 This report sets out in detail how the developed proposals might now be formally established, with a view to these being incorporated into the Council’s Constitution. The Committee will need to make a recommendation to Council before constitutional change can take place, and a suggested recommendation is set out in paragraph 2 of this report for consideration and approval by Members.

## **8.0 The Decision-making Role of PDGs**

- 8.1 If Council agrees the establishment of the six new PDGs, these groups will play a central role in the Council’s decision-making processes in future.
- 8.2 Leadership from elected members is crucial at this difficult time for the Council, which therefore is “modernising” the roles of elected members, and the way they carry out their work. It is our ambition that we become an increasingly inclusive Council. This is a Council which listens to a wider range of voices, and which works in partnership with other key local agencies, as well as across the political divide, for the benefit of all the people of Cheshire East. The current Overview and Scrutiny arrangements have not achieved this, and the introduction of these new PDGs will be pivotal in delivering the Council’s ambitious plans for change over the next few years and beyond. In effect, these new Groups will significantly increase the visible political leadership capacity of the Council, and create the shared vision and drive for major change.

8.3 The PDGs will:

- Actively involve backbench Members, on a cross-party basis, giving them a key role in the formulation of policy across the board.
- Develop major new Council policies from their most formative early stages, through to their adoption.
- Present the detailed policies, which they have formulated, to Cabinet, in a form which would enable Cabinet to endorse, adopt and put into practice those policies without significant changes. (In other words, respective complementary roles for the PDGs and the Cabinet of decision making and decision taking).
- Have real influence on the role and work of the relevant Cabinet Members in the development of policies, so that the finished product of the PDGs will have a smooth passage through to formal adoption by Cabinet or, where necessary, by full Council.
- Take the place of scrutiny committees in formulating policy, thereby allowing scrutiny committees to focus more effectively on their core function of monitoring, evaluating and making recommendations for improving the performance of the Council and its main local partners.
- Have a key role in respect of major service changes. The PDGs will be able to bring officers and Members before them to develop detailed thinking which, again, will be likely to be accepted by the decision takers in Cabinet.
- Bring forward recommendations on major financial change in order to meet the challenges of the austere times within which local government and other local public services must operate. It is anticipated that the PDGs will have a significant role in assisting the detailed thinking arising from the Council's budgetary process and its transformation programme.
- Work according to an agreed work-programme, delivering in-depth clear decisions in a limited number of key priority areas, within a specific timescale.

8.4 In practice, therefore, PDGs will operate closely with both Scrutiny Committees and the Cabinet – both being informed by and informing the work of those bodies – as part of active dialogue and collaboration between them.

8.5 The PDGs will have some meetings in private but, importantly, will meet regularly in public, to ensure open accountability for their decisions. There is a clear understanding that the PDGs will be very influential and the impact on the activities, resources and outcomes of

the Council will be significant. They will be the Policy Makers, often working with several portfolio holders across different service areas. They will be tasked with delivering comprehensive, well developed pieces of work, focusing in on major service and financial change. It is hard to see any instance where the Cabinet will not support the Policies promoted by PDGs. The new Groups will require a high order of skilled leadership, if they are to be credible and effective.

## **9.0 Scrutiny Committees**

9.1 Given that the focus of our scrutiny arrangements is changing, partly by new legislation, it is proposed that the number, focus and role of the scrutiny committees will change also. Whilst, in theory, they will still have the power to develop policy, their opportunities to do this will be limited, and this function is more likely to be performed by those committees seeking to inform and influence the work of the PDGs. (For example, a scrutiny review of particular service performance or outcomes could lead to the view that a new or different policy is needed to improve what is being achieved).

9.2 It is proposed that we have three scrutiny committees in future, with a new focus on the changed landscape across the country for the commissioning of local public services as follows:

- A scrutiny committee which focuses on the way the Council works as a service commissioner and deliverer, as well as a key strategic partner. (This role will include “call-in”).
- A health and well-being scrutiny committee.
- A community safety scrutiny committee, which will have responsibility for review of external partnerships such as those with the police and fire and rescue services. (This will have a significant role in advising our members of the new Police and Crime Panel and ensuring that issues within the Borough are properly taken into account by the Panel, which will have wider responsibilities across the Cheshire Police Area in scrutinising the newly elected Police and Crime Commissioner).

9.3 Over the course of the past few weeks, the scrutiny chairmen have worked with officers to ensure that there are appropriate transitional arrangements to ensure that the work of the existing scrutiny committees which is still outstanding is properly dealt with under the new arrangements. Informal agreement has been reached on those ongoing scrutiny work areas which should be referred to the new scrutiny committees, and those which should be dealt with by the PDGs.

## **10.0 Terms of Reference and work streams: PDGs**

10.1 The proposed Terms of Reference of the PDGs are set out at **Appendix A** to this report. The six PDGs, and the way in which they relate to the Cabinet Portfolios are:

**Corporate and Performance Policy Development Group** (Strategic Communities Portfolio)

**Finance Policy Development Group** (Finance Portfolio)

**Health and Adult Social Care Policy Development Group** (Health and Adult Social Care Portfolio)

**Children and Families Policy Development Group** (Children and Families Portfolio)

**Environment and Prosperity Policy Development Group** (Environment Portfolio and Prosperity and Economic Regeneration Portfolio)

**Communities Policy Development Group** (Strategic Communities Portfolio and Communities Portfolio)

- 10.2 Although the PDGs could potentially work across the areas of responsibility of a number of Cabinet Portfolio holders, and will have the power to do so, they will predominantly align with the Portfolios listed against them above.
- 10.3 A guide to the Council service areas of responsibility, as these relate to each PDG, is appended to this report at **Appendix B**. This is for guidance purposes only and should not be viewed restrictively. Each PDG will have the flexibility to work across the a range of areas of work of the Council, in order to enable them to properly perform their functions.
- 10.4 For illustrative purposes only, **Appendix C** comprises an initial draft of possible work streams for each PDG. The work programmes will be determined by each PDG, and will change over time, depending on the needs of the Council.

#### **11.0 Terms of Reference and work areas: Scrutiny Committees**

- 11.1 It is proposed that the Council's existing scrutiny structure should be dissolved and that three new scrutiny committees should be formally appointed, with immediate effect, each having a membership of 8. The proposed Terms of Reference of the following proposed new Scrutiny Committees are set out at **Appendix D** to this report, in relation to:

**Health and Wellbeing Scrutiny Committee**  
**Corporate Scrutiny Committee**  
**Community Safety Scrutiny Committee**

#### **12.0 Membership, Chairmanships and Vice Chairmanships of the new Council bodies**

- 12.1 In accordance with the resolution of Council on 16<sup>th</sup> May 2012, the Leader has determined the size and composition of the PDGs. Each PDG will comprise 8 Members, on a 5:2:1 (Conservative: Labour: Independent) basis. However, the

Liberal Democrat Group was invited to nominate a total of two Members and to choose two PDGs on which their two Members should sit.

**Appendix E** sets out the nominations of each political group to both the PDGs and the new scrutiny committees, together with their proposed chairmanships and vice chairmanships. Council will be asked to note the membership of each PDG and to formally appoint the Chairmen and Vice Chairmen as set out in the Appendix.

### **13.0 Development and growth in the Borough**

- 13.1 The Leader has also signalled his intention to establish an informal body which will have responsibility for driving forward significant development and growth projects within the Borough. Such projects will include those which will bring investment, job creation and income into the Borough. Further thought will be given to the way in which this body will operate, the involvement of Members and external business leaders in its work, and how its effectiveness can be maximised. In due course, developed proposals will be brought forward for the attention of Members

### **14.0 Access to Information**

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

Name: Brian Reed  
Designation: Democratic and Registration Services Manager  
Tel No: 01270 686670  
Email: [brian.reed@cheshireeast.gov.uk](mailto:brian.reed@cheshireeast.gov.uk)

This page is intentionally left blank

## Appendix A

### **CHESHIRE EAST COUNCIL GOVERNANCE REVIEW 2012 DRAFT TERMS OF REFERENCE OF THE POLICY DEVELOPMENT GROUPS**

**Six Policy Development Groups have been appointed which, between them, will advise the Cabinet on all significant areas of Policy:-**

Finance Policy Development Group  
Communities Policy Development Group  
Environment and Prosperity Policy Development Group  
Health & Adult Social Care Policy Development Group  
Corporate and Performance Policy Development Group  
Children & Family Services Policy Development Group

#### **Membership**

Each Policy Development Group (PDG) will have 8 members on a cross party basis. The Leader of the Council will determine membership of the PDGs, after consultation with Group Whips. A member will only serve on one PDG, with the exception of Cabinet Support Members.

The PDGs will have a proportionality of 5:2:1 (Con: Lab: Ind), with one seat each on two PDGs of their choice being allocated to the Liberal Democrats. Members of Scrutiny Committees will be permitted to serve on PDGs.

Cabinet Support Members will sit on the relevant PDG as non voting members in addition to the eight voting members.

Portfolio holders and officers may attend all meetings of PDGs and should do so if requested. It should be a priority that the relevant officer(s) attends PDG meetings when requested to do so; appropriate notice having been given of the need to do so.

Substitute members will be permitted to sit on PDGs.

The Chairman of the PDG will be drawn from the ruling Political Group and will be appointed by the Leader.

#### **General Responsibilities of all PDGs**

- 1 To develop new, and review/revise existing policies (with a cross-service approach wherever possible) and make reports and recommendations to the Portfolio Holder and/or Cabinet.
- 2 To advise the Portfolio Holder about significant service-delivery issues and make recommendations for improvement, based on detailed analysis by task and finish groups.
- 3 To undertake policy development, on a task and finish basis. (In doing so, PDGs may establish working groups, appointing the chairmen in accordance with the Council's criteria, and with such membership drawn from the PDG in question only).
- 4 To investigate and develop alternative service delivery mechanisms and improvements, and advise the Portfolio Holder and/or Cabinet.

- 5 To evaluate best practice, new technologies, new policies and new ways of working and generate ideas for improvement.
- 6 To offer advice and make recommendations to the appropriate body of the Council on the development and review of policy.
- 7 To consult and involve the local community and other local public, private and voluntary bodies and organisations, in performing its role.

### **Operation of the PDGs**

The PDGs will be supported by the relevant senior officers who undertake the function under review, with further support from Democratic Services.

The Chairman of the relevant PDG will determine the agenda for each meeting, in accordance with the PDG's agreed work programme.

Public, partners and service users will be invited to participate in the work of PDGs as appropriate.

PDGs will have a public meeting at least every six months, so that their work is transparent and accountable.

Agendas and minutes of public meetings session will be published.

PDGs will not be involved directly in the budget-setting process.

PDGs will have access to all data relevant to their function.

Members of the PDGs will have access to, and work with, all officers of the Council, as required. Officers are expected to attend and contribute to meetings of the Policy Development Groups, as needed.

The PDGs will work closely with Portfolio Holders in carrying out their work.

Chairs of PDGs will have the right to attend Cabinet meetings to present their proposals, when decisions have been made.

## Appendix B

### **Guide to Service Areas for Policy Development Group Responsibilities**

#### **Corporate & Performance**

The Corporate & Performance PDG is responsible for developing policy in relation to the Corporate Policy Portfolio and the Performance Portfolio. In particular the PDG has responsibility for the following matters:

- Corporate Policy Advice and Development
- Procurement Strategy
- Procurement including participation in Regional Procurement Hubs
- Procurement Forward Plan
- Corporate Contracts
- Contract monitoring of external providers (Contracts Register)
- Policy on Shared Services
- Policy on delivery models/arms length companies
- Monitoring delegated decision-making processes
- Legal Services
- Democratic Services
- Civic matters
- Electoral Services
- Member Training and Development
- Community Strategy and Planning
- Performance Management: Strategy and Delivery
- Project and Programme Management: Strategy and Delivery
- HR strategy and delivery
- Organisational Development
- Employee Training and Development
- Occupational Health
- Corporate Health and Safety

#### **Finance**

The Finance PDG is responsible for developing policy in relation to the Finance Portfolio. In particular the PDG has responsibility for the following matters:

- Finance
- Finance Service
- Development of the Business Plan
- Capital Programme
- Capital Strategy
- Reserves Strategy
- Income and Funding Strategy
- Treasury Management

- Business Management
- Insurance
- Internal Audit Responsibilities
- External Audit Responsibilities
- Pensions
- Corporate and Business Planning
- Revenues and Exchequer Functions, including Benefits

### **Health & Adult Social Care**

The Health & Adult Social Care PDG is responsible for developing policy in relation to the Health & Adult Social Care Portfolio. In particular the PDG has responsibility for the following matters:

- Public Health promotion
- Health improvement
- Liaison with NHS Trusts and Health Authorities
- Mental Health and Disability
- Health Promotion
- Development of Integrated Services with Health Partners
- Promoting the work of all agencies to support improved health and wellbeing within the Borough.
- Supporting and monitoring the development of the Health and Wellbeing Board.
- Ensuring the development and delivery of a Health and Wellbeing Strategy, and to monitor its impact and outcomes for children, young people, adults and families.
- Ensuring that the Joint Strategic Needs Assessment (JSNA) collates the intelligence of all partners in respect of the health and wellbeing of residents that supports Commissioners.
- Ensuring the effective working of Commissioners (GPCC, Social Care).
- Supporting the transition and integration of Public Health within the Council.
- Having an overview of the Health and Social Care architecture and working with officers and partners to shape local structures.
- Having oversight of the transition of LINKs to Local Health Watch to ensure that the local views of residents influence the work of the Health and Wellbeing Board.
- Having oversight of the work of Public Health Protection.
- Having oversight of the organisational development needs of the Health and Social Care system to support collaboration and integration.
- Ensuring that the work of the Director of Public Health influences wider Council strategy and operational delivery to maximise the health and wellbeing benefits in all areas of the business.
- Influencing and informing the Health and Wellbeing Strategy and supporting implementation within operational services.
- Supporting officers and partners to deliver connected service responses for whole families and communities in addressing the health, social care and wellbeing needs of the Borough's residents.

- Re-ablement
- Supporting informal Carers
- Community Equipment
- Occupational Therapy
- Assistive Technology
- Mobile Meals
- Respite and Short Breaks
- Family Based Care
- Domiciliary Care
- Residential Care
- Nursing Home Care
- Extracare housing
- Supported Employment
- Sensory Impairment Services
- Safeguarding Adults
- HIV/Aids
- DAAT Services
- Domestic Violence Service
- Equality in service access and delivery
- Adult Social Care
- Welfare Rights
- Community Legal Service

### **Children & Families**

The Children & Families PDG is responsible for developing policy in relation to the Children & Families Portfolio. In particular the PDG has responsibility for the following matters:

- Early Years and Child Care
- Children's Centres
- Education, including:
  - School organisation and Capital Planning
  - Special educational needs
  - School development and improvement
  - School funding/Schools Forum
  - School Catering
- Children's social care and wellbeing
- Youth Support Services, Youth Offending Service
- Services to Children & Young People with disabilities 0-25
- Lifelong Learning
- Family Support Services
- Strategy for responding to Health Inequalities
- Cared for Children and Care Leavers
  - Fostering & Adoption
  - Residential Services

- Children's Trust – Children & Young People's Plan
- Safeguarding including Local Safeguarding Children's Board
- Children's Safeguarding Unit
- Child Poverty Needs Assessment
- Influencing and informing the Health and Wellbeing Strategy and support implementation within operational services.
- Supporting officers and partners to deliver connected service responses for whole families and communities in addressing the health, social care and wellbeing needs of the Borough's residents.

## **Environment & Prosperity**

The Environment and Prosperity PDG is responsible for developing policy in relation to the Environment Portfolio and the Prosperity and Economic Regeneration Portfolio. In particular the PDG has responsibility for the following matters:

- Highways Operational Management including:
  - Management of Highways Register
  - Highways Design and Maintenance
  - Fleet
  - Road Safety and Flooding
  - Parking and Parking Enforcement
  - Street Lighting, Signals and Signing
  - Traffic Management and Road Safety
  - Civil Engineering and Transport Operations
  - Transportation delivery, including public transport liaison and coordination
  - Car Parking
- Carbon Reduction
- Waste Management, including:
  - Recycling and Waste Management
  - Bulk Waste and Clearance
- Environmental cleansing and Street Cleaning
- Street Scene
- Markets
- Public Conveniences
- Town Centre Management
- Cremation and Burial Services
- Leisure Strategy
- Operational delivery of Leisure services:
  - Parks and Recreation
  - Countryside
  - Public Rights of Way
  - Sport development
  - Leisure Centres
  - Children's Play
- Economic Development
- Employment Initiatives

- Credit Union and Co-operatives development
- Regeneration
- Public and Private Sector Housing Strategy and Provision
- Homelessness strategy
- Tourism and Visitor Economy
- Tatton Park
- Arts Promotion
- Events Programme Co-ordination
- Strategic Highways and Transport
- Assets
  - Asset Management Plan
  - Property services including farms estate
  - Corporate Landlord function in respect of all Council property
  - Council Property functions including:
    - Council land policy, usage, sales, valuations
    - Facilities management and the allocation of office space, including cleaning and postal services
    - Architectural and design services
    - The Council's conference facilities and allied establishments
    - Security of Council buildings
    - Accessibility within Council buildings

## **Communities**

The Communities PDG is responsible for developing policy in relation to the Communities and Regulatory Services Portfolio and the Strategic Communities Portfolio. In particular the PDG has responsibility for the following matters:

- Civil Protection/ Emergency Planning
- Third Sector and community delivery
- Youth Offending Team
- Crime reduction including Crime and Disorder Reduction Partnership (CDRP) and police/emergency services liaison
- Anti-social behaviour reduction including drug abuse and domestic violence
- Community Safety Wardens
- CCTV
- Trading Standards
- Licensing
- Reviewing Fares and Licensing Fees
- Environmental Health
- Food Safety
- Air Pollution control and monitoring
- Environmental enforcement
- Contaminated Land
- Pest and Vermin Control
- Dog Wardens

- Health and Safety Enforcement
- Overall responsibility for monitoring all enforcement activity
- Local Area Partnership (LAP) and Neighbourhood working
- Neighbourhood and Community Cohesion
- Building Control
- Development Management including:
  - Development issues connected with highways
- Housing delivery
- Cultural Strategy
- Operational delivery of Cultural services including:
  - Museums
  - Archives
  - Theatres
  - Cinemas
  - Arts
- Registration Services (births, marriages and deaths)
- Customer Access/Services
- Libraries and Archives
- Community Strategy
- Voluntary, Community and Faith Sector Relationships/Development
- Partnerships for Cheshire East (PACE)
- Customer Complaints and Responses
- Economic Twinning
- Information and Communications Technology
- Information, Intelligence and Consultation
- Corporate Risk Management
- Equality and Diversity
- Local Plan
- Local Development Strategy
- Local Transport Plan
- Communications and Marketing

## Appendix C

### ***Policy Development Group Initial Possible Work Streams 2012/13***

#### ***Children and Families Policy Development Group***

##### **New Policies Needed and Planned Major Change Projects**

- Develop self-sustaining and improving schools
- Improve adult skills for work
- Improve the range of special school provision
- Pursue the development of a new University Technical College
- Reducing unnecessary demand in adult and children services through promoting self-sufficiency\*
- Development of future commissioning strategy for children young people and adults with disabilities\*
- The development of sustainable models of care for children (residential fostering and adoption etc.)
- The development of a commissioning strategy for children and young people with learning difficulties and/or disabilities including schools, supported employment, short breaks etc
- Development of future policy in relation to schools against the changing national policy context
- Review of future policy options in relation to young people at risk of becoming NEET
- Development of early education and health provision as part of an integrated 'early help offer'

## ***Health and Adult Social Care Policy Development Group***

### **New Policies Needed and Planned Major Change Projects**

- Improve the local market of care providers, including fostering and adoption
- Next phase of development of Care4CE service
- Improve local provision for learning disabilities
- Create new integrated health and care models
- Reducing unnecessary demand in adult and children services through promoting self-sufficiency\*
- Create new service delivery models to prevent recourse to acute and costly services later
- Better information/signposting for care users and carers
- Maximise the impact of the Health and Wellbeing Board for local resident
- Implementation of White Paper Provisions – Caring for our Future: subject to the Bill being passed
- Changes in Government funding for care for the elderly
- Development of integrated local health and social care provision with health partners
- Development of future commissioning strategy for children young people and adults with disabilities\*
- Development of Housing Strategy and provisions for vulnerable adults (Extra Care Housing)
- Future commissioning of care shaping the care market locally and the future of Care4CE

***Environment and Prosperity Policy Development Group***

**New Policies Needed and Planned Major Change Projects**

- Investment in existing and new road infrastructure
- Investment in high speed broadband network for Cheshire East
- Investment to support business growth and delivery of Macclesfield and Crewe regeneration, and the Sustainable Towns programme
- Total Transport change project
- Determine and implement future delivery model for waste management services (Streetscape transfer to RJ)
- Develop new delivery models for frontline place-based services (Waste & leisure outsourcing)\*

## ***Communities Policy Development Group***

### **New Policies Needed and Planned Major Change Projects**

- New delivery model for the housing service
- Better integrate housing across all Council services
- Ensure housing services support independent living and health improvement
- Develop new delivery models for frontline place-based services (Waste & leisure outsourcing)\*
- Develop a new model for sustainable library services and community hubs
- ICT Strategy
- Better integrate housing across all Council services (Housing Re-design)
- Ensure housing services support independent living and health improvement
- Further devolution to Town and Parish Councils
- Localism – Right to Buy and Right to Manage

## ***Corporate and Performance Policy Development Group***

### **New Policies Needed and Planned Major Change Projects**

- Develop a more affordable model of corporate services with key subject expertise, to enable better strategic commissioning and delivery of frontline services\*
- Implement a modern business architecture, including ICT systems, which supports innovative and affordable frontline delivery\*
- Continue targeted business improvement reviews to find efficiency savings from all services\*
- Maximise the benefits from the Corporate Landlord model to best utilise our asset base to support delivery of the Council's wider objectives
- Further develop employment and working practices to enable flexible and agile working
- Identify changing skills requirements over medium term and equipping the organisation with these skills
- Manage workforce turnover so that vacant posts are used to provide efficiency savings, whilst retaining staff with essential skill
- Shared Services Separate Legal Entity (SLE)
- Procurement Strategy
- New Procurement Delivery Model
- Strategic Commissioning Framework
- Senior Management Review
- New Public Service Board for Cheshire East Commissioners

## ***Finance Policy Development Group***

### **New Policies Needed and Planned Major Change Projects**

- Develop a more affordable model of corporate services with key subject expertise, to enable better strategic commissioning and delivery of frontline services\*
- Implement a modern business architecture, including ICT systems, which supports innovative and affordable frontline delivery\*
- Continue targeted business improvement reviews to find efficiency savings from all services\*
- Local Taxation e.g. Council Tax level, Local Council Tax Support Scheme, Taxbase technical flexibilities
- Capital Strategy e.g. the development of the 13/16 Capital Programme
- Treasury Management Strategy e.g. borrowing and investment income options
- New Funding Options e.g. Supplementary Business Rate, Business Improvement Districts, Tax Increment Financing, CIL, New Homes Bonus and TIF
- Pensions e.g. future contribution rate, impact of new Service delivery models

## Appendix D

### SCRUTINY COMMITTEES

#### Terms of Reference

Three-Scrutiny Committees have been appointed which, -:

- Corporate Scrutiny
- Health and Wellbeing
- Community Safety

#### 1 General Responsibilities of all Scrutiny Committees

Any of the Committees may be invited to provide advice and recommendations on the reviewing and updating of the Authority's policies.

The Committees each consist of 8 Members on a politically proportionate basis (plus appropriate co-option).

The Scrutiny Committees may specifically:

- discharge the Council's functions under Section 21 of the Local Government Act 2000 (Scrutiny Committees);
- oversee the Council's overall scrutiny function including the preparation, implementation, monitoring and review of an annual work programme for scrutiny and arrangements for the scrutiny of other public bodies particularly where required to do so by law and where partners can contribute to the Sustainable Community Plan priorities and outcomes;
- establish such task and finish groups, appointing the Chairman with such membership as it sees fit, to undertake scrutiny on a task and finish basis;
- ensure that officers discharge their responsibilities effectively and efficiently in relation to the scrutiny function;
- scrutinise decisions of the Cabinet, and of local partner agencies, and offer advice or make recommendations on the matter under scrutiny once the Committee has considered the issues;
- refer to the Council or appropriate Committee/Sub-Committee any matter which, following scrutiny, the Committee determines should be brought to the attention of the Council or the Committee or Sub-Committee;
- if requested, offer any views or advice to the Cabinet in relation to any matter referred to the Committee for consideration;

- undertake general policy reviews with a cross-service and multi-organisational approach wherever possible and make recommendations to the Council or the Cabinet to assist in the -review of existing policies and strategies;
- in performing its role, the Committee may consult and involve the local community and other local public, private and voluntary bodies or organisations;
- review the Council's response to its obligations in respect of the overall performance management regime and where appropriate advise the Cabinet and the Council of its findings;
- scrutinise decisions after implementation to examine their effect and outcomes;
- review and make recommendations in relation to matters which are not the direct responsibility of the Council but which affect the social, economic and environmental well-being of an area, or the Council's area as a whole, or under any statutory requirement or Council contract, procedure or practice;
- develop, maintain and monitor policies and procedures for handling complaints made against the Council and monitor on a regular basis the level and nature of complaints received and ensure that advice is formulated regarding action to be taken to address areas of concern;
- monitor the level and nature of Ombudsman complaints and advise the Cabinet, Committees, Sub-Committees and officers on remedial action as appropriate;
- ensure in conjunction with the Constitution Committee that the Council has in place appropriate mechanisms to protect organisational Integrity including the review of appropriate policies and guidance;
- deal with any overview and scrutiny matter which is the subject of a call-in, a Councillor Call for Action or a Local Petition (a Councillor Call for Action Protocol is included in Part 5 of this Constitution);
- provide a regular programme of training and development for all Members and Co-opted Members involved in the work of the Committee.

## **2 Specific Responsibilities**

### **2.1 Health and Wellbeing Scrutiny Committee**

The Health and Wellbeing Scrutiny Committee will fulfil the functions of an Overview and Scrutiny Committee as they relate to Health Scrutiny duties falling on the Authority by virtue of the relevant Health acts and subsequent relevant legislation and Government Guidance; and the - portfolio holder responsibilities of the Health and Adult Social Care Portfolio Holder as they relate to health.

## **2.2 Corporate Scrutiny Committee**

The Corporate Scrutiny Committee will fulfil the functions of an Overview and Scrutiny Committee as they relate to the performance and functions of the Council and

- in relation to the Budget and Policy Framework respond to any consultation which is required under the law or the Council's constitution;
- may 'call in' any decision of cabinet in accordance with the Scrutiny procedure rules contained within section 4 of the constitution;
- will scrutinise quarterly performance reports;
- may scrutinise any Cabinet decisions;
- may scrutinise the effectiveness of any existing policies and retrospectively any new policies introduced by Cabinet;
- deal with any matter referred to it in accordance with the Council's protocol on Councillor Call for Action.

## **2.3 Community Safety Scrutiny Committee**

The Community Safety Scrutiny Committee will fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities relating to social cohesion, community safety and crime and disorder.

This page is intentionally left blank

## Appendix E (Scrutiny Committee memberships to be agreed)

### POLICY DEVELOPMENT GROUP MEMBERSHIP AND CHAIRMEN/VICE CHAIRMEN

6 NOV 2012

<b>CHILDREN AND FAMILIES POLICY DEVELOPMENT GROUP (8) (5:2:1)</b>			
Conservative	Labour	Independent	Lib Dem
P Hoyland (CH)	K Edwards (VCH)	P Butterill	N/A
G Merry	M Sherratt		
P Whiteley			
D Bebbington			
A Martin			
Plus Rhoda Bailey Children & Family Services CSM (non voting)			

<b>HEALTH AND ADULT SOCIAL CARE POLICY DEVELOPMENT GROUP (9) (5:2:1+1)</b>			
Conservative	Labour	Independent	Lib Dem
M Simon (CH)	J Jackson	A Moran	S Jones
J Saunders (VCH)	L Jeuda		
G Wait			
C Andrew			
R West			
Plus Stewart Gardiner Health & Adult Social Care CSM (non voting)			

<b>ENVIRONMENT AND PROSPERITY POLICY DEVELOPMENT GROUP (9) (5:2:1+1)</b>			
Conservative	Labour	Independent	Lib Dem
B Livesley (CH)	S Hogben	D Brickhill	R Fletcher
W Fitzgerald (VCH)	R Cartlidge		
H Davenport			
L Smetham			
A Thwaite			
Plus Don Stockton and Gail Wait Environment CSMs (non voting)			
Plus Peter Groves Prosperity CSM (non voting)			
<b>COMMUNITIES POLICY DEVELOPMENT GROUP (8) (5:2:1)</b>			
Conservative	Labour	Independent	Lib Dem
O Hunter (CH)	I Faseyi	L Roberts	N/A
S Davies (VCH)	M Grant		
L Brown			
J Wray			
R Bailey			
Plus Steve Wilkinson Communities & Regulatory Services CSM (non voting)			
Plus Lesley Smetham Strategic Communities CSM (non voting)			

<b>CORPORATE &amp; PERFORMANCE POLICY DEVELOPMENT GROUP (8) (5:2:1)</b>			
Conservative	Labour	Independent	Lib Dem
A Kolker (CH)	P Nurse	B Burkhill	N/A
P Hayes (VCH)	P Martin		
M Hardy			
D Druce			
D Topping			
Plus David Marren Corporate and Performance CSM (non voting)			

<b>FINANCE POLICY DEVELOPMENT GROUP (8) (5:2:1)</b>			
Conservative	Labour	Independent	Lib Dem
F Keegan (CH)	S Corcoran	B Murphy (VCH)	N/A
J Hammond	D Newton		
S Wilkinson			
J Weatherill			
P Groves			
Plus Peter Mason Finance CSM (non voting)			

This page is intentionally left blank

## **CHESHIRE EAST COUNCIL**

### **Constitution Committee**

---

**Date of Meeting:** 26<sup>th</sup> November 2012  
**Report of:** Borough Solicitor  
**Subject/Title:** Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

---

#### **1.0 Report Summary**

- 1.1 The purpose of this report is to outline the new provisions introduced by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, to inform Members on amendments to current practice to ensure compliance with the new provisions. The Regulations were made on 10th August 2012 and came into force on Monday 10th September 2012.

#### **2.0 Recommendations**

2.1 That

- (1) the Committee note the actions taken so far to comply with the new Regulations as detailed in the report;
- (2) it be recommended to the Leader of the Council that the Forward Plan continue to be published on a monthly basis;
- (3) clarification be sought from the Department for Communities and Local Government as to the intended focus of the new regulation relating to the recording of executive decisions taken by officers;
- (4) the Chairman of the Audit and Governance Committee be consulted on the arrangements for dispensations for members as discussed in paragraph 10.16 of the report;
- (5) the matter of the Leader's report to Council on urgent executive decisions as discussed in paragraph 10.19 be referred to the Leader of the Council for consideration; and
- (6) the Borough Solicitor be authorised to make such consequential amendments to the Constitution as are necessary to give effect to the new Regulations.

#### **3.0 Reasons for Recommendations**

- 3.1 To seek the views of the Committee on this matter.

**4.0 Wards Affected**

4.1 None

**5.0 Local Ward Members**

5.1 All Members are affected by this matter.

**6.0 Policy Implications**

6.1 None identified.

**7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

7.1 None identified.

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

8.1 None identified.

**9.0 Risk Management**

9.1 None identified.

**10.0 Background and Options**

10.1 At the last meeting of the Committee it was reported that new regulations had come into effect on 10<sup>th</sup> September 2012, which had implications for the Council's executive arrangements. Where it was proposed that an executive meeting, such as a Cabinet or Portfolio Holder meeting, was to be held in private, the Council was required to give at least 28 days' notice. In addition, it appeared that where an officer had taken a delegated executive decision, the decision would need to be published. There was no definition of an officer executive decision within the regulations and therefore further advice would need to be sought before the implications of this latter provision could be fully assessed. Members therefore noted the matter and await a further report.

10.2 The Regulations ([www.legislation.gov.uk/uksi](http://www.legislation.gov.uk/uksi)) were made on 10th August 2012 and came into force on Monday 10th September 2012. The new Regulations revoke the current Regulations which govern meetings of the executive and how executive decisions are recorded.

- 10.3 The Government did conduct a short, focussed informal sounding exercise with partners, including the Local Government Association (LGA), Society of Local Authority Chief Executives, Association of Council Secretaries and Solicitors, Centre for Public Scrutiny, Local Government Regulation, and the Chartered Institute of Public Finance and Accountancy. Unfortunately local authorities were not informed of the Regulations until they were published, and in their response the LGA stated that no amendments to existing Regulations were necessary. The Government did not share that view.
- 10.4 The Government consider that the Regulations are necessary in order to clarify and extend the circumstances in which local authority executive decisions are to be open to the public by requiring maximum transparency rather than allowing it. The Government does not plan to issue any separate guidance on these Regulations, as they are considered self-explanatory; nor does the Government intend to monitor local authority compliance with the new Regulations.

#### **Meeting in public and recording of proceedings**

- 10.5 The previous Regulations required that any meeting of the Executive where a key decision was to be made must be held in public. The new Regulations establish a presumption that all Cabinet meetings will be held in public, unless certain circumstances apply. Whilst the meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report. However, as before, this does not mean that the authority must permit photographs, video or audio recordings of the meeting, or an oral report of the proceedings as they take place.
- 10.6 It is still up to a local authority executive to decide which of its meetings, and which of the meetings of any committee of the executive, are to be open to the public and which of those meetings are to be held in private. The Regulations prescribe the procedures which must be followed before the Cabinet holds a meeting in private, including allowing the public to make representations about why the meeting should be open to the public. This is unlikely to be an issue for this Council as the majority of items considered at the Cabinet or at Portfolio holder meetings are considered in public as a matter of course. The Council's Forward Plan has been amended to meet the requirements of the regulations and the revised format is enclosed at Appendix 2. Agenda and connected reports for public meetings will be published in accordance with the Regulations

### **Key decisions and the Forward Plan**

- 10.7 The definition of a key decision provided in the Regulations remains the same. As Members will be aware the definition of a Key decision has recently been reviewed. The definition used in Cheshire East is consistent with guidance issued in October 2000 and the latest Regulations.
- 10.8 The Council is no longer required to produce and publish a Forward Plan detailing the Key decisions to be taken during a four month period. Instead the new Regulations state that where a decision maker intends to make a Key decision, that decision must not be made until a document has been published at least 28 clear days beforehand. This document must be made available for inspection by the public at the offices of the relevant authority and on the website.
- 10.9 This deadline is significantly earlier than the 14 days which decision makers currently need to comply with and therefore the publication date of the Forward Plan has been revised. The format of the Forward Plan has also been amended to include the additional details required under the new Regulations. The notice of a key decision must contain additional information relating to the documents submitted to the decision maker for consideration, where the public can access the documents, and the procedure for requesting any other documents to be considered as they become available. The requirements to detail information about the consultation process that will be used and to identify the groups that would be consulted on the decision have been removed. However it is suggested that these provisions remain appropriate for any such notice to include this information.
- 10.10 It is recommended that the Council continues to publish its Forward Plan on a monthly basis, a month in advance, with the period covered being four months. This enables Members and the Public to have a reasonable period of notice of forthcoming executive decisions. Where it is not possible for an officer to comply with the notification requirements it is still possible to rely on the provisions of 'general exception' or 'special urgency'. The rules regarding general exception are broadly the same, although the Regulations now state that as soon as reasonably practicable the proper officer must make available at the offices of the local authority a notice setting out the reasons why compliance with the 28 days notification period is impracticable and that notice must be published on the Council's website.

### Recording of executive decisions taken by officers

- 10.11 In relation to cases of special urgency, there is now a requirement that as soon as reasonable practicable after the decision maker has obtained agreement that the making of the decision is urgent and cannot reasonably be deferred, the decision maker (rather than the proper officer) must make available at the offices of the Council a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred, and that notice must be published on the Council's website. Although these are new requirements in the Regulations, the form used by decision makers in Cheshire already requires them to specify why the decision has not been included in the Forward Plan when the general exception or special urgency provisions are being used.
- 10.12 Under the previous Regulations, as soon as reasonably practicable after an officer had made a decision which was a **key decision**, the officer would produce a written statement which had to include:
- ☐ A record of the decision;
  - ☐ A record of the reasons for the decision;
  - ☐ Details of any alternative options considered and rejected by the officer at the time when he made the decision;
  - ☐ A record of any conflict of interest declared, in relation to the decision, by any executive member who was consulted, and a record of any dispensation granted.
- 10.13 The previous Regulations only required Key decisions to be recorded in this way. In Cheshire East officers do not take Key Decisions. However the new Regulations state that as soon as reasonably practicable after an officer has made a decision which is an **executive decision**, the officer must produce a written statement which must include –
- ☐ A record of the decision including the date it was made;
  - ☐ A record of the reasons for the decision;
  - ☐ Details of any alternative options considered and rejected by the officer when making the decision;
  - ☐ A record of any conflict of interest declared by an executive member who is consulted by the officer which relates to the decision, a note of any dispensation granted.
- 10.14 Furthermore, the new Regulations defines the term 'executive decision' as a decision made or to be made, by a decision maker, in connection with the discharge of a function which is the responsibility of the executive of a local authority. This seems to have significantly widened the scope of decisions which must be formally recorded to include Key and Significant Operational decisions.

- 10.15 Given the efforts already undertaken by this Council to be transparent, it is recommended that clarification be sought from the Department for Communities and Local Government as to the intended focus of this new Regulation, and whether Leeds' existing practice of publishing significant operational as well as key decisions satisfies the Regulations. The recordings of executive decisions made at meetings are broadly unchanged

#### **Publication of background papers**

- 10.16 Where a report considered at a public meeting or by an officer contains a list of background papers, a copy of each of the documents in that list must now be published on the Council's website, unless it contains exempt or confidential information. The effect of this change is that background documents must be published in relation to executive decisions, but not council decisions. The Council's report writing guidance will be reviewed to ensure that all report authors are aware that background documents will need to be submitted to Democratic Services alongside their reports.

#### **Dispensations to Members**

- 10.17 At various points in the new Regulations there are references made to the Head of Paid Service granting dispensations to Members who have a declared conflict of interest. In the Localism Act 2011 this power is granted to the local authority and it does not specify that this function should be carried out by the Head of Paid Service. Full Council has already chosen to delegate this role to the Audit and Governance Committee, with written applications for dispensations being received by the Monitoring Officer. The Committee is invited to consider that this matter be considered further with the Chairman of the Audit and Governance Committee.

#### **Member access to documents**

- 10.18 Members' rights of access are broadly unchanged, although the new Regulations have introduced timescales within which Members must be provided with the requested information. Any document which is required to be available for inspection by any member of the relevant local authority must be made available for inspection within 24 hours of the conclusion of a private meeting or the decision being made.
- 10.19 As before members of overview and scrutiny committees have additional rights to access documents relating to decisions that committee is scrutinising, and in certain circumstances the committee can access exempt or confidential information. The executive must provide the requested document as soon as reasonably practicable and in any case no later than 10 clear days after the executive receives the request.

Furthermore, where the executive determines that a member of an overview and scrutiny committee is not entitled to a copy of a document for reasons set out in the regulations, it must provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.

### **Leader's report to the Authority**

- 10.20 Under the previous regulations the Leader was required to submit a quarterly report to the authority containing details of each executive decision taken where the decision was agreed as urgent. The new Regulations remove the requirement for the Leader to make such reports quarterly, but now state that the authority can determine when the reports should be received but the Leader must submit at least one report annually. The Committee is invited to consider that this matter be considered further with the Leader of the Council.

### **Public access to documents**

- 10.21 The rules regarding the inspection and retention of documents are broadly the same. However, the new Regulations clarify that wherever a document is to be open to public inspection it should be published on the Council's website. Furthermore, subject to copyright rules, any member of the public may, in any publicly available medium, reproduce, or provide commentary in relation to, any document supplied to that person or made available for public inspection.

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer. There are no specific background documents.

Name: Paul Jones  
Designation: Democratic Services Team Manager  
Tel No: 01270 686458  
E-mail: [paul.jones4@cheshire.gov.uk](mailto:paul.jones4@cheshire.gov.uk)

This page is intentionally left blank



## **FORWARD PLAN 1 NOVEMBER 2012 - 28 FEBRUARY 2013**

This Plan sets out the key decisions which the Executive expect to take over the next four months. The Plan is rolled forward every month. It will next be published in mid November and will then contain all key decisions expected to be taken between 1 December and 31 March 2013. Key decisions are defined in the Councils Constitution.

Reports relevant to key decisions, and any listed background documents may be viewed at any of the Councils Offices/Information Centres 6 days before the decision is to be made. Copies of, or extracts from these documents may be obtained on the payment of a reasonable fee from the following address:-

Democratic Services Team  
Cheshire East Council ,  
c/o Westfields, Middlewich Road, Sandbach Cheshire CW11 1HZ  
Telephone: 01270 686463

However, it is not possible to make available for viewing or to supply copies of reports or documents, the publication of which is restricted due to confidentiality of the information contained.

A decision notice for each key decision is published within 6 days of it having been made. This is open for public inspection on the Council's Website, Council Information Centres and Council Offices.

The law and the Council's Constitution provides for urgent key decisions to be made. A decision notice will be published for these in exactly the same way.

Forward Plan 1 November 2012 to 28 February 2013

Key Decision	Decisions to be Taken	Decision Maker	Expected Date of Decision	Proposed Consultation	Relevant Scrutiny Committee	How to make representation to the decision made
CE12/13-18 Delivery of Streetscape Operations	To agree to detailed work being carried out to determine the full range of services associated with Grounds Maintenance, Street Cleansing and Car Park maintenance/management that could be managed more cost effectively through the Highways Service Provider and, subject to the outcome of that work, to commence procedures to transfer the relevant services in accordance with all statutory requirements.	Cabinet	17 Sep 2012	Council Members and all existing staff currently employed within the affected services via Stakeholder Groups, and Member Briefing Sessions	Environment and Prosperity	John Nicholson, Strategic Director (Places and Organisational Capacity)

<b>Key Decision</b>	<b>Decisions to be Taken</b>	<b>Decision Maker</b>	<b>Expected Date of Decision</b>	<b>Proposed Consultation</b>	<b>Relevant Scrutiny Committee</b>	<b>How to make representation to the decision made</b>
CE12/13-13 Financial Support for Public Transport	To consider the results of public consultation on the Council's support for public transport and to consider proposals to deliver savings in the Business Plan 2012-15.	Cabinet	15 Oct 2012	Extensive public consultation, at key service centres and online, including with town and parish councils, community and voluntary sector groups and public transport operators.	Environment and Prosperity	John Nicholson, Strategic Director (Places and Organisational Capacity)
CE12/13-17 Appointment of preferred contractor for Lyceum Theatre, Crewe	To select the preferred bidder to take over the operational responsibility for the Lyceum theatre, Crewe.	Cabinet	15 Oct 2012	Chartered Trustee, Ward Members, Portfolio Holders	Sustainable Communities	John Nicholson, Strategic Director (Places and Organisational Capacity)
CE12/13-19 Leisure Services Future Operating Model	The report will consider options for the future delivery of leisure services throughout the Borough and will make recommendations to Cabinet for a preferred way forward.	Cabinet	15 Oct 2012	Staff within the service.	Environment and Prosperity	John Nicholson, Strategic Director (Places and Organisational Capacity)
CE12/13-23 Tatton Park Enterprises	To confirm arrangements for the delivery of specified services at Tatton Park.	Cabinet	15 Oct 2012	Tatton Park Board	Environment and Prosperity	John Nicholson, Strategic Director (Places and Organisational Capacity)

<b>Key Decision</b>	<b>Decisions to be Taken</b>	<b>Decision Maker</b>	<b>Expected Date of Decision</b>	<b>Proposed Consultation</b>	<b>Relevant Scrutiny Committee</b>	<b>How to make representation to the decision made</b>
CE12/13-24 Public Services Network Connectivity Procurement	To approve the procurement of PSN Connectivity with other Council and public sector partners.	Cabinet	15 Oct 2012	Internal boards and groups; the public services network; CWAC Council; Warrington BC; Cheshire Police Authority; Cheshire Fire and Rescue Service; Cheshire and Wirral Partnership NHS Foundation Trust; Cheshire NHS ICT Service; and Schools.	Sustainable Communities	Lisa Quinn, Director of Finance and Business Services
CE12/13-25 Available Walking Routes Policy	To review and provide policy clarification on the Available Walking Routes Policy, which forms part of the Home to School Transport Policy; the Policy to be prepared in accordance with national guidelines and best practice.	Cabinet	15 Oct 2012	No consultation as the policy is being updated in accordance with national guidance and legislation.	Children and Families	Lorraine Butcher, Strategic Director (Children, Families and Adults)
CE12/13-21 Rural Housing Enabling Guide	To approve revisions to the draft guide and to authorise officers to implement it.	Cabinet Member for Prosperity and Economic Regeneration	5 Nov 2012	By email and drop in sessions. With Parish Councils and Councillors with rural wards, Cheshire Community Action and local Housing Associations.	Environment and Prosperity	John Nicholson, Strategic Director (Places and Organisational Capacity)

<b>Key Decision</b>	<b>Decisions to be Taken</b>	<b>Decision Maker</b>	<b>Expected Date of Decision</b>	<b>Proposed Consultation</b>	<b>Relevant Scrutiny Committee</b>	<b>How to make representation to the decision made</b>
CE11/12-44 Review of the Interim Planning Policy on the Release of Housing Land	To approve and to recommend to Council the interim planning policy on the release of housing land.	Cabinet, Council	12 Nov 2012	With housing stakeholders, Parish Councils, Housing Market Partnership and the Local Plan database using the website, post and email.	Environment and Prosperity	John Nicholson, Strategic Director (Places and Organisational Capacity)
CE12/13-14 Cheshire East Local Plan Borough Development Strategy	To approve the Borough Development Strategy.	Cabinet	12 Nov 2012	With housing stakeholders, parish councils and people on the local plan database, and the housing market partnership, via the website, post and email.	Sustainable Communities	John Nicholson, Strategic Director (Places and Organisational Capacity)

<b>Key Decision</b>	<b>Decisions to be Taken</b>	<b>Decision Maker</b>	<b>Expected Date of Decision</b>	<b>Proposed Consultation</b>	<b>Relevant Scrutiny Committee</b>	<b>How to make representation to the decision made</b>
CE12/13-16 Development Autistic Spectrum Disorder - Special School	To seek permission to proceed with the development of an ASC special school on the site of the former Church Lawton Primary School.	Cabinet	12 Nov 2012	Briefings with Parish Councils and residents in the locality, through the special needs review and as part of the planning application consultation will take place with local stakeholders, parents, the wider schools community and neighbouring local authorities.	Children and Families	Lorraine Butcher, Strategic Director (Children, Families and Adults)
CE12/13-26 Accountable Body - Cheshire and Warrington Local Enterprise Partnership	To consider becoming the accountable body for funding arrangements, the measures required to make the role effective and any resulting changes that may be required in the Council's Constitution.	Cabinet	12 Nov 2012	Has been ongoing since September 2012 with appropriate departments.	Environment and Prosperity	John Nicholson, Strategic Director (Places and Organisational Capacity)
CE12/13-4 Health and Wellbeing Strategy	To consider and review the draft health and wellbeing strategy.	Cabinet	10 Dec 2012	Extensive community consultation.	Health and Wellbeing	Lorraine Butcher, Strategic Director (Children, Families and Adults)

<b>Key Decision</b>	<b>Decisions to be Taken</b>	<b>Decision Maker</b>	<b>Expected Date of Decision</b>	<b>Proposed Consultation</b>	<b>Relevant Scrutiny Committee</b>	<b>How to make representation to the decision made</b>
CE12/13-8 Determination of School Organisation Plan 2011-2016	To approve the Plan which drives the overall School Organisation Framework and provides the strategy for ensuring the provision of sufficient suitable school places for all children and young people resident in the Borough for the period 2011-2016.	Cabinet	10 Dec 2012	By meetings and the School Organisation website.	Children and Families	Lorraine Butcher, Strategic Director (Children, Families and Adults)
CE12/13-22 Recycling and Waste Service Delivery Options	To consider future service delivery options for the recycling and waste service, and to identify which option and method of procurement is to be taken forward.	Cabinet	10 Dec 2012	With the Waste Task and Finish Group	Environment and Prosperity 20 November 2012	John Nicholson, Strategic Director (Places and Organisational Capacity)
CE11/12-39 Cheshire Shared Services Legal Entity	To consider the policy decision to establish a Separate Legal Entity (SLE) for the ICT, HR and Finance, and Occupational Health Shared Services from 1 April 2013.	Cabinet	7 Jan 2013	With Chester West and Chester Council.	Corporate	Lisa Quinn, Director of Finance and Business Services
CE11/12-41 Future Operation of the Old Town Hall, Macclesfield	To decide upon the future running and preferred operating model for the Old Town Hall.	Cabinet	7 Jan 2013	With Macclesfield Charter Trustees and Macclesfield Forum.	Environment and Prosperity	John Nicholson, Strategic Director (Places and Organisational Capacity)

<b>Key Decision</b>	<b>Decisions to be Taken</b>	<b>Decision Maker</b>	<b>Expected Date of Decision</b>	<b>Proposed Consultation</b>	<b>Relevant Scrutiny Committee</b>	<b>How to make representation to the decision made</b>
CE11/12-45 Cheshire East Local Plan Core Strategy	To approve and to recommend to Council the publication draft of the Cheshire East Core Strategy.	Cabinet, Council	4 Feb 2013	With housing, business and environment stakeholders, infrastructure providers, Parish Councils and local communities through the website, email post and general publicity.	Environment and Prosperity	John Nicholson, Strategic Director (Places and Organisational Capacity)
CE12/13-3 Business Planning Process 2013/16 Business Plan	To approve the business plan for 2013/16 incorporating the Council's priorities, budget, policy proposals and capital programme.	Cabinet	4 Feb 2013	Members, a range of stakeholders including PCT's, Parish Councils, social care representatives, businesses, trades unions, the schools forum and the public by meetings and the website.	Corporate	Lisa Quinn, Director of Finance and Business Services
CE12/13-27 Expansion of Wheelock, Pebblebrook and Mobberley Primary Schools	To consider the expansion of Pebblebrook Primary School from 210 to 315 pupil places; of Wheelock Primary School from 210 to 315 pupil places; and of Mobberley Primary School from 140 to 210 pupil places, all with a proposed completion date of September 2013.	Cabinet	4 Feb 2013	By direct contact, and electronically via School Organisation website, with local headteachers and parents.	Children and Families	Lorraine Butcher, Strategic Director (Children, Families and Adults)

## **CHESHIRE EAST COUNCIL**

### **Constitution Committee**

---

<b>Date of Meeting:</b>	26 <sup>th</sup> November 2012
<b>Report of:</b>	Democratic and Registration Services Manager
<b>Subject/Title:</b>	Scheme of Members' Allowances: Report of the Independent Remuneration Panel

---

#### **1.0 Report Summary**

- 1.1 This report gives details of the outcome of the Independent Remuneration Panel's 2012 review of Cheshire East Council's Scheme of Members' Allowances.

#### **2.0 Recommendation**

- 2.1 That the Constitution Committee consider the Independent Remuneration Panel's findings, which are set out in the report, and make recommendations thereon to Council for consideration, which should include the effective date of any changes.

#### **3.0 Reasons for Recommendations**

- 3.1 Before any changes can be made to the Scheme of Members' Allowances, Council must consider a report from its Independent Remuneration Panel.
- 3.2 In making its recommendations, the Independent Remuneration Panel wishes to ensure that the level of recompense for elected Members remains adequate and fair whilst being mindful of the financial constraints facing local government.

#### **4.0 Wards Affected**

- 4.1 All

#### **5.0 Local Ward Members**

- 5.1 All

#### **6.0 Policy Implications**

- 6.1 Any agreement to amend the Allowances currently payable to elected Members will require alteration(s) to be made to Cheshire East Council's Scheme of Members' Allowances.

## **7.0 Financial Implications**

- 7.1 Having considered the options available to it, the Independent Remuneration Panel has recommended that no increase be applied to the level of basic and special responsibility allowances set out in the Scheme of Members' Allowances for 2012/2013 and 2013/14.
- 7.2 The costs of the existing Members' Allowances Scheme are not in excess of the allocated budget. Forecasts for 2012/13 indicate that the budget is anticipated to be under spent. Therefore the recommendations in respect of the number of special responsibility allowances within the Scheme can be met from within the existing Allowances budget.

## **8.0 Legal Implications**

- 8.1 The Council is empowered to pay a range of Allowances to its Members in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 in respect of their roles and responsibilities but must, in accordance with the same Regulations, appoint an Independent Remuneration Panel to offer advice and make recommendations on the Members' Allowances Scheme to Council. This report contains the advice of the Panel.

## **9.0 Risk Management**

- 9.1 Consideration of the report enables the Council to comply with the requirements of the Local Authorities (Members' Allowances) (England) Regulations 2003.

## **10.0 Background**

- 10.1 In accordance with its role and responsibilities, the Independent Remuneration Panel ('the Panel') has conducted a review of the current Scheme of Members' Allowances as adopted by Cheshire East Council on 18<sup>th</sup> May 2011 and amended by Council on 15 December 2011 (Appendix 1).
- 10.2 To inform its review, the Panel was provided with background documentation including comparator data pertaining to Members' Allowances Schemes operated by authorities of a comparable size to Cheshire East Council, or located within the North West region. The Panel also met with members from different political groups together with those holding different responsibilities within the Council. A copy of the Panel's Report is enclosed at Appendix 2.

- 10.3 Having completed the review, the Panel believes that every member of Cheshire East Council should be expected to provide leadership and take on additional responsibility from time to time during the course of their term of office and that the basic allowance recognises this commitment. The Panel also believes that, in certain situations, the level of additional responsibility is significant which might lead to further recognition in the form of a Special Responsibility Allowance (SRA).
- 10.4 In these austere times, elected Members need to demonstrate that a significant responsibility exists in order to justify the payment of an SRA. Examples include constitutional responsibility, legislative responsibility, decision making powers, accountability to the public and delivery of projects within a defined period. As such, Advisory Groups without decision making powers or constitutional responsibilities would not normally attract an SRA unless it can be shown that an SRA might be awarded as a result of the significance of the role.
- 10.5 Notwithstanding this, the Panel considered that the current Scheme remained broadly fit for purpose but that a more in-depth review of all allowances based on the criteria established above would be conducted in 2013, seeking to ensure that the Scheme remains sustainable and provides value for money. The Panel expects the Council to demonstrate that Councillors are being efficient and effective and that the level of allowances is justified. Having regard to these austere times the Panel recognises that the level of allowances in future years may decline.
- 10.6 Members are invited to consider the recommendations contained in the Panel's Report.

#### **11.0 Access to Information**

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

Name: Diane Moulson  
Designation: Senior Member Development Officer  
Tel No: 01270 686476  
Email: [diane.moulson@cheshireeast.gov.uk](mailto:diane.moulson@cheshireeast.gov.uk)

This page is intentionally left blank



## **SCHEME OF MEMBERS' ALLOWANCES**

**2011/2012**

**Effective Date:  
18 May 2011**

**[Encompassing Changes to Car Mileage  
Rates as approved by Council on  
15 December 2011]**

## **SCHEME OF MEMBERS' ALLOWANCES 2011/2012**

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

The effective date of operation of the Scheme is 18 May 2011. Notwithstanding this, Council on 15 December 2011 agreed to make changes to the car mileage rates, which came into effect on 1 December 2011 and are set out in Schedule 2 of the Scheme.

The Scheme is reviewed each year by the Independent Remuneration Panel. It makes recommendations to Constitution Committee then Council on whether any adjustments should be made to the Allowances contained therein having regard to relevant financial information from the Office for National Statistics and taking into account the outcome of the National Joint Council Local Government Settlement.

In making the Scheme the Council has accepted the recommendations of the Independent Remuneration Panel and Constitution Committee contained in the report submitted to Council on 21 April 2011 entitled "Referral from Constitution Committee - Mid Year Review of Members' Allowances".

## **SCHEME OF MEMBERS' ALLOWANCES 2011/2012**

### **1. Basic Allowance**

- 1.1 The amount to be disbursed as Basic Allowance annually is **£918,400**.
- 1.2 Each Member of the Borough Council shall receive a sum of **£11,200** per annum (**£933** monthly).
- 1.3 Payment of Basic Allowance shall be monthly in arrears. If during this period, the term of office of a Member begins or ends, the entitlement to payment shall be based on calendar days per month.

### **2. Special Responsibility Allowances (SRA's)**

- 2.1 Special Responsibility Allowances are paid as a percentage (referred to as gearing) of the Basic Allowance except for the position of Committee Vice Chairmen who receive £1000 per annum and who may claim an additional £50 per Committee meeting chaired up to an accumulated maximum total of £1,500 per annum.
- 2.2 The amount to be disbursed as Special Responsibility Allowances in 2011/2012 is **£344,840**.
- 2.3 Special Responsibility Allowances shall be paid in accordance with Schedule 1 attached to this Scheme.
- 2.4 Only one Special Responsibility Allowance shall be payable to any individual Member. Where a Member holds two or more positions which attract an SRA payment the highest amount only shall be paid.
- 2.5 Payment of Special Responsibility Allowances shall be monthly in arrears. If during this period a Member takes up or relinquishes such responsibilities as entitle him/her to a Special Responsibility Allowance the entitlement to payment shall be based on calendar days per month.

### **3. Civic Allowances**

- 3.1 An allowance of **£14,000** per annum shall be paid to the Worshipful the Mayor of the Borough of Cheshire East and an allowance of **£5,600** per annum shall be paid to the Deputy Mayor of the Borough of Cheshire East to meet the expenses of the officer holder.
- 3.2 Although included in the Scheme for completeness, the allowances are not considered to be Special Responsibility Allowances in accordance with Section 3(5) and 5(4) of the Local Government Act 1972.

**4. Travel and Subsistence Allowance: Elected Members**

- 4.1 Travel and Subsistence Allowances may be claimed on the submission of receipts for the performance of any duty specified in the Local Authorities (Members' Allowances) (England) Regulations 2003 and set out in Schedule 2 attached to this Scheme.

**5. Travel and Subsistence Allowance: Co-opted Members**

- 5.1 Parent Governor Co-opted members and School Appeal Panelists may claim reasonable travel expenses for attendance at the Cheshire Association of Governing Bodies meetings and School Appeals meetings respectively. School Appeal Panelists may also be reimbursed for any loss of earnings incurred as a direct result of the performance of their duties when attending appeal meetings or associated training up to a maximum of £50 per four hour session (or part thereof) on receipt of proof of the loss from their employer.
- 5.2 Co-opted (Independent/Parish) members of the Standards Committee are entitled to claim an allowance of £30 for any meeting they are required to attend by the Chairman of the Standards Committee together with associated travel costs, whereas only claims for subsistence will be paid where the cost of attendance at an event has been met by the Council.
- 5.3 Members of the Independent Remuneration Panel are entitled to claim Travel and Subsistence Allowances and a meeting allowance of £30 for each meeting attended.

**6. Approved Duties**

- 6.1 The list of approved duties for which Allowances can be claimed is set out in Schedule 3 of this Scheme.

**7. Dependants Carers' Allowance**

- 7.1 A Dependent Carers' Allowance will be paid to Members where actual costs are incurred for the care of dependants whether children, elderly people or people with disabilities whilst undertaking the duties specified in the Local Authorities (Members' Allowances) (England) Regulations 2003 and set out in Schedule 3 of this Scheme.
- 7.2 The amount payable in respect of a Dependent Carers' Allowance shall be up to a maximum of **£6,100** per calendar year on the production of receipts. A carer's (reasonable) expenses will also be paid.

- 7.3 The allowance or expenses can be claimed only if the elected Member is the carer. The allowance will not be payable in respect of a member of the elected Member's own household.

## **8. Suspension of Allowances**

- 8.1 The right to Basic Allowance, Special Responsibility Allowance and Travel and Subsistence Allowance may be withdrawn by the Council whilst a Councillor is suspended or partially suspended from his/her responsibilities or duties as a member of the Council as a result of a breach of the Members' Code of Conduct in accordance with Part III of the Local Government Act 2000 or Regulations made under that Part.

## **9. Telephone/Broadband Line Rental**

- 9.1. An allowance to cover the cost of telephone calls made in the course of Council business has been included in the Basic Allowance. Where elected Members are billed directly for a personal broadband/telephone line used or partly used for the purpose of carrying out Council duties; the associated line rental cost can be reclaimed on submission of a bill.

## **10. Local Government Pension Scheme**

- 10.1 The Council has introduced a Pension Scheme for Members as provided under Section 7 of the Superannuation Act 1972 and in accordance with the statutory regulations and guidance issued by the Local Government Pensions Committee and the Local Government Pension Scheme (LGPS). Under the Council's Scheme, elected Members of Council are entitled to join the LGPS, providing they meet the eligibility criteria; contributions to be calculated on the Basic Allowance payable and any Special Responsibility Allowance whilst the Member is in receipt of such Allowances.

## **11. Other Provisions**

- 11.1 Claims for allowance reimbursement are required to be submitted to Democratic Services for processing no later than three months after the performance of the duty. Members requiring reimbursement of expenses which have not been submitted within this time limit will have the right of appeal to the Borough Solicitor.
- 11.2 A Member may request in writing to the Chief Executive (or an officer appointed by them in writing) that payment of Special Responsibility Allowance and Basic Allowance be paid at such intervals, in arrears, as the Member may specify but in any event within 1 month of the end of the financial year.

- 11.3 A Member may, by notice in writing to the Chief Executive (or an officer appointed by her in writing), elect to forgo all or any part of the entitlement to an allowance under this Scheme.

**12. Revocation of Previous Scheme**

- 12.1 The previous Scheme of Members' Allowances for 2010/2011 is hereby revoked.

**SCHEDULE OF ALLOWANCES 2011/2012**

	<b>No</b>	<b>Gear<sup>1</sup></b>	<b>£</b>
<b>The Worshipful the Mayor</b>	<b>1</b>		<b>14000</b>
<b>Deputy Mayor</b>	<b>1</b>		<b>5600</b>
<b>Basic Allowance (per elected Member)</b>	<b>82</b>		<b>11200</b>
<b>Carers Allowance (maximum claimable per year)</b>		<b>0.55</b>	<b>6100</b>
<b>Special Responsibility Allowances</b>	<b>No</b>	<b>Gear</b>	<b>£</b>
<b>Council Leader</b>	<b>1</b>	<b>2.5</b>	<b>28000</b>
<b>Deputy Council Leader</b>	<b>1</b>	<b>1.5</b>	<b>16800</b>
<b>Cabinet Member/Portfolio Holder</b>	<b>8</b>	<b>1.25</b>	<b>14000</b>
<b>Cabinet Support Members</b>	<b>7</b>	<b>0.4</b>	<b>4480</b>
<b>Audit and Governance Committee Chairman</b>	<b>1</b>	<b>0.65</b>	<b>7280</b>
<b>Vice Chairman</b>	<b>1</b>		<b>1000<sup>2</sup></b>
<b>Constitution Committee Chairman</b>	<b>1</b>	<b>0.65</b>	<b>7280</b>
<b>Vice Chairman</b>	<b>1</b>		<b>1000</b>
<b>Licensing Committee Chairman</b>	<b>1</b>	<b>0.65</b>	<b>7280</b>
<b>Vice Chairman</b>	<b>1</b>		<b>1000</b>
<b>Public Rights of Way Committee Chairman</b>	<b>1</b>	<b>0.5</b>	<b>5600</b>
<b>Vice Chairman</b>	<b>1</b>		<b>1000</b>
<b>Scrutiny Committee Chairman</b>	<b>6</b>	<b>0.65</b>	<b>7280</b>
<b>Vice Chairman</b>	<b>6</b>		<b>1000</b>
<b>Southern/Northern Planning Committee Chairman</b>	<b>2</b>	<b>0.65</b>	<b>7280</b>
<b>Vice Chairman</b>	<b>2</b>		<b>1000</b>
<b>Staffing Committee Chairman</b>	<b>1</b>	<b>0.65</b>	<b>7280</b>
<b>Vice Chairman</b>	<b>1</b>		<b>1000</b>
<b>Standards Committee Chairman</b>	<b>1</b>	<b>0.65</b>	<b>7280</b>
<b>Vice Chairman</b>	<b>1</b>		<b>1000</b>
<b>Strategic Planning Board Chairman</b>	<b>1</b>	<b>0.65</b>	<b>7280</b>
<b>Vice Chairman</b>	<b>1</b>		<b>1000</b>
<b>Main Opposition Group Leader</b>	<b>1</b>	<b>0.65</b>	<b>7280</b>
<b>Main Opposition Group Deputy Leader</b>	<b>1</b>	<b>0.325</b>	<b>3640</b>
<b>Opposition Group Leaders</b>	<b>2</b>	<b>0.5</b>	<b>5600</b>
<b>Administration Whip</b>	<b>1</b>	<b>0.325</b>	<b>3640</b>
<b>Deputy Administration Whips</b>	<b>2</b>	<b>0.15</b>	<b>1680</b>
<b>Opposition Whips</b>	<b>3</b>	<b>0.15</b>	<b>1680</b>

<sup>1</sup> Percentage of Basic Allowance applied

<sup>2</sup> Plus £50 per Committee meeting chaired (see paragraph 2.1 for full details)

**TRAVEL, SUBSISTENCE AND OTHER ALLOWANCES****1. Dependants' Carers' Allowance**

A Dependents Carers' Allowance is payable in respect of approved duties on the basis of actual costs accrued only if the elected Member is the carer. The maximum total amount which can be paid to an individual Member each year is £6,100 and claims should be supported by a receipt.

**2. Travel Reimbursement****2.1 Car Rate per Mile**

[In line with the National Joint Council (NJC) for Local Government Services Casual User Officer rates and as amended by Council on 15 December 2011]

Miles per Annum/Engine Size	451 – 999cc	1000 +cc
Per mile first 8,500	46.9p	52.2p
Per mile after 8,500	13.7p	14.4p

Additional rate for each passenger, not exceeding four to whom a Travel Allowance would otherwise be payable: 1 pence per mile

Members may also choose to claim the HM Revenue & Customs threshold of 45p per mile traveled upon notifying Democratic Services.

**2.2 Rail and other travel**

The cost of train travel is reimbursed up to the open standard rail fare for the journey undertaken. Expenses must be at the minimum cost to achieve the purpose of the journey. Any case for first class rail travel greater than the full open standard rail fare will require the submission of a business case supported by the Member's Group Leader.

**2.3 Motorcycle or Moped Allowance**

	Rate per mile	Rate per mile	Rate per mile
<b>Motorcycle</b>	<b>126 - 250cc</b>	<b>251 - 500cc</b>	
For the first 1,500 per annum	27 pence	35.5 pence	
<b>Moped</b>	<b>Up to 50cc</b>	<b>Up to 125 cc</b>	<b>500cc+</b>
For the first 1,500 per annum	12.4 pence	18.8 pence	39.2 pence

**2.4 Other Travel Expenses**

Non motorised transport e.g. bicycle 11 pence per mile

Expenditure on tolls, ferry or car parking, overnight garaging where the Member is absent overnight Actual Amount

**3. Subsistence Reimbursements**

Breakfast Allowance for a duty of more than 4 hours concluding before 12 noon	£8.29
Lunch Allowance for a duty of more than 4 hours concluding after 12 noon	£10.64
Dinner Allowance for a duty of more than 4 hours concluding after 6 p.m.	£16.69
Dinner Allowance (London and abroad) for a duty of more than 4 hours concluding after 6 p.m.	£34.57
Overnight accommodation outside London (to include breakfast)	£118.60
Overnight accommodation in London (to include breakfast)	£142.31

[Note: The rate applicable to subsistence claims made in respect of attendance at the Local Government Association (LGA) Annual Conference will be the Dinner Allowance (London and abroad) irrespective of where in the United Kingdom the event is held.]

The cost limitations on reimbursement are:

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

**4. Member's Surgeries**

Members may claim up to a maximum of £32 for room hire in connection with the conduct of a Member's Surgery, subject to a maximum of twelve such claims per annum and the submission of necessary receipts.

**CHESHIRE EAST COUNCIL: LIST OF APPROVED DUTIES**

- Attendance at meetings of Council, Committees, Sub-Committees, Cabinet meetings (including by invitation), Special Committees, Panels, Boards, Forums and Working/Task Groups
- Attendance at site visits/building inspections arranged by any of the bodies listed above
- Attendance at meetings of bodies on which the Borough Council is invited to be represented and Outside Organisation meetings to which the Cabinet and Constitution Committee make appointments (excluding School Governing Bodies)
- The duties associated with the Chairman or Vice-Chairman of an Outside Organisation on which the Member is representing the Borough Council
- Conferences/Seminars
- Visits to Tatton Park in the capacity of a Councillor excluding attendance at functions, council meetings and seminars
- Authorised briefings for Committees/Sub-Committees/Cabinet meetings including all meetings which are called by officers of the Council e.g. pre-agenda meetings
- Duties undertaken by a Chairman/Cabinet Member
- Courtesy Visits e.g.
  - i) Civic duties of the Mayor and Deputy Mayor of the Council
  - ii) Service duties and visits undertaken by the Chairman/Vice Chairman of Committees and Sub-Committees and by Cabinet Members
  - iii) For individual Members, attendance at official openings, open days, presentations, meetings with VIPs, receptions (in line with the adopted guidance document), all of which take place outside the Electoral Ward
- Governors of Further Education/Higher Education Colleges, Residential Special Schools and Independent Schools
- 'Nominated Member' Duties – Members covered by this element of the scheme are Leaders, Deputy Leaders, Group Whips, Mayor and Deputy Mayor and includes travel to the authority's administrative buildings for essential business arising from the office which they hold
- Attendance at Parish Council Meetings within the Electoral Ward
- Member Learning and Development Events

**APPENDIX 2**



**Report of Independent Remuneration Panel**

**Scheme of Members' Allowances  
2012 Review**

**November 2012**

## **1. INTRODUCTION**

- 1.1 In accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003, Cheshire East Council is required to appoint an Independent Remuneration Panel to consider and make recommendations on its Scheme of Members' Allowances.
- 1.2 As a result of the expiry of the term of office of the Independent Remuneration Panel ('the Panel') established in 2008, Cheshire East Council appointed a new Panel in spring 2012, membership consisting of the following independent members:
  - ◆ Mrs Janet Rushbrooke (Chairman)
  - ◆ Mrs Khumi Burton
  - ◆ Mr Alan Edgeworth
  - ◆ Mr Robin Lord
  - ◆ Mrs Cynthia Speed
- 1.3 Subsequent to its appointment, the Panel undertook a period of Induction, receiving information on the makeup of the Council, the roles and responsibilities of Councillors and the legislation under which it (the Council and the Panel) was expected to conduct its business before beginning its review. Following an open invitation to Group Leaders, a discussion with elected Members took place on 29 May 2012 to enable the Panel to gain at first hand, information pertinent to the various roles held by Councillors.
- 1.4 A list of the background documents provided to and considered by the Panel in the course of its review is provided at paragraph 5.

## **2. BACKGROUND TO THE REVIEW**

- 2.1 The Panel first met formally on 24 July 2012 to scope out its review of Cheshire East Council's Scheme of Members' Allowances. As a result of its discussions the following issues were identified for consideration i.e.
  - i) The potential for applying any uplift to the Scheme having regard to a) the Local Government Employers' pay award for 2012; and b) Cheshire East Council's employee remuneration for 2012;
  - ii) The awarding of a Special Responsibility Allowance to the Chairman and Vice Chairman of the Adult and Social Care Scrutiny Committee and Health and Well-being Scrutiny Committee;
  - iii) The awarding of a Special Responsibility Allowance to the Chairman and Vice Chairman of the Local Service Delivery Committees for Crewe and Macclesfield;
  - iv) The awarding of a Special Responsibility Allowance to the Chairmen and Vice Chairmen of the Policy Development Groups;
  - v) The Special Responsibility Allowance applicable to Cabinet Support Members;
  - vi) The remuneration (if any) for the position of Independent Person to the Audit and Governance Ad Hoc Standards Panels and Sub-Committee;

- vii) Whether access to the Cycle to Work Scheme by elected Members should be recognized in the Scheme of Members' Allowances;
- viii) Whether elected Members should be permitted to join the Green Car Scheme;
- ix) The harmonization of elected Members' travel mileage rates with those applicable to local government employees;
- x) Arrangements for varying the payment of allowances to elected Members experiencing hardship; and
- xi) Whether formal arrangements should be introduced to govern the making of interim Special Responsibility Allowance payments to new Committees in the period between the Committee's appointment and consideration of the matter by the Independent Remuneration Panel.

### **3. METHODOLOGY AND CONCLUSIONS**

- 3.1 The Panel met on 5 occasions; namely 13 August, 11 September, 24 September, 9 October and 22 October. At two of these meetings, members met with Councillors to discuss matters pertaining to Cabinet Support Members and the Policy Development Groups. A wide range of evidence and documentation was also considered by the Panel (paragraph 5 refers).
- 3.2 Having completed the review, the Panel believes that every member of Cheshire East Council should be expected to provide leadership and take on additional responsibility from time to time during the course of their term of office and that the basic allowance recognises this commitment. The Panel also believes that, in certain situations, the level of additional responsibility is significant which might lead to further recognition in the form of a Special Responsibility Allowance (SRA).
- 3.3 In these austere times, elected Members need to demonstrate that a significant responsibility exists in order to justify the payment of an SRA. Examples include constitutional responsibility, legislative responsibility, decision making powers, accountability to the public and delivery of projects within a defined period. As such, Advisory Groups without decision making powers or constitutional responsibilities would not normally attract an SRA unless it can be shown that an SRA might be awarded as a result of the significance of the role.
- 3.4 Notwithstanding this, the Panel considers that the current Scheme remains broadly fit for purpose but that a 'root and branch' review of all allowances based on the criteria established above will be conducted in 2013, seeking to ensure that the scheme remains sustainable and provides value for money. The Panel expects the Council to demonstrate that Councillors are being efficient and effective and that the level of allowances is justified. Having regard to these austere times the Panel recognises that the level of allowances in future years may decline.

## 4. RECOMMENDATIONS FROM THE 2012 REVIEW

### 4.1 UPLIFT OF MEMBERS' ALLOWANCES

4.1.1 As part of its annual review, the Panel was invited to consider whether an uplift should be applied to the Scheme of Members' Allowances for 2012/2013. To inform its review, the Panel was cognisant of i) the levels of allowances paid to elected Members by 15 of its nearest neighbour authorities; ii) the 2012 Local Government Employers (LGE) pay award for employees which offered no increase; and iii) Cheshire East Council's own pay freeze.

4.1.2 Whilst the level of basic allowance had not increased since 2009, the Panel considered that Cheshire East's Scheme remained comparable to its nearest neighbours; the majority of which had also remained static. Given the position in respect of the LGE pay award and the Council pay freeze, the Panel did not consider that there was sufficient justification to support an uplift to Members' Allowances in these austere times.

#### **Recommendation 1: That**

No uplift be applied for 2012/13 and 2013/14 to basic, special responsibility and other allowances set out in Schedule 1 and 2 of the Scheme of Members' Allowances.

### 4.2 SPECIAL RESPONSIBILITY ALLOWANCES: SCRUTINY COMMITTEES

4.2.1 At Annual Council on 18 May 2011, Cheshire East Council changed its committee structure insofar as it created two new bodies (Adult Social Care Scrutiny Committee and Health and Well-being Scrutiny Committee) from what had been the Health and Adult Social Care Scrutiny Committee. As an interim measure, the Chairman and Vice Chairman of the Committees had been paid a Special Responsibility Allowance (SRA) in line with the extant Scrutiny Committees; subject to the Panel's review.

4.2.2 The Terms of Reference for the new bodies were made available for comparison with the existing Committees and having considered the matter, the Panel accepted that in operation, they were on a par with their contemporaries and, in this instance, the payment of an interim SRA had been appropriate.

#### **Recommendation 2: In order to regularise the interim arrangements, that**

- a) The Adult Social Care Scrutiny Committee and Health and Well-being Scrutiny Committee be included in the Scheme of Members' Allowances for 2011/2012;
- b) A Special Responsibility Allowance be allocated to the Chairman of the above Scrutiny Committees at a gearing of 0.65 of basic allowance (£7280 per annum) in line with the extant Scrutiny Committees;
- c) A Special Responsibility Allowance be allocated to the Vice Chairman of the above Scrutiny Committees of £1000 per annum plus £50 per meeting chaired in line with the extant Scrutiny Committees; and
- d) The effective date for commencement of the allowances be confirmed as 18 May 2011.

#### **4.3 SPECIAL RESPONSIBILITY ALLOWANCES: LOCAL SERVICE DELIVERY COMMITTEES**

4.3.1 Cheshire East Council had in 2011, established two Local Service Delivery Committees for Crewe and Macclesfield respectively, to enable elected Members in these non-parish Council areas to consider the implications for the transfer and devolution of local services.

4.3.2 Both Committees had dealt with detailed and complex issues, making recommendations and decisions in respect of local matters. In recognition of the work undertaken and in line with the Scheme, the Panel had been invited to consider the awarding of a Special Responsibility Allowance to the Chairman and Vice Chairman of each Committee.

4.3.3 The Panel sought information on the frequency of meetings (3-5 in the first year); the make up of each body (7 members plus Ward Members for the relevant area) and the anticipated workload moving forward. Whilst both Committees had been reconstituted at Annual Council in May 2012, neither had met nor appointed a Chairman or Vice Chairman for the Municipal Year (as at July 2012). Mindful of this position, the Panel made the following recommendation to Council, which was referred unchanged by the Constitution Committee at its meeting on 20 September 2012:

***Recommendation to Council: That -***

- a) *A Special Responsibility Allowance be awarded to the Chairman and Vice Chairman of the Local Service Delivery Committee (Crewe) and the Local Service Delivery Committee (Macclesfield), of £5,600 (Chairman) and £1,000 (Vice Chairman) for 2011/2012 in recognition of the work undertaken during the Committees' inaugural year and in line with the requirements of Cheshire East Council's Scheme of Members' Allowances which states that an elected Member can only be in receipt of one Special Responsibility Allowance; and*
- b) *The matter be included as part of the Independent Remuneration Panel's Review of the Scheme of Members' Allowances for 2012/2013 which will consider whether the posts merit the awarding of a Special Responsibility Allowance from 16 May 2012 onwards.*

4.3.4 On 11 October 2012, the matter was debated by full Council. Due to divergent views on the level of award recommended and the date of implementation, Council resolved to refer the matter back to the Panel for reconsideration.

4.3.5 Further consideration was given to the matter by the Panel at its meeting on 22 October 2012. In seeking clarification as to the reasons for Council's decision, the Democratic Services Team Manager reported that a consensus had not been reached amongst elected Members as to i) whether the posts merited a Special Responsibility Allowance; ii) whether the gearing was appropriate; or iii) the retrospective nature of the award.

- 4.3.6 The Panel was satisfied that its recommendation had sought to recognise the responsibilities of the Chairmen and Vice Chairmen in performing their duties, not only in respect of meetings of the Committee but also outside of formal meetings in order to facilitate business. It was recognition of these responsibilities, as described to the Panel, which had led it to its decision. Accordingly, the Panel did not wish to modify its recommendation and agreed that, in referring the matter back to Council, the criteria against which the recommendation had been made remained valid.

**Recommendation 3: That**

The recommendation to Council on 11 October 2012 in respect of the Local Service Delivery Committees Crewe and Macclesfield remain unchanged for the following reasons:

- i) Constitution Committee did not challenge the recommendation at its meeting on 20 September 2012 and referred it unchanged to Council;
- ii) The Panel judged the roles against the criteria of constitutional responsibility, legislative responsibility, decision making powers, accountability to the public and delivery of projects within a defined period and found that the criteria had been met;
- iii) The level of allowance was in line with that paid to an extant Council Committee which had met a similar number of times during the year;
- iv) Gearing had not solely been based on the number of meetings held but also on the level of responsibility of the Chairmen/Vice Chairmen as described to the Panel;
- v) Appointment of the new Panel had prevented the matter from being considered during the Committees year of operation; and
- vi) Both Local Service Delivery Committees had only met during 2011/2012; therefore the Panel's recommendation was in recognition of duties actually performed.

#### **4.4 SPECIAL RESPONSIBILITY ALLOWANCE: POLICY DEVELOPMENT GROUPS AND OVERVIEW AND SCRUTINY COMMITTEES**

- 4.4.1 Information relating to the proposed terms of reference for the Policy Development Groups together with oral reports on the proposal was submitted to the Panel at 3 of its meetings for the purpose of considering if the Chairmen and Vice Chairmen of the Groups should be afforded a Special Responsibility Allowance (SRA).

- 4.4.2 The Panel was informed that the bodies would replace all but two of the current Overview and Scrutiny Committees and would advise Cabinet on significant areas of policy and policy development. Whilst accepting that more details on the proposals would emerge in due course, the Panel stated at its meeting on 11 September, that it had insufficient evidence available to it to support the awarding of an SRA.

- 4.4.3 As discussions remained ongoing, the Panel accepted an offer from leading members of Council to provide a further update and the Portfolio Holder for Corporate Policy attended the Panel's meeting on 9 October for this purpose.

- 4.4.4 The discussion centred on the rationale for the introduction of the Policy Development Groups ('Policy Groups'), which was designed to enable a cross-party group of elected Members to be involved in policy making at a much earlier stage; the Groups working with the Cabinet.
- 4.4.5 It was anticipated that the work would, in some circumstances be time limited, the policies developed by the Groups having measurable outcomes i.e. ensuring value for money without a reduction of service. As each Group would also be able to put forward member driven policy for consideration, the Chairmen would have a vital role in facilitating the functions of their Groups by providing leadership, co-ordinating business and commissioning from officers the relevant support and information required.
- 4.4.6 Having heard the arguments put forward, and having met with the Leader of the Council and the Interim Chief Executive at their request on 15 November 2012, the Panel was persuaded that there would be a significant workload for the Chairmen and Vice Chairmen in establishing the Policy Development Groups in the inaugural year, which would support the awarding of an interim Special Responsibility Allowance.
- 4.4.7 The Panel also agreed to include a review of the interim arrangements in its 'root and branch' review of all allowances in 2013 to satisfy it that the level of Special Responsibility Allowance recommended met the criteria set by the Panel.

**Recommendation 4: That**

- a) A Special Responsibility Allowance be awarded to the Chairmen of the Policy Development Groups in recognition of the work required in establishing the Groups during the inaugural year;
- b) £7280 per annum equivalent to a gearing of 0.65 of basic allowance be awarded to the Chairmen of the Policy Development Groups on an interim basis, effective from the date of their formal appointment, pending a further review of their work;
- c) £1000 per annum plus £50 per meeting chaired be awarded to the Vice Chairmen of the Policy Development Groups on an interim basis, effective from the date of their formal appointment, pending a further review of their work;
- d) The matter to be included in the 2013 Work Programme for the Independent Remuneration Panel; and
- e) The current level of remuneration for the extant Scrutiny Committees to remain at current levels i.e. £7280 per annum and £1000 plus £50 per meeting chaired for the Chairmen and Vice Chairmen respectively, the matter to be included in the 2013 Work Programme for the Independent Remuneration Panel for review.

#### **4.5 SPECIAL RESPONSIBILITY ALLOWANCE: CABINET SUPPORT MEMBERS**

- 4.5.1 The Panel had been invited to consider the current level of Special Responsibility Allowance applicable to Cabinet Support Members. To enhance their understanding of the role, the Panel had extended an invitation to two Cabinet Support Members to address members so that information on roles and responsibilities could be obtained at first hand.
- 4.5.2 Having met and spoken with the Cabinet Support Member for Health and Adult Social Care at its meeting on 24 September 2012, the Panel looked to establish the additional responsibilities required of a post holder. The example given by the Cabinet Support Member was that a Ward Member may attend committee meetings on a monthly and bi-monthly basis, whilst a Cabinet Support Member may attend regular meetings with officers at Director and Senior Management level, spend a day with officers shadowing them in their role and deputise for the Portfolio Holder on occasion whilst continuing to perform ward duties.
- 4.5.3 Having considered the remit of each portfolio and taking into account the oral evidence obtained, the Panel was of the view that some portfolios appeared more onerous than others. In its opinion, this meant that the current level of remuneration did not fairly reflect the apparent imbalance. The Panel felt that it did not wish to recommend any change to the gearing associated with the post(s) but that, if Council shared this view, it should be afforded the flexibility to recognise this, if it wished.

#### **Recommendation 5: That**

With effect from the Municipal Year 2013/2014, an amount of £40,000 be set aside from within the Members' Allowances budget for the remuneration of Cabinet Support Members; the Leader of the Council to have the flexibility to i) appoint members to the role of Cabinet Support Member as he deems necessary; and ii) vary the remuneration between the posts, providing that the budget of £40,000 is not exceeded.

#### **4.6 REMUNERATION OF INDEPENDENT PERSONS TO AUDIT AND GOVERNANCE AD HOC STANDARDS PANELS AND SUB-COMMITTEES**

- 4.6.1 The enactment of the Localism Act 2011 had repealed the standards regime established under the Local Government Act 2000 and had abolished the role of Independent non-elected member to the Standards Committee. As a result, Cheshire East Council (CEC) had disbanded its Standards Committee transferring responsibility for standards matters to the Audit and Governance Committee.
- 4.6.2 In accordance with the new legislation, the authority was required to appoint an Independent Person (or in CEC's case, four Independent Persons); to be consulted by the authority on Code of Conduct allegations made against Members of the Borough Council or Town and Parish Councils within its area. The Panel was invited to consider whether it would be appropriate to pay an allowance other than mileage expenses in recognition of their time and in reimbursement of any costs incurred when carrying out their role.

4.6.3 The role and responsibilities of the Independent Persons was outlined to the Panel i.e. i) to attend meetings of the Initial Assessment Panel, the Local Resolution Panel, Hearings Sub-Committee and Appeals Panel in an advisory capacity [attendance in accordance with the regulations]; ii) to make decisions in conjunction with the Monitoring Officer where a request for anonymity had been received on submission of a complaint or when considering the findings of an external investigation; and iii) to provide procedural advice to the Subject Member, if required, against whom the complaint had been made.

4.6.4 No estimation as to the level of involvement required from each individual could be made on the basis that it was difficult to predict how many complaints would be received or referred on for further action or the number of occasions a Subject Member may request advice. Having cognisance to this position, the Panel considered information from neighbouring authorities as to the level of remuneration paid to its Independent Person(s) of which there were four trends i.e.

- Expenses only, no other remuneration
- Expenses plus hourly/meeting allowance
- Expenses plus remuneration
- Equivalent rate to co-opted members

4.6.5 The Panel did not wish to recommend an annual allowance due to the uncertainty surrounding levels of involvement, preferring instead to recognise the actual work undertaken by each individual. Accordingly, the Panel considered that the Independent Persons should be paid an allowance for each meeting attended of the Panels and Sub-Committee, the figure to also recognise other responsibilities of the post holder.

**Recommendation 6: That**

The four Independent Persons appointed to Cheshire East Council's Audit and Governance ad hoc Standards Panels and Sub-Committee be entitled to claim a meeting allowance of £30 per meeting, claimable when attending meetings of the Initial Assessment Panel, the Local Resolution Panel, Hearings Sub-Committee and Appeals Panel, with effect from the date of their appointment i.e. 19 July 2012.

**4.7 CYCLE TO WORK SCHEME: MEMBERS' PARTICIPATION IN THE SCHEME**

4.7.1 Elected Members could, if they chose, participate in the Council's Cycle to Work Scheme, which enabled individuals enrolled in the scheme to lease bicycles and associated safety equipment via 'salary' sacrifice. As there was no reference within the Scheme of Members' Allowances which indicated Councillors could take advantage of this opportunity, it was proposed to the Panel that the following wording be included, pending confirmation that the Cycle to Work Scheme would remain open to elected Members from January 2013 -

*"Councillors are entitled to make use of the Council's Cycle to Work Scheme, details of which can be found on the Council's Intranet. Expressions of interest from elected Members wishing to join the Scheme should be made to Democratic Services Team Manager in the first instance."*

**Recommendation 7: That**

Subject to confirmation that Cheshire East Councillors remain entitled to join the Cycle to Work Scheme, the following wording be included in the Scheme of Members' Allowances for 2013/2014 -

*"Councillors are entitled to make use of the Council's Cycle to Work Scheme, details of which can be found on the Council's Intranet. Expressions of interest from elected Members wishing to join the Scheme should be made to Democratic Services Team Manager in the first instance."*

**4.8 GREEN CAR SCHEME**

4.8.1 The Green Car Scheme worked on the same principle as the Cycle to Work Scheme in that participants could obtain a fuel efficient vehicle at a lower cost than could be achieved in the retail market via salary sacrifice. Based on present eligibility criterion and the transient nature of a Councillor's term of office and responsibilities, elected Members were not currently able to take up the offer. Notwithstanding this, the Panel was asked to indicate whether it would support, in principle, elected Members being able to join the scheme in the future should present restrictions change in their favour.

**Recommendation 8: That**

Elected Members be permitted to join the Green Car Scheme at such time that the current restrictions changed in their favour.

**4.9 HARMONISATION OF TRAVEL MILEAGE RATES**

4.9.1 The Scheme of Members' Allowances reimbursed Councillors for any mileage costs incurred when using motorcycles/bicycles in the performance of their Council duties. The figures included in the 2011/2012 Scheme had not been reviewed for two years and were not reflective of the amounts paid to Council employees in line with the tax-exempt rates set by HM Revenues and Customs; currently 24p per mile (Motorcycles) and 20p per mile (Bicycles).

4.9.2 Given that Council, in 2011 had agreed to set its car mileage rates for elected Members at the same level claimable by employees; the Panel considered that the same principle should be applied to the setting of other travel allowances.

**Recommendation 9: That**

With immediate effect, the mileage rates payable to elected Members in respect of motorcycle/moped and bicycle travel be amended to the tax-exempt rates set by HM Revenues and Customs; currently 24p per mile (Motorcycles) and 20p per mile (Bicycles).

#### 4.10 HARSHIP ARRANGEMENTS FOR COUNCILLORS

4.10.1 The current Scheme of Members' Allowances did not permit the varying of allowance payments to address financial hardship and a proposal to consider the inclusion of such a facility in the Scheme was considered by the Panel.

4.10.2 A straw poll of neighbouring authorities indicated that this facility was not widespread and it was not evident in the nearest neighbour data. Given that i) HM Revenue and Customs treated the payment of basic allowance as income for taxation purposes and thus advancing payment(s) could actually be detrimental to the individual concerned; and ii) state support was available, the Panel did not consider that this facility should be introduced.

**Recommendation 10: That**

The Scheme of Members' Allowances remain unchanged in respect of hardship arrangements.

#### 4.11 INTERIM PAYMENT OF ALLOWANCES

4.11.1 In accordance with the relevant regulations, where Council changed its decision making structure, the Independent Remuneration Panel had to be consulted in order for it to advise Council on the awarding of allowances to the new bodies, typically Special Responsibility Allowances. Where there had been a substantial gap between meetings, interim payments had been made on occasion to elected Members where an equivalent body existed in the Scheme pending consideration of the matter by the Panel.

4.11.2 Whilst accepting the need for expediency, the Panel considered that interim measures should no longer be employed given that the decision may be overturned or amended by the Panel on consideration of the matter, which could be detrimental to the recipient(s). Should Council be minded to make changes at Annual Council or at any other time, it considered that a specially convened meeting of the Panel could be arranged the following month to consider the matters at hand.

**Recommendation 11: That**

Any change to the Council's Committee structure be submitted to the Independent Remuneration Panel to consider, where appropriate, the awarding of an 'Special Responsibility Allowance' prior to any payment being made to Councillors.

## 5. BACKGROUND DOCUMENTS

- The Local Authorities (Members' Allowances) (England) Regulations 2003
- Communities and Local Government: Guidance on Regulation for Local Authority Allowances
- Cheshire East Council Scheme of Members' Allowances 2011/2012
- Cheshire East Guide to Members' Allowances 2011/2012
- Cheshire East Council: List of Committees and Panels 2012/2013
- National Census of Local Authority Councillors 2010
- Independent Remuneration Panel Councillor Survey 2010
- Terms of Reference: Adult Social Care Scrutiny Committee and Health and Well-being Scrutiny Committee
- Draft Terms of Reference: Policy Development Groups
- Members' Allowances comparative data from 15 neighbouring authorities 2012
- Cabinet Support Member: Role description Shropshire Council 2012
- Cabinet Support Member: Role profile Birmingham City Council 29 March 2012
- Cheshire East Council: Independent Person application pack
- Cheshire East Council: Audit and Governance Committee Code of Conduct Complaints procedure flowchart August 2012
- HM Revenues and Customs Rates vehicle rates for motorcycles and bicycles 2011-2012
- Cheshire East Council: Current Employee Terms and Conditions
- Salary Sacrifice 4 Cars Scheme
- Cheshire East Council: Cycle to Work Scheme
- Cheshire East Council: Internal guidance on pay awards 2011
- Local Government Employers letter to Trade Unions February 2012

## 6. ELECTED MEMBER CONSULTATIONS

<u>Subject:</u>	<u>Date:</u>
Role of the Councillors	29 May 2012
Cabinet Support Member	24 September 2012
Policy Development Groups	9 October 2012

The Panel also met with the Leader of the Council, Councillor Michael Jones and the interim Chief Executive, Kim Ryley on 15 November 2012.