

Council Agenda

Date: Thursday, 17th October, 2013
Time: 11.00 am
Venue: Grand Hall Congleton Hall, Congleton Town Hall, High Street,
Congleton CW12 1BN

The agenda is divided into two 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. **Prayers**

2. **Apologies for Absence**

To receive any apologies for absence

3. **Minutes of Previous meeting** (Pages 1 - 12)

To approve the minutes of the meeting held on 18 July 2013 as a correct record.

4. **Mayor's Announcements**

To receive such announcements as may be made by the Mayor.

5. **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.

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

In accordance with Council Procedure Rule 35 and Appendix 7 to the rules, a total period of 15 minutes is allocated for members of the public to speak at Council meetings.

Individual members of the public may speak for up to 5 minutes, but the Chairman 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 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. It is not a requirement to give notice of the intention to make use of public speaking provision. However, as a matter of courtesy, a period of 24 hours notice is encouraged.

7. **First Quarter Review of Performance 2013-14** (Pages 13 - 20)

To approve the Supplementary Estimates/Virements and establishment of an earmarked reserve, as detailed in paragraph 10.2 of the report.

8. **Recommendation from Constitution Committee - Review of Powers and Responsibilities of Officer** (Pages 21 - 68)

To consider the recommendations from Constitution Committee

9. **Recommendation from Constitution Committee and Licensing Committee - Implementation of the Scrap Metal Dealers Act 2013** (Pages 69 - 88)

To consider the recommendations of Constitution Committee and Licensing Committee

10. **Designation of Monitoring Officer** (Pages 89 - 90)

To appoint Mrs Anita Bradley as Cheshire East Council's Head of Legal and Monitoring Officer

11. **Engine of the North - Enabling Value for Money** (Pages 91 - 94)

To approve a supplementary capital estimate.

12. **Notices of Motion** (Pages 95 - 98)

To consider any Notices of Motion that have been received in accordance with Procedure Rule 12

13. **Leader's Announcements**

To receive such announcements as may be made by the Leader of the Council.

14. **Questions**

In accordance with Procedure Rule 11, opportunity is provided for Members of the Council to ask the Mayor, the appropriate Cabinet Member or the Chairman of a Committee any question about a matter which the Council, the Cabinet or the Committee has powers, duties or responsibilities.

Questions to the Mayor or Chairman of a Committee must be sent in writing to the Monitoring Officer at least 3 clear working days before the meeting. There is no requirement for questions to be submitted in writing which relate to the work of the Cabinet.

At Council meetings, there will be a maximum question time period of 30 minutes. Questions will be selected by the Mayor, using the criteria agreed by Council. Any questions which are accepted, but which cannot be dealt with during the allotted period will be answered in writing. Questions must be brief, clear and focussed.

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Council**
held on Thursday, 18th July, 2013 at Crewe Alexandra Football Club, Gresty
Road, Crewe, CW2 6EB

PRESENT

Councillor D Flude (Chairman)
Councillor W Fitzgerald (Vice-Chairman)

Councillors C Andrew, Rachel Bailey, Rhoda Bailey, G Barton, G Baxendale, D Bebbington, D Brickhill, D Brown, L Brown, B Burkhill, P Butterill, Carter, R Cartlidge, S Corcoran, H Davenport, W S Davies, R Domleo, D Druce, I Faseyi, J P Findlow, R Fletcher, S Gardiner, L Gilbert, M Grant, P Groves, J Hammond, M Hardy, A Harewood, S Hogben, D Hough, O Hunter, J Jackson, L Jeuda, M Jones, S Jones, A Kolker, W Livesley, D Mahon, M A Martin, P Mason, S McGrory, R Menlove, G Merry, A Moran, B Moran, B Murphy, H Murray, D Neilson, D Newton, M Parsons, L Roberts, B Silvester, M J Simon, L Smetham, D Stockton, A Thwaite, D Topping, G M Walton, M J Weatherill, R West, P Whiteley, S Wilkinson and J Wray

Apologies

Councillors A Barratt, J Clowes, K Edwards, P Edwards, H Gaddum, P Hayes, P Hoyland, F Keegan, J Macrae, D Marren, A Martin, P Nurse, P Raynes, J Saunders, M Sherratt, C G Thorley and G Wait

23 PRAYERS

The Mayor's Chaplain said prayers, at the request of the Mayor.

24 MINUTES OF THE ANNUAL MEETING OF THE COUNCIL HELD ON 15 MAY, 2013**RESOLVED**

That, subject to amendment to minute 14 to add the words "be approved" at the end of the first sentence and an amendment to minute 17, to delete the second resolution, the minutes be approved as a correct

25 MAYOR'S ANNOUNCEMENTS

The Mayor :-

1. Announced that since the last Council meeting, she and the Deputy Mayor had attended over 70 events across the Borough. A list of the events had been circulated around the Chamber. The Mayor made particular reference to the three Mercian Regiment Homecoming parades in June. She had been delighted to see the

Borough welcome the troops back with such enthusiasm and had been pleased to see so many Members in attendance. She had received a letter of thanks from Lt Col Kimber, Commanding Officer of the Regiment stating that that the Regiment “were received so well, leaving all our officers and soldiers truly humbled with the welcome”. She was sure that all Members would agree, that the Mercians would always be welcome in the Borough. She thanked all those Council staff, from across almost all Service areas, who had helped to make the Parades possible. She also thanked the public in Macclesfield, Crewe and Congleton. Through their generosity £473.03 had been raised for ABF, the Soldiers Charity and for Blind Veterans UK.

2. Gave Members advance notice that there would be a series of specially arranged meetings in late September or early October in order that Council could give appropriate consideration to the important issue of the Local Plan. Additional meetings of the Strategic Planning Board, Cabinet and Council were being arranged and Officers would notify all Members at the earliest opportunity, once dates had been finalised.
1. Announced that she would be holding her Civic Service on the afternoon of Sunday 20th October at St Andrew’s Church, Bedford Street, Crewe. All Members would be receiving a formal invitation, in due course.
3. Finally, it was her pleasure to be able to inform Council that the newly appointed Chief Executive, Mike Suarez, was in attendance at today’s meeting. He would not formally take up appointment until the following month, but she was delighted that he has been able to find the time, in his extremely busy schedule, to attend. Mr Suarez was invited to step forward and shake hands with Mayor, Deputy Mayor and the four Group Leaders.

The Leader of the Council, Councillor Michael Jones, also added a few words of welcome.

26 **DECLARATIONS OF INTEREST**

Ms Suki Binjal declared an interest in item 10 of the agenda, Designation of Monitoring Officer, as she was the subject of the report and would leave the meeting during consideration of this matter.

Cllr S Wilkinson declared a non-pecuniary interest in item 13, Notice of motion 2, relating HS2, by virtue of owning land which could be affected by the proposed HS2 route.

27 PUBLIC SPEAKING TIME/OPEN SESSION

Mr Paul Blurton asked the following question:-

CREWE HERITAGE CENTRE AND THE LEASE

Representatives from Crewe Historical Society, Crewe Family History Society, LNWR Society, Willaston History Group and the Heritage Trust formed, some 5 years ago, the Crewe & District Local History Association the aim of which is to preserve our local history and heritage and develop a study centre where local people can find out about our past and where archives such as photographs and documents can be safely deposited. We hope to be able to make a bid to the lottery for funds to achieve this, but find that we cannot move forward because of the situation at the Heritage Centre.

We ask if the Council has any plans for the Heritage site and when the matter of the lease is likely to be settled so that we can begin to make definite proposals for how we can progress?

Response

The Leader of the Council responded to say that the Council was still in negotiations. The Council was working with all parties on the Heritage Centre site to achieve a way forward. Terms had not been concluded, however, the lease remained in place and was solid and Crewe Heritage would have access, as the lease agreed”.

28 LEADER'S ANNOUNCEMENTS, INCLUDING CHANGES TO CABINET

The Leader of the Council informed Council of recent changes to his Cabinet, namely the appointment of Cllr Don Stockton as Cabinet Member for the newly created Planning and Housing Portfolio and the reallocation of some of the Cabinet responsibilities. The revised list of Cabinet responsibilities was circulated at the meeting and is appended to these minutes, for information.

The Leader also reported on the two recent Cabinet resolutions in respect of the formation of the new delivery vehicles for, Leisure, Sport, Play and Development Services and for Waste Management Services. The Chairman of the Waste Board would be Cllr J Hammond and the Chairman of the Leisure Board would be Cllr A Kolker.

Other delivery vehicles would be created in the forthcoming months and would deal with the following functions :-

- Bereavement, led by Cllr D Marren
- Enforcement, led by Cllr Baxendale
- Transport, led by Cllr R Menlove
- Energy, led by Cllr P Mason

The Leader of the Council reported that each Board would include an opposition or Independent member. An example of this was his intention that Cllr D Brickhill would be a member of the Enforcement Board.

The Leader also informed Council that he intended to make some changes to his group's Committee places and Chairmanships. These changes were considered and agreed by Council under the following item. A document outlining the changes was circulated at the meeting and is appended to these minutes, at minute 29.

29 CHANGES TO APPOINTMENTS OF CHAIRMEN AND VICE-CHAIRMEN

A document outlining a number of changes to Committee memberships and Chairmanships was circulated at the meeting.

RESOLVED

That the changes to Committee memberships and Chairmanships, as circulated at the meeting be approved.

30 APPOINTMENT OF CHIEF OPERATING OFFICER/ DESIGNATION OF SECTION 151 OFFICER

Consideration was given to a report relating the Appointment of Chief Operating Officer and designation of that officer as the Council's Section 151 Officer.

RESOLVED

That Mr Peter Bates be appointed as Cheshire East Council's Chief Operating Officer and Section 151 Officer, with effect from a date to be arranged and that it be confirmed that the salary of the Chief Operating Officer be £110,000 with an additional performance related payment of up to £10,000 per annum.

31 DESIGNATION OF MONITORING OFFICER

(Ms Suki Binjal had declared an interest in this item and left the meeting during its consideration).

Consideration was given to a report relating to the designation of the Council's Monitoring Officer.

RESOLVED

That Ms Suki Binjal be designated as Monitoring Officer of Cheshire East Council.

32 CAPITAL PROGRAMME APPROVAL - PROPOSED SCHOOL EXPANSION LACEY GREEN PRIMARY ACADEMY

Consideration was given to a report relating the capital programme approval relating to the proposed school expansion at Lacey Green Primary Academy.

The report had been amended, since the publication of the agenda and the revised report had been circulated around the Chamber, this also having been sent to all Members in advance of the meeting and had been published on the Council's website.

RESOLVED

That the Supplementary Capital Estimate to finance the proposed expansion of Lacey Green Primary Academy at a cost of £1.273m be approved.

33 OFFICER DELEGATION SCHEME

In the absence of the Chairman and Vice-chairman of the Constitution Committee, Cllr Groves referred to the Council decision of 15 May, following a recommendation from the Constitution Committee, regarding the Officer Delegation Scheme. In order to ensure that the Council's decision-making arrangements properly reflected the emerging officer structure under the management review, it had been resolved that all existing delegations would remain effective pending further review and would accrue to the relevant post holders as appropriate, such arrangements to have effect until 1st September 2013.

Although the management review was progressing well, it was now apparent that it would not be completed by 1st September and it was proposed that the deadline be extended to the December meeting of the Council.

RESOLVED

That a report in respect of the above matter be submitted to the 12th December 2013 meeting of the Council and that the arrangements authorised by Council on 15th May would continue to have effect until 12th December 2013.

34 NOTICES OF MOTION

Consideration was given to the following Notices of Motion, submitted in accordance with Procedure Rule 12.

1. HIGHWAYS COMMITTEES

Proposed by Councillor David Brickhill and seconded by Cllr Michael Parsons.

That

- Three Highways Committees be formed to correspond to the three old District boundaries with one Member from each local Ward entitled to sit on them.
- All highways alterations must first be discussed by the appropriate Committee, which will send a recommendation to the Cabinet Member.
- All delegated powers to alter or make highways orders, other than temporary closure orders, must first be subjected to this process.
- That priorities for implementation will be decided by the appropriate Committee if there are budgetary constraints.

RESOLVED

That the motion stand referred to Cabinet.

2 HS2

Proposed by Councillor David Brickhill and seconded by Cllr Brendan Murphy

That if HS2 is to be built, Council will only support its construction, if the entire Cheshire East section is underground.

Note: The sections under Crewe and Manchester are already planned to be underground. This motion suggest that the intervening section is also in a tunnel, thus preserving all the agricultural land that would otherwise be destroyed.

In proposing and seconding the motion, the mover and seconder included the additional words “where possible, to avoid agricultural land and buildings” after the word “if” and deleted the word “entire”, the motion to now read :-

That if HS2 is to be built, Council will only support its construction if, where possible, to avoid agricultural land and buildings, the Cheshire East section is underground.

RESOLVED

That, subject to the above changes to the wording, the motion stand referred to Cabinet.

3 LATE NIGHT LEVY

Proposed by Councillor David Brickhill and seconded by Councillor Michael Jones

That the Cabinet investigate the cost and likely income of imposing a levy on those establishments which sell alcohol after midnight in order to help fund the cost of control of the late night economy..

Background : The Financial Times reports that Newcastle City Council could become the first local authority in the country to impose a late night levy on pubs, bars and clubs which sell alcohol after midnight to help fund the cost of policing the night-time economy. The paper adds that a further 30 councils are thought to be considering introducing similar levies.

RESOLVED

That the motion stand referred to Cabinet.

4 FIRE SPRINKLERS

Proposed by Councillor Gillian Merry and seconded by Councillor Jacqueline Weatherall

The Council recognises the consequences of fire and the benefits of fitting fire sprinklers in properties.

The Council welcomes the decision of Cheshire Fire Authority to assist social landlords by part-funding the retro-fitting of sprinklers in some high-rise buildings.

The Council urges social landlords to complete a programme of sprinkler retro-fitting to all of their high-rise buildings and to act as advocates for the fitting of sprinklers.

The Council instructs its officers to use whatever powers are available to it to secure the fitting of sprinklers by others, where necessary changing Council's own policies and its approach to implementation.

The Council instructs its officers to investigate the fitting of sprinklers in Council-owned properties.

The Council calls on the Secretary of State to legislate for sprinklers as a requirement in all new residential buildings.

RESOLVED

That the motion stand referred to Cabinet.

5 FUNDING OF ADULT CARE

Proposed by Councillor Laura Jeuda and seconded by Councillor Janet Jackson

Council notes that the Coalition Government has issued new Draft Rules for consultation on the future funding of Adult Social Care. In an attempt to prevent the 'postcode lottery' that currently exists all councils will be required, from 2015, to fund services for those deemed to have 'substantial needs'.

Council further notes that that several important national charities and voluntary organisations believe that the barrier is being set too high and that many elderly people currently receiving care will not meet the threshold of 'substantial needs', which would therefore have the effect of excluding people who need help with everyday tasks. The Local Government Association questions the relevance of trying to provide clarity over who is eligible for care if the money is not available in the system to enable local authorities to provide, appropriate, effective, and responsive services.

This motion calls on Council to join with Age UK, Scope, the Alzheimer's Society, and the National Autistic Society, in opposing the proposals as they stand, because they fail to meet the needs of those who rely on them most, and who will not benefit from these reforms.

RESOLVED

That the motion stand referred to Cabinet.

6 DIAL A RIDE

Proposed by Councillor Sam Corcoran and seconded by Councillor Steve Hogben

In order to limit its potential exposure the Council should make an offer to the Trustees of East Cheshire Community Transport of £2,000 for the Chair of Trustees and £250 for each other Trustee in 'full and final settlement' of all claims they might have against the Council as a result of the demise of East Cheshire Community Transport and any actions by the Council, its staff or Members.

RESOLVED

That the motion be not accepted.

7 LYME GREEN DIP REPORT

Proposed by Councillor Brendan Murphy and seconded by Councillor Arthur Moran

In the light of the findings of the Designated Independent Person - as published by the former Interim Chief Executive in the matter Lyme Green - and to have this matter finally concluded, the Council requests its Leader to publish on its behalf a formal apology for the following reasons:

1. The matter has caused widespread anxiety and considerable unnecessary and avoidable expense for taxpayers and employees.
2. The handling of the crisis has seriously damaged the reputation of the Council and its employee; furthermore it is undermining public confidence in local democracy.
3. The published report clearly indicates a failure of the Council's Executive body to maintain due diligence in its oversight of the Council's affairs.

RESOLVED

That the motion stand referred to Cabinet.

8 STAFFING COMMITTEE REMIT

Proposed by Councillor Brendan Murphy and seconded by Councillor Arthur Moran

The Council requests an immediate review of the Staffing Committee's terms of reference with a view to widening its remit to encompass matters that are normally entailed in the work of a staffing committee such as corporate culture, employee relations and communications, senior appointment, disciplinary matters and management structures.

RESOLVED

That the motion stand referred to the Constitution Committee.

9 TRANSPARENCY

Proposed by Councillor Brendan Murphy and seconded by Councillor Arthur Moran

The Council believes openness and rigorous accountability are essential components in sustaining trust and confidence in the democratic process and therefore calls for a review of the use, justification and value of Compromise Agreements and for this purpose requests the matter be considered by the Staffing Committee.

RESOLVED

That the motion stand referred to the Chief Executive, as Head of Paid Service.

10 LOCALISM IN PLANNING

Proposed by Councillor David Brickhill and seconded by Councillor Lloyd Roberts

Noting the Government's anti-democratic determination to override local opinion in local planning and noting in particular that the Council's Strategic Planning Board was required to ignore the 82% majority of Macclesfield residents, including over 3000 individual written representations, opposed to the Wilson Bowden planning application, the Council calls upon all Cheshire East MPs to demonstrate a definite commitment to localism in especially in planning matters by taking a more proactive stance in relation to planning matters in Parliament; we call upon them furthermore to repudiate any attempt to impose "special measures" on Cheshire East on account of its record in relation to the determination of planning applications.

RESOLVED

That the motion be not accepted.

35 QUESTIONS

The following Members asked questions at the meeting:-

Cllr Hardy – In respect of the potential relocation of Macclesfield Library.

Cllr Rhoda Bailey – In respect of how the Council was progressing with road repairs, evenly spread across the Borough.

Cllr Cartlidge – In respect of Crewe Heritage Centre.

Cllr Simon – In respect of when the new Local Plan would be ready for submission to the Planning Inspectorate.

Cllr Kolker – In respect of the future of the former Astra Zeneca site at Alderley Park.

Cllr A Moran – In respect of the Council's policy regarding the unit price for alcohol.

Cllr Corcoran – In respect of the Council's policy with regard to checking that employees have the necessary qualifications for the post they have been appointed to.

Cllr Wilkinson – In respect of the Council's proposed response to the public consultation regarding HS2

Cllr Murphy – In respect of the appointment of the new Chief Executive.

Cllr Roberts – In respect of Macclesfield Town Football Club Community Trust Board.

The meeting commenced at 4.00 pm and concluded at 6.50 pm

Councillor D Flude (Chairman)
CHAIRMAN

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CHESHIRE EAST COUNCIL

Council

Date of Meeting:	17 th October 2013
Report of:	Chief Operating Officer
Subject/Title:	Recommendation from Cabinet re 2013/2014 First Quarter Review of Performance
Portfolio Holders:	Cllr. Peter Raynes / Cllr. Barry Moran

1.0 Report Summary

- 1.1 This report requests formal approval of the issues recommended to Council by Cabinet on 19th August 2013 as part of the 2013/2014 First Quarter Review of Performance Report. As a procedural matter, these items require the approval of Full Council in accordance with Finance Procedure Rules. An example of this is the additional monies received by the Council for Public Health.
- 1.2 The items in question are set out in the report. They relate to Supplementary Capital Estimates and Virements over £1m, Supplementary Revenue Estimates and the establishment of a specific earmarked reserve to hold any underspend on the Elections Budget for use in years when Elections take place.
- 1.3 These issues reflect the normal working arrangements of the Council. When the Budget and Capital Programme for the new financial year are set, in the preceding February, the figures are estimates at a point in time and reserves are set at a level that reflects any risk associated with such savings. As the year progresses, further consideration is given to allocating reserves or additional income to maintain a balanced position reflecting up to date estimates.
- 1.4 These issues are identified through the quarterly monitoring process and the necessary approvals are requested to maintain an up to date budget position for monitoring purposes. In some cases, agreed procedures mean that Council approval is required due to the financial implications or use of General Reserves is being recommended.

2.0 Decision Requested

- 2.1 Cabinet requests Council to approve the Supplementary Estimates / Virements and establishment of an earmarked reserve as detailed below in section 10.2.

3.0 Reasons for Recommendations

- 3.1 Finance Procedure Rules require the approval of Council to requests for supplementary estimates in excess of £1m, or which require funding from General Reserves, or which have significant implications for future years' budgets.

4.0 Wards Affected

4.1 All

5.0 Local Ward Members

5.1 All

6.0 Policy Implications

6.1 As detailed below

7.0 Financial Implications

7.1 The Council's financial resources are aligned to its priorities and used to deliver outcomes for local communities. Monitoring performance helps to ensure that resources are used effectively and that business planning and financial decision making are made in the context of performance.

7.2 The approvals requested in this report will enable the schemes to move forward and improve Financial information in terms of budget accuracy.

8.0 Legal Implications

8.1 Monitoring and reporting on performance is essential if decision-makers and the public are to be assured of adequate progress against declared plans and targets.

9.0 Risk Management

9.1 Financial risks are assessed and reported on a regular basis, and remedial action taken if and when required.

10.0 Background and Options

10.1 At their meeting on 19th August 2013 Cabinet considered the 2013/2014 First Quarter Review of Performance Report. Several issues were identified as being of a nature where recommendation to Council was required in accordance with Finance Procedure Rules.

10.2 The items are summarised overleaf and further details are provided in the relevant appendices.

- Supplementary Capital Estimates and Virements over £1m (**Appendix 1**);
 - o This relates to Crewe Lifestyle Centre.
The original estimate for this scheme was based on a robust plan. However, as the year has progressed, an opportunity has been identified to improve the outcomes from this scheme in terms of meeting the Council's priorities. This has led to a change in the scope of the scheme and resulted in a request for a supplementary capital estimate. The increased borrowing costs will be funded by savings in running costs and additional income.
- Supplementary Revenue Estimates to be funded from General Reserves (**Appendix 2**);
 - o This relates to three items requiring approval to use funding from General Reserves where information was either not known at the time the budget was set or further funding has been received and needs allocating.
- A Supplementary Revenue Estimate of over £1m for Public Health to be funded from additional ring-fenced grant (**Appendix 3**);
 - o This relates to an increase in the ring-fenced public health grant following successful lobbying by the Council that the original grant allocation was insufficient and a corresponding bid by the service to increase their revenue budget accordingly.
- The establishment of a specific earmarked reserve to hold any underspend on the Elections Budget for use in years when Elections take place (**Appendix 4**).
 - o A request from Democratic Services to ensure adequate funding is available to meet the cost of Elections.

10.3 Where the above requests impact on the Council's General Reserves, these have already been factored into the forecast year-end balance as reported as part of the First Quarter Review of Performance.

11.0 Access to Information

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

Name: Chris Mann / Vivienne Quayle
Designation: Corporate Manager, Resources / Head of Commercial Strategy, Business Innovation and Performance
Tel No: 01270 686229 / 01270 685859
Email: christine.mann@cheshireeast.gov.uk / Vivienne.quayle@cheshireeast.gov.uk

Appendix 1 ~ Supplementary Capital Estimates and Virements over £1m

Details of the item being recommended from the First Quarter Review of Performance

Capital Scheme	Amount Requested £	Funding of SCE / Project Providing Virement
Full Council is asked to Approve SCE's and Virements in excess of £1m or SCE's of any value funded by internal reserves, balances or general purpose funding		
<u>SUPPLEMENTARY CAPITAL ESTIMATES</u>		
Communities		
Lifestyle Centre Crewe	2,400,000	The original estimate for this scheme was based on a robust plan. However, as the year has progressed, an opportunity has been identified to improve the outcome from this scheme in terms of meeting the Council's priorities. This has led to a change in the scope of the scheme resulting in a request for a supplementary capital estimate. The increased borrowing costs will be funded by savings in running costs and additional income.
Total SCE's Requested	2,400,000	

Additional Benefits

Adult Social Care and Children's Centre

The larger building footprint will allow 25% more room space available to all the social care services including Star light and Chimes users making their daily environment even more pleasant, it will improve the opportunities for more flexible support and observation with the medication dispensing room in the middle and ensure all wheelchairs and equipment can be stored.

There are now three studio rooms available increasing the flexibility and the programming of activities while increasing the income potential further.

Leisure Facilities

Main Pool – larger than the existing pool providing greater extra overall swimmer capacity at peak periods which will ensure that the pool can meet the existing growing demand for lessons at all levels and supervised water based activities, offering 2 extra lanes available to competition.

The overall larger site is evidence that the Council is implementing outcomes to target public health national indicators as evidenced in the Joint Strategic Needs Assessment and potentially allow the Council to claim back health premiums in 2015/2016.

Learner Pool – larger than the existing pool

The larger learner pool will provide extra capacity to meet the existing and growing very strong demand for “pre-swimming” and beginners swimming lessons for children without disrupting other main swimming programmes and activities. This will reduce waiting lists meaning pre-school children can start lessons earlier. This foundation stage offer (2-5 yrs) is fundamental in establishing good exercise patterns for future life reducing obesity, diabetes and cardiovascular disorders.

Main Hall - larger than the existing multi-purpose hall available at VCC Oakley.

The slightly larger hall provides extra capacity for a full range of entertainment uses including standing and seated concerts, parties, wedding receptions and other similar functions, exhibitions and conferences. There is an identified lack of larger scale venues for such activities in South and Central Cheshire East area in general and the Crewe area in particular.

The slightly larger capacity extends the potential benefit that the new venue will be able to provide to support wider economic regeneration policies and initiatives as there are very few similar sized exhibition, conference and training venues available elsewhere in Crewe to support local businesses.

As with the larger swimming pool, the slightly larger main hall will be much easier to programme for more than one activity at any one time, particularly during periods of peak demand.

The slightly larger main hall and associated storage being proposed makes the venue much more suited for specialist spectator sports events where there is room for a main court, table or activity area and enough room for seating around (e.g. for sports hall athletics finals events, table tennis tournaments, netball finals, etc). This is a more attractive offer for clubs looking to use the venue.

Appendix 2 ~ Supplementary Revenue Estimates to be funded from General Reserves

Details of the items being recommended from the First Quarter Review of Performance

Service	Item	£000	Details
Finance	CLS Care Services Leases	106	Item already approved by Cabinet on 4 March 2013 (item 167). Rental income shortfall arising from sale of leases to CLS Care Service Leases. Council approval now required.
Highways	Flood Defence Levy	19	The service budget needs to be increased to meet a statutory cost being invoiced by the Environment Agency for the Flood Defence Levy. The cost is higher than budgeted for as a result of changes not communicated to the Council when the Budget was set.
Highways	Flood Grant Received	394	The Council has received additional grant. This is held centrally and the service have requested an increase in budget to use this funding to meet the requirements of the Flood and Water Management Act 2010. This follows more detailed work on the implementation of the act.
TOTAL		519	

Appendix 3 ~ A Supplementary Revenue Estimate of over £1m for Public Health to be funded from additional ring-fenced grant

Details of the item being recommended from the First Quarter Review of Performance

Service / Grant	Type of Grant	£000	Details of Service Bid
Public Health	Ringfenced	1,037	<p>Original grant funding for 2013/2014 was £12.725m.</p> <p>However, detailed analysis by the Director of Public Health, identified a number of areas of Public Health spend where the costs had not been fully reimbursed leading to an allocation that was too low. This was evidenced to the Department of Health who acknowledged the error and corrected it.</p> <p>In March (after the Council's Budget was set) the Council was advised of an increase of £1.037m in the allocation for 2013/2014 to £13.762m.</p>

Appendix 4 ~ The establishment of a specific earmarked reserve to hold any underspend on the Elections Budget for use in years when Elections take place

Details of the item being recommended from the First Quarter Review of Performance

Reserves Strategy – Chapter 3

Para 46. Within the Service Manager carry forward reserve balance, an amount of £154k relates to Elections. Borough, Town, and Parish Council Elections take place every 4 years. Funding must be budgeted for and accrued over that period to cover the 4 yearly costs. It is therefore requested that Council be asked to approve the establishment of a specific earmarked reserve to hold any underspend on the Elections Budget for use in years when Elections take place.

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 9th October 2013
Report of: Interim Head of Legal Services and Monitoring Officer
Subject/Title: Review of Powers and Responsibilities of Officers

1.0 Report Summary

- 1.1 This report requests Members' consideration of a newly-drafted section of the Constitution which sets out the Powers and Responsibilities of Officers and Proper Officer Provisions (which is given a new title in the document of Scheme of Delegation to Officers). These are the powers delegated by full Council to Officers to make decisions and take action. The draft document (Appendix 1) has been the subject of consideration by a Members' Working Group, set up by the Constitution Committee for this purpose.

2.0 Recommendation

- 2.1 To recommend Council

1. to approve the Scheme of Delegation to Officers; and
2. to authorise the Interim Head of Legal Services and Monitoring Officer, in consultation with the Chairman of the Constitution Committee, to incorporate the new Management Structure into the Scheme of Delegation to Officers when all necessary aspects of the structure are settled.

3.0 Reasons for Recommendations

- 3.1 A review of the Powers and Responsibilities of Officers has been required to ensure the Constitution is up to date, addresses Members' current aims and reflects the needs of the Council. It does also need to reflect the changes to the Council's Management Structure, which are not yet finally confirmed. In addition the review of this section of the Constitution provides an opportunity to clarify this part of the Constitution and eliminate any inconsistencies.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 The delegations to officers relates to operational decisions by officers. The draft document makes it clear that all decisions made by officers must comply with policy approved by Members.

7.0 Financial Implications

- 7.1 The Finance Procedure Rules are not proposed to be amended by the revised Powers and Responsibilities of Officers. Where the document refers to financial issues it reflects those Rules as they are currently approved by Council. The draft document makes it clear that all decisions made by officers must be within approved budgets.
- 7.2 The only exception to the above is the “Note to paragraph 6.4 which conflicts with the Financial Procedure Rules (relevant parts copied at paragraph 1.6). The note requires all bad debt to be written off by Portfolio Holder or Cabinet. The Financial Procedure Rules allow officers to write off debt up to £2,500. A decision needs to be made regarding as to which approach members wish to take.

8.0 Legal Implications

- 8.1 The Council needs to keep its Schemes of Delegations to Committees, to Portfolio Holders and to Officers up to date in order to ensure that it is clear who has the ability to make decisions and to reduce the risk of challenge to the Council that a decision has not been made with the correct authority.
- 8.2 In accordance with Cheshire East Council’s current Constitution (Paragraph 3 of the Terms and Conditions of the Constitution Committee in Part 3 of the Constitution) changes to the Constitution are required to be agreed by Council, following recommendation from the Constitution Committee.
- 8.3 Any changes need to reflect statutory requirements. This has been considered as part of this review.

9.0 Risk Management

- 9.1 As paragraph 8.1 above.
- 9.2 The review has provided an opportunity to reduce the inconsistencies in the Constitution and to put in place a workable operational decision making framework.

10.0 Background and Options

- 10.1 This matter was deferred at the meeting of the Constitution Committee on 19th September. Since that date work has been undertaken to “cut and paste” it to incorporate the new management structure. There have been no substantive changes to the work of the Constitution Committee Member Working Group.

- 10.2 At its meeting on 5th July 2012 the Constitution Committee resolved that in respect of the review of the Constitution "...that officers give priority to work on the scheme of delegation". This report is the culmination of that piece of work.
- 10.3 A Member Working Group was set up by the Constitution Committee at its meeting on 17th November 2011 to make recommendations on detailed changes to the Constitution. The Working Group has undertaken considerable work on the Scheme of Delegation.
- 10.4 The exercise has involved an extensive re-write of the whole of the section in the Constitution dealing with Officer Delegations. The proposed format is that all delegations from Council are to the Director or the most senior officer with responsibility for the function, who will then internally cascade delegations to other designated staff within the organisation as appropriate to the particular operational requirements of the service.
- 10.5 The Member Working Group has agreed that the Scheme of Delegation in Appendix 1 be referred to Constitution Committee. Paragraph 1.5 is additional to the work of the Member Working Group and is suggested in order to ensure the Constitution can keep up to date with all structural changes as they occur. The key changes to the Scheme are shown in Appendix 2, in particular the proposed additional Member involvement in decision making.
- 10.6 The Delegations to the Director of Public Health (Section 8 of the Scheme) were approved by Council on 28th February 2013 and are awaiting review by the Member Working Group.

11.0 Access to Information

- 11.1 The Council's current Constitution is available on the Council's website: www.cheshireeast.gov.uk

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SCHEME OF DELEGATION TO OFFICERS**1.0 INTRODUCTION**

- 1.1 Elected Members set policy, priorities and strategies to reflect local interests and needs and are responsible for allocating funding between individual priority areas and for approval of the methodology of implementation of policies and strategies.
- 1.2 Officers of the Authority are responsible for implementing these strategies and policies by delivering services and major initiatives. It is Officers who have responsibility for managing the Authority's day to day operations, within a policy and budgetary framework laid down by Members
- 1.3 The Chief Officer management arrangements for the Authority are overseen by a Corporate Leadership Board (CLB). This comprises the chief Executive, Executive Director of Strategic Commissioning, Chief Operating Officer, Director of Economic Growth and Prosperity, Director of Public Health, Director of Adult Services and Director of Children's Services.
- 1.4 Each member of CLB is accountable to the Chief Executive for leading the Services within his or her area of responsibility and ensuring that the services are managed in accordance with the objectives, plans, policies, programmes, budgets and processes of the Authority.
- 1.5 The powers of this Scheme are delegated to the officers referred to by title within this Scheme of Delegation. The powers are automatically transferred to any successor officer, to whom the functions are allocated, subsequent to any reorganisation of the Council's management arrangements.
- 1.6 The powers in this Scheme are delegated to CLB Members who will establish, operate and keep under review Local Schemes of Delegation (including Local Schemes of Financial Delegation) to cascade powers and responsibilities to Heads of Service and other officers. Local Schemes of Financial Delegation shall only be put in place after consultation with the Chief Operating Officer and shall comply with the Finance and Contract Procedure Rules and the Staff Employment Procedure Rules
- 1.7 This Scheme of Delegation to Chief Officers includes both Council and executive functions. The delegations are granted subject to decisions being taken in accordance with:
- The limitations and requirements specified in the Scheme
 - approved policies and procedures of the Authority
 - The implementation plan and methodology of implementation of policies and strategies approved by the Portfolio Holder

- Statutory powers and requirements, guidance and Codes of Practice
- The approved budget and Policy Framework
- Planning permissions and other statutory consents
- Finance and Contract Procedure Rules and Staff Employment Procedure Rules
- EU Directives and tendering processes
- Principles of Natural Justice
- Professional Standards; and
- Subject to regular briefings between senior management and Portfolio Holder(s) responsible for the area under their purview

Note: CLB officers must comply with instructions from the Leader and Portfolio Holders to undertake work in furtherance of the development of new policy

- 1.8 Before taking decisions, Officers are under a duty to satisfy themselves that they have the duly delegated power to do so and that they have undertaken appropriate consultation. Appropriate advice must be taken where the matter involves professional or technical considerations that are not within the Officer's sphere of competence.
- 1.9 The delegations to Chief Officers include the power to do anything ancillary or incidental to, arising from, or necessary to give effect to or facilitate the exercise of powers and the discharge of functions, which are delegated, subject to the control measures highlighted in 1.6 and 1.7 above.
- 1.10 In some circumstances a person to whom a power has been delegated may consider a matter to be of such importance or sensitivity that their delegated authority should not be exercised. In these circumstances he or she may refer the matter back to the delegator for determination.
- 1.11 Any power delegated or cascaded under this Scheme can be exercised by the relevant CLB Member and in all cases by the Chief Executive personally. The Chief Executive may take powers of any CLB member and delegate it elsewhere for a temporary period
- 1.12 The Scheme of Delegation does not delegate to Officers:
- Any matter specifically reserved by law or by this Constitution to the Council, Cabinet or to any committee or sub-committee of the council

- Any matter in respect of which specific provision is made elsewhere in this Constitution
- Any matter which in law may not be delegated to an Officer
- Any Key Decision other than those in respect of which specific provision has been made

1.13 CLB Members have the power to take all necessary actions (including the letting of contracts, undertaking statutory processes and incurring expenditure) to implement decisions of Cabinet and Council, without further reference to the Council or Cabinet to ensure effective and efficient implementation of these decisions, subject to the control measures highlighted in 1.6 and 1.7 above.

1.14 Actions taken under the above section may include:

- CLB members, with the agreement of the relevant portfolio holder, to undertake and consider the outcome of statutory and non statutory consultations on service provision,
- CLB members requesting a portfolio holder to offer advice on a Cabinet or Council decision; or to give direction as to how a Cabinet or Council decision shall be implemented to allow for minor changes to that decision, the desirability for which arises from a change of circumstances; responses to a consultation or new information. (Such matters will be recorded on a delegated decision form. In the event that the change of circumstances is significant the matter will be referred to the portfolio holder for a formal decision)

FINANCIAL AND CONTRACT APPROVAL LIMITS

1.15 CLB Members are responsible for financial management within their Departments to ensure value for money. They shall manage the development of budget policy options with a detailed assessment of financial implications.

Note: The making of grants is not delegated to Officers. Grants up to £50,000 shall be for the decision of the relevant Portfolio Holder and grants over £50,000 shall be approved by Cabinet.

1.16 All in accordance with the Finance Procedure Rules, Chief Officers may enter into contracts and incur expenditure but must do so within financial limits and procedures set out in the Finance and Contract Procedure Rules and subject to the requirement that projects with an estimated cost of between £100,000 and £250,000 are to be brought before the appropriate policy Development Group for consideration and/or noting. The following is a summary of the provisions of the Finance Procedure Rules:

Virement	CLB	Greater than 10% of a net service but less than £100,000 (Revenue)
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		Up to £100,000 between net Service Budgets (Revenue) within their area of responsibility Up to £100,000 funded from underspends within the approved Service Budget (Capital)
Virement	CLB in consultation with Finance Portfolio Holder	£100,000 and up to and including £250,000 (Revenue/ Capital)
Virement	Portfolio Holders and CLB in consultation with Performance Portfolio Holder, Finance Portfolio Holder via Executive Monitoring Board	£250,000 and up to £500,000 (Revenue/Capital)
Supplementary Estimate	CLB	Up to £100,000
Supplementary Estimate	CLB in consultation with Finance Portfolio Holder	£100,000 and up to £250,000
Supplementary Estimate	Portfolio Holders and CLB in consultation with Performance Portfolio Holder, Finance Portfolio Holder via Executive Monitoring Board	Between £500,000 and up to £1,000,000
Financial Impact of Change in Charges	CLB	Up to and including £100,000
Financial Impact of Change in Charges	Chief Operating Officer in consultation with Finance Portfolio Holder	More than £100,000 and up to and including £500,000
Bad Debt Write Off	CLB in consultation with Chief Operating officer	Up to and including £2,500
Bad Debt Write Off	CLB in consultation with Chief Operating officer and Head of Legal Services and Monitoring Officer	Over £2500 and up to and including £5,000
Bad Debt Write Off	CLB in consultation with Chief Operating Officer, Head of Legal Services and Monitoring Officer, appropriate Portfolio Holder and Finance Portfolio Holder	Over £10,000 and up to and including £50,000
Write off of losses of obsolete or surplus equipment, materials, vehicles or stores	CLB	Up to £5,000
Disposals of obsolete or	CLB with consent of	Over £5000

surplus equipments, materials, vehicles or stores	Finance Portfolio Holder	
Approve Partnership proposals with an Accredited Body under the Contract Procedure Rules	CLB	Up to and including £100,000
Approve Partnership Proposals with an Accredited Body under the Contract Procedure Rules	CLB in Consultation with appropriate Portfolio Holder	Over £100,000 and up to £500,000
Approve Partnership Proposals with a Non-Accredited Body under the Contract Procedure Rules	CLB in consultation with Portfolio Holder for Finance	Up to £250,000

STAFFING

1.17 CLB Members are authorised to deal with the full range of employment and staff management issues, below CLB level including but not limited to appointments, terms and conditions (other than those negotiated nationally) training, discipline, dismissal, performance, progression, promotion, shifts and working hours, grievance, grading, emoluments, expenses, allowances, sick pay, leave, equal opportunities and health and safety in accordance with approved policies and the Staff Employment Procedure Rules. This delegation shall **not** include:

- making a post redundant,
- conducting appeals against dismissal
- authority to sign a compromise agreement containing a clause requiring the non-disclosure of confidential information by the employee/ex-employee
- conducting appeals on the outcome of grievance hearings

Note: Recruitment of CLB Members shall be undertaken only via Staffing Committee, including the approval of job descriptions and person specifications

1.18 CLB Members are authorised, subject to prior notification of the Head of Organisational Development and prior consultation with all appropriate parties affected by the decision, including any Trade Union, to implement changes to staffing structures except where the restructure:

- Involves loss of one or more posts not currently vacant
- Involves regrading of posts or the grading of new posts
- Involves changes to existing National or Local Agreements and policies
- Cannot be achieved within delegated powers in respect of budgets

1.19 To enter into reciprocal arrangements for the authorisation and appointment of Officers to facilitate cross-border co-operation in the discharge of delegated functions

with any other local authority and to transfer enforcement functions to another enforcement authority, subject to approval by Cabinet.

MANAGEMENT OF LAND PREMISES VEHICLES AND EQUIPMENT

1.20 In order to facilitate operational requirements:

- CLB Members are authorised to manage, in accordance with all appropriate service standards and policies approved by the Council or Cabinet, land, premises, vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture appliances and uniforms necessary for the provision of services.
- In respect of vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture, appliances and uniforms this includes but is not limited to cleaning, maintenance, letting or hire and authorising the write-off loss or disposal of the same where obsolete or surplus to operational requirements (limits are in accordance with the Finance Procedure Rules).
- In respect of land and premises this includes but is not limited to, cleaning, maintenance and letting or hiring for up to 12 months

1.21 To administer the supply of goods and services to other public authorities and bodies under the Local Authorities (Goods and Services) Act 1970 and all other enabling legislation.

LEGAL AUTHORISATIONS AND COMPLIANCE

1.22 CLB Members shall implement and ensure compliance with the Authority's procedures relating to data protection, freedom of information, human rights and surveillance activities and shall only withhold the publication of requested information with the permission of the relevant Portfolio Holder, whose refusal shall not override the Scheme of Publication.

1.23 CLB Members shall have power to authorise Officers (and such other persons where permitted by law) possessing such qualifications as may be required by law and where CLB Members are satisfied that appropriate training has been undertaken, to

- Take samples, carry out inspections or surveys, enter land and premises and generally perform the functions of and/or act as a duly authorised, or Proper Officer of the Authority (howsoever described)
- To issue certificates of authority or certify copies of documents
- To enforce the requirements of legislation

1.24 With the approval of the Head of Legal Services and Monitoring Officer, CLB Members shall have power to

- authorise the issue and service of requisitions for information, any notice, order or direction

- Approve or issue any licence which may be required or authorised by or under any legislation or byelaws (not otherwise mentioned in this scheme of delegation)
 - Authorise the institution of legal and quasi-legal proceedings and/or other action (including debt recovery) as is considered necessary to protect the interests of the Authority
 - Sign certificates for contracts
- 1.25 CLB Members are authorised to make application for planning permission and any other necessary applications for other consents required for the development of land, subject to notification to the appropriate Portfolio Holder and Ward Members. No development shall take place before planning permission is obtained.
- 1.26 CLB Members are authorised to undertake all steps required to complete Government Statistical Returns and to respond to Government Consultations and consultations from other bodies, in consultation with the relevant portfolio holder(s) or committee chairman.
- 1.27 Whenever legislation is amended or replaced by new provisions, then the relevant delegated authority in this scheme applies to those new provisions.

SAFEGUARDING CHILDREN AND VULNERABLE ADULTS

- 1.28 CLB Members shall ensure that arrangements are in place to discharge the responsibilities of the Authority in respect of the need to safeguard and promote the welfare of children and of vulnerable adults.

Note: Where the Council approves any restructure of services, whereby a service is moved to be the responsibility of another Director, the delegated authorities in respect of that service will move to the officer taking on the new responsibility

2.0 CHIEF EXECUTIVE

- 2.1 The Council's Chief Executive is the Council's Head of Paid Service appointed by Council. Under Section 4 of the Local Government and Housing Act 1989 the responsibility of the Head of Paid Service is to make proposals to the authority in the manner in which the discharge of the authority's functions are co-ordinated and the numbers, grades and organisation of staff required and the proper management of those staff. In respect of the Chief Executive role the responsibility is to develop for Member approval a strategic vision and to provide strategic leadership for the Council. It comprises the following main functions:
- 2.2 Within the following areas the Chief Executive/Head of Paid Service is empowered to operate the services of the Directorate and, except where

powers, duties and functions are delegated elsewhere by the Council, to exercise all powers, duties and functions, including but not limited to the following:

CHIEF EXECUTIVE/HEAD OF PAID SERVICE ROLE

- 2.3 To be the Authority's principal officer representative and to promote its good image and reputation
- 2.4 To exercise the powers and responsibilities of any CLB Member in his or her absence
- 2.5 To lead and direct the strategic management of the Authority
To ensure the effective pursuit and achievement of the Authority's objectives
- 2.6 To ensure the Authority's activities are carried out with maximum effectiveness and efficiency
- 2.7 To discharge emergency planning and civil protection functions
- 2.8 To act as the Authority's Proper Officer in respect of the following under the Local Government Act 1972 unless stated:
 - Declaration of acceptance of office by chairman, vice-chairman or councillor (Section 83)
 - Receipt of resignation of officer by person elected (Section 84)
 - Keeping the role of Freemen (Section 248 (2))
 - Compile list of Politically Restricted Posts under Section 2 of the Local Government and Housing Act 1989

3.0 DIRECTOR OF ECONOMIC GROWTH AND PROSPERITY

- 3.1 The Director of Economic Growth and Prosperity has overall responsibility for the operational management of the Places and Organisational Capacity Directorate and for bringing forward such strategic plans and policies, and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to provide the services for which this directorate is responsible. It comprises the following main functions:-

1. Economic Growth and Prosperity

- Economic Intelligence and investment planning
- Skills for Work
- 14+Education, Apprenticeships and NEETS
- Adult Education and Lifelong Learning
- Learner Information, Advice and Guidance Services

- Tourism, Visitor Economy, Culture, Arts and Heritage (including Tatton Vision)
- Business Engagement and Support
- Land and Property Acquisition, Disposal and Management
- Strategic infrastructure projects
- Employment Sites
- Housing Strategy and Development
- Highways/Transport Strategy
- Strategic/Spatial planning
- Rural Economy/Access
- Sustainable Towns
- Inward Investment and Funding
- Local Enterprise Partnership
- Enterprise
- Development Control (major applications)
- Corporate landlord

2. Public Protection and Enforcement

- CCTV
- Offender Management and some aspects of Youth Offending
- Victim Support
- Licensing
- Planning Enforcement
- Housing Enforcement
- Trading Standards
- Environmental Health
- Pest Control
- Animal Health
- Parking Enforcement
- Road Safety
- Emergency planning
- Non-Attendance at school
- Benefit Fraud
- Drug and Alcohol Misuse
- Building Development Control

3. Environmental Protection and Enforcement

- Car Parking Policy
- Highway Maintenance
- Grounds Maintenance
- Streetscape
- Street Cleansing
- Waste Collection and Disposal
- Recycling
- Green Energy and Carbon Reduction
- Public Rights of Way
- Fleet Management
- Farms
- Gardens
- Greenspace/Countryside

4. Resilient Local Communities

- Delivery of locally based services
- Community Safety
- Revenues and Benefits
- Credit Unions
- Customer Service Centres and public access
- Customer Insight
- Consultation and Opinion Surveys
- Citizens' Panel
- Libraries
- Community Centres
- Bereavement Services
- Local Area partnerships
- Links with Town and Parish Councils
- Housing Landlord Services
- Private Sector Landlord
- Local Streetscape
- Community Transport
- Home to School Transport
- Passenger Transport
- Allotments

- 3.2 Within the following areas, the Director of Economic Growth and Capacity is empowered to operate the services of this Directorate and, except where powers, duties and functions are delegated elsewhere by the Council, to exercise all powers, duties and functions, including but not limited to the following:

PROPER OFFICER

- 3.3 To act as Proper Officer under Section 1 of the Countryside and Rights of Way Act 2000 relating to the Access to the Countryside (Maps in Draft Form) England Regulations

Economic Growth and Prosperity

Development Management and Building Control

- 3.4 Apart from matters reserved to the Strategic Planning Board and Planning Committees, to exercise and make decisions in respect of all those Council functions set out in the Local Authorities (Functions & Responsibilities (England) Regulations 2000 which relate to town & country planning and development control, including planning applications, permitted development, the protection of important hedgerows, the preservation of trees and the regulation of high hedges.

Note: Development control functions include decisions regarding planning applications, permitted development, certificates of lawful use and development, enforcement, listed buildings and conservation areas. These planning functions are to be construed purposively and broadly, to include anything which facilitates or is

incidental to them and will also include power to impose conditions, limitations or other restrictions or to determine terms to which approvals are subject, and to modify, vary or revoke approvals

- 3.5 To exercise all the powers and duties in relation to Building Control under the Building Act 1984 and related legislation and under Building Regulations, including but not limited to the determination of plans and applications, dealing with dangerous structures and all enforcement under the Act and Regulations
- 3.6 To vary the Standard Fee Scales of the Local Government Association Model Scheme by up to plus or minus 10%
- 3.7 To exercise all powers and duties relating to Local Land Charges
- 3.8 To act as Proper Officer in respect of the Ordnance Survey under Section 191 of the Local Government Act 1972
- 3.9 To take all action to ensure dangerous trees are removed or made safe or to ensure that they are made safe or removed and to reclaim the costs under the Local Government (Miscellaneous Provisions) Act 1976

Land and Property Acquisition Disposal and Management

- 3.10 To produce for Cabinet approval and implement the Corporate Asset Management Plan.
- 3.11 To make all delegated decisions in accordance with the Corporate Asset Management Plan
- 3.12 To manage the Council's Estate within approved budgets and in accordance with the medium term financial strategy (including but not limited to the development and appropriation of land and buildings, maintenance, repair and demolition, the granting or taking of assignments, surrender or termination of leases, tenancies, granting of leases up to 7 years, licences, easements, way leaves, variations of rent, enforcement of conditions or covenants in any agreement, the collection of rents and service of all notices).

This delegation is subject to

- Prior notification to ward councillors in respect of all management decisions which affect the external appearance of land or property or which involve a change of use and where there is objection from Ward Members(s), the approval of the Portfolio Holder must be obtained.
 - the requirement in the Contract Procedure Rules that the approval of the Chief Operating Officer must be obtained for all agreements which may involve a leasing charge
- 3.13 Subject to prior notification to the Chief Operating Officer (in respect of sales) and prior approval of the Chief Operating Officer (in respect of leases), to accept any offer or tender and agree the disposal of any interest in land or

property, provided the Director of Economic Growth and Prosperity is of the opinion that it is the best consideration that can reasonably be obtained:

- In consultation with the Chief Operating Officer and after having notified the Portfolio Holder where the offer or tender does not exceed £200,000
- With the approval of the Portfolio Holder and in consultation with the Chief Operating Officer where the offer or tender is between £200,000 and £500,000

Note: a disposal includes the disposal of a lease for land and premises of 7 years or more

Note: The Portfolio Holder must be notified of the intent to dispose of any land or building, prior to disposal.

- 3.14 To authorise the acquisition of an interest in any land or property (including under the Land Compensation Act 1973)
- Where the consideration or compensation does not exceed £200,000, in consultation with the Chief Operating Officer and after having notified the Portfolio Holder
 - With the approval of the Portfolio Holder and in consultation with the Chief Operating Officer where the consideration of compensation is between £200,000 and £500,000
- 3.15 To take all actions under the Land Compensation Act 1973 including the payment of necessary compensation for claims
- 3.16 To establish and maintain a corporate database of the Council's land and buildings and to perform any responsibilities placed on the Council under the Local Government Planning and Land Act 1980, and to ensure the publication of details of the Council's interests in land.
- 3.17 To take action with regard to rating issues, including the conduct of appeals.
- 3.18 With the agreement of the Portfolio Holder, and subject to notification to Ward Members, to take decisions on applications by electricity, gas, water, telephone, broadcasting or cable companies to place any apparatus in , on, over or under any land or building owned by the Council
- 3.19 With the agreement of the Portfolio Holder to approve or refuse each application for release from restrictive covenants, to negotiate compensation payable to the Council and complete approved releases
- 3.20 To enter into property investments, management and development partnerships, and such contracts as accord with the Asset Management Plan after having notified the Portfolio Holder

- 3.21 To authorise and complete the transfer of freehold land at nil value for education purposes, where it is a statutory requirement to do so.
- 3.22 To authorise deeds of rectification with Housing Associations
- 3.23 To manage the Farms estate, serve all statutory notices, to negotiate and approve all matters and grant all consents required in order to do so provided that investment in improvements to farms will not exceed £20,000

Tatton Park

- 3.24 To be responsible for all matters relating to the day to day management of Tatton Park, except
- alteration of admission charges and
 - permanent changes to opening hours
- which must only be with Portfolio Holder approval

Markets

- 3.25 To manage the Council's markets, including:-
- To determine applications for and to let market stalls and to grant leave of absence to market traders.
 - To determine and apply the Market Rules and Regulations.
 - To allocate market stalls to charities and local fund raising organisations without charge.

Commons

- 3.26 To maintain the Register of Commons

Sports and leisure Facilities

- 3.37 To manage all Council sports and leisure facilities for public use, including caravan parks and allotments including
- Temporary changes to the opening and closing times of a facility (except that permanent changes to opening and closing times shall be a decision of the Portfolio Holder)
 - Reviewing delivery models and implementing solutions relevant to individual communities except that permanent changes shall be the decision of the relevant Portfolio Holder
 - Promotion of sporting activity in the community
 - Promotion of customer care and equality of access

Public Protection and Enforcement

- 3.38 To enforce all functions of the 'local housing authority'

- 3.39 Subject to notification of Ward members to licence
- the use of land as a caravan site and the use of moveable dwellings and camping sites
 - Pleasure boats and pleasure vessels
 - Premises for the breeding of dogs
 - Pet shops and animal boarding establishments
 - Zoos and dangerous wild animals
 - Motor salvage operators
- 3.40 To register
- Animal trainers and exhibitors
 - Fishing vessels on board which shrimps and molluscs are cooked
 - Auction and wholesale markets
 - Premises for the preparation and sale of food
 - Premises for acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing, micropigmentation and electrolysis
- 3.41 To grant consent for the operation of a loudspeaker subject to approval of the Portfolio Holder
- 3.42 To approve
- meat product premises and premises for the production of minced meat or meat preparations
 - Dairy establishments, fish products premises and dispatch or purification centres
 - Factory vessels and fishery product establishments
- 3.43 To undertake all functions under the Scrap Metal Dealers Act 1964 (as amended) and to take all enforcement action under the Act
- 3.44 To carry out all enforcement under the Health Act 2006 and regulations made under it
- 3.45 To carry out all functions relating to health and safety at work (to the extent that those functions are discharged otherwise than in the authority's capacity as an employer)

- 3.46 To undertake all the Authority's functions in respect of animal health
- 3.47 To licence hackney carriages, private hire vehicles and drivers and operators licences and to suspend such licences, unless
- A hackney carriage or private hire vehicle does not meet the Authority's vehicle conditions or does not pass the vehicle inspection
 - An applicant for an operator's licence does not meet the Authority's requirements
 - An applicant for a hackney carriage or private hire driver's licence does not meet the Authority's requirements
- 3.48 To licence any charitable collections unless it is an application for a waiver of the Authority's street collection regulations (other than in respect of processions)
- 3.49 To renew, transfer or vary licences for sex establishments where
- there has been no material change to the character of the relevant locality or to the use to which any premises in the vicinity are put or to the layout, character or condition of the premises in respect of which the application is made; and
 - no objections have been received, or those that have been received have been withdrawn.
- 3.50 To issue street trading consents where no representations have been received or those that have been received have been withdrawn
- 3.51 To licence performances of hypnotism
- 3.52 To exercise licensing functions under the Licensing Act 2003 and the Gambling Act 2005 except:
- The determination of the 3 year statement of principles under the 2005 Act and the 5 year statement of licensing policy under the 2003 Act
 - A decision not to licence casinos under the 2005 Act
 - Where relevant representations have been received and are not withdrawn (with the exception of applications for minor variations under Sections 41A-C or 86A-C of the 2003 Act
 - The determination of review applications under Section 52 and 53C of the 2003 Act or Section 201 of the 2005 Act and determination of interim steps pending summary review under Sections 53A(2) and 53B of the 2003 Act

- The decision to object when the authority is a consultee under the 2003 or 2005 Act
- Consideration of representations in relation to the proposed rejection of a club gaming permit or club machine permit under Schedule 12 of the 2005 Act
- The decision to give a counter notice to a temporary use notice under Section 224 of the 2005 Act
- The decision to make an order disapplying section 279 or 282(1) of the 2005 Act where representations have been made by the licensee
- The decision to revoke a personal licence where convictions come to light after grant or renewal under section 124 of the 2003 Act
- The decision to set fees under the 2005 or the 2003 Act

Note: The power to institute criminal proceedings under the 2003 or 2005 Acts lies with the Head of legal Services and Monitoring Officer

- 3.53 To undertake or appoint to the role of the Authority's Chief Inspector of Weights and Measures under Section 72 of the Weights and Measures Act 1985.
- 3.54 To appoint and authorise Officers of the Authority (employees or other persons as permitted by law) to act as duly authorised persons, Proper Officers, inspectors, or similar (howsoever statutorily described) to discharge the statutory functions devolving upon the Authority under the legislation listed in the Appendix to this Section including but not limited to the functions of enforcement, inspection, or any associated action or granting, amending, varying, refusing, revoking, suspending or transferring any licences, approvals or consents .
- 3.55 To amend the functions listed in the Appendix to this section (and any associated Officer authorisations) in accordance with legislation from time to time in force in respect of functions which the authority is obliged by legislation to discharge (mandatory functions)

Environmental Protection and Enforcement

- 3.56 To discharge the operational day to day functions of the Authority in respect of the maintenance and improvement of highways and street management including but not limited to the following in this Highways and Transport section
- 3.57 To grant consents and impose requirements in connection with works in highways or adjacent premises.
- 3.58 To determine applications for the placing of plant, structures, trees and equipment in, over or under highways or highway land, except that

applications from Town and Parish Councils, which are officers are minded to refuse, must be determined by the Portfolio Holder.

- 3.59 To construct carriageway crossings over footways and verges, erect fences, boundary posts, cattle grids and carry out works for the drainage of highways.
- 3.60 To exercise the Authority's responsibilities under the New Road and Street Works Act 1991 and, where appropriate, waive charges
- 3.61 Authorise urgent repair of private streets under Section 230 of the Highways Act 1980, pass exemption resolutions and give exemption notices on behalf of the Street Works Authority under Section 219 of the Highways Act 1980.
- 3.62 Authorise minor improvements to roads including grass verges, street furniture etc not exceeding £30,000 for which provision has been made in the budget and capital programme.
- 3.63 Set charges for work and maintenance carried out by the Authority for which the costs are to be met by third parties.
- 3.64 Authorise the installation of sound insulation.
- 3.65 Appoint safety supervisors.
- 3.66 Make observations on planning applications consultations.
- 3.67 Take traffic censuses.
- 3.68 On the advice of the Assets Manager or District Valuer, to settle claims for borehole damage up to £1,500.
- 3.69 In consultation with the Portfolio Holder and subject also to notification to Ward members, to authorise all steps: (a) relating to permanent traffic regulation orders (including in respect of public rights of way), experimental orders, parking (except imposing or varying of any charges for car parking), alley-gating, stopping up and diversion of highway; and school and controlled crossings; under the Road Traffic Regulation Act 1984 and Highways Act 1980
- 3.70 To authorise all steps relating to temporary road traffic regulation orders under the Road Traffic Regulation Act 1984 and all orders under section 21 of the Town Police Clauses Act 1847.
- 3.71 Determine the manner in which the requirements of Schedule 14 to the Highways Act 1980 shall be carried out.
- 3.72 Take emergency measures to protect persons and property from escapes of water from reservoirs.

- 3.73 Grant licences under Sections 142, 176, 177 and 181 of the Highways Act 1980.
- 3.74 To exercise powers and duties under Part VIIA of the Highways Act 1980
- 3.75 To exercise powers and duties under the Traffic Management Act 2004
- 3.76 To accept land for road improvements by dedication subject to the total consideration not exceeding £30,000.
- 3.77 To enter into agreements for the construction and adoption of estate roads.
- 3.78 To manage the Highways Services Contract
- 3.79 To take all decisions and actions in respect of nameplates and of street naming/renaming and numbering/renumbering provided it is within policy
- 3.80 To take action to make safe or remove dangerous trees overhanging or adjoining the highway or to ensure such trees are made safe or removed and to reclaim the costs
- 3.81 To manage the strategic needs of the highways network in consultation with the appropriate Portfolio Holder, with regard to securing sustainable growth and regional connectivity
- 3.82 To manage the following functions:-
- Tendering, applications to Traffic Commissioners and other relevant functions under the Transport Act 1985.
 - Negotiations in respect of terms with service operators in respect of concessionary fare/travel and dial-a-ride schemes, however agreement of terms shall be in consultation with Portfolio Holder
 - organisation of (special and non-special) school transport services, including the issue of scholars' passes, and Social Services transport services, in consultation with the relevant Portfolio Holder, in accordance with the Council's policy on school transport.
 - issuing of minibus permits under the Public Passenger Vehicles Act 1981.
 - administration of Car Contract Hire Schemes.
 - Management of the client side of vehicle maintenance contracts under the Local Government Act 1988.
 - Organisation of School Crossing Patrols, except that a decision to create or remove a School Crossing Patrol lies with the Portfolio Holder

- holding of Operators Licence(s) on behalf of the Authority and all associated functions and responsibilities.
- 3.83 To exercise all powers in relation to public rights of way (includes footpaths, Bridleways, Restricted Byways and Byways Open to all Traffic and any other such ways) and to discharge the functions under the statutory provisions listed in the Appendix in relation to public rights of way PROVIDED THAT the following delegations shall be subject to consultation with the Portfolio Holder and with ward members:
- Granting permission for provision of services, amenities, recreation and refreshment facilities on public paths (Section 115A – 115K of the Highways Act 1980 and
 - Authorising the use of footpaths and bridleways for motor vehicles and cycle tracks under Section 33 of the Road Traffic Regulation Act 1988
- 3.84 To make temporary diversion orders for footpaths
- 3.85 To serve notices to require the removal of obstructions from public rights of way, the restoration of public rights of way following ploughing, cropping or other disturbances and the maintenance of stiles, gates or other structures across public rights of way.
- 3.86 To grant permission to extend the period of restoration following disturbance of the surface of a right of way and to grant orders that the surface of a right of way may be disturbed by excavation or operations.
- 3.87 To authorise the erection of stiles and gates across any public right of way.
- 3.88 Under the Countryside and Rights of Way Act 2000:
- To appoint wardens under section 18
 - To erect notices under section 19
 - To enter into agreements with landowners to carry out works and to carry out works in default under sections 35 and 36
 - To give notice to an owner of land requiring access under section 37
- 3.89 To manage the Council's vehicle fleet and to maintain, acquire and dispose of vehicles

Car Parking services

- 3.90 To maintain and manage the Council's car parks and in consultation with the Portfolio Holder to take all steps to advertise and make, vary or revoke traffic regulation orders in respect of car parks under the Road Traffic Regulation Act 1984, except imposing or varying any charges for car parking

Streets and Open Spaces

- 3.91 To be responsible for all matters relating to the management of Greenspaces (Parks) in accordance with all service standards and policies approved by the Council or Cabinet

Waste management

- 3.92 To discharge the functions of the authority relating to waste, waste collection and waste disposal and to generally manage the refuse collection, disposal and recycling system of the authority including but not limited to:-
- Taking any action including enforcement action under the Refuse Collection (Amenity) Act 1978; the Removal and Disposal of Vehicle Regulations 1986; the Environmental Protection Act 1990 and the Controlled Waste (England and Wales) Regulations 2012
 - Functions relating to the provision of litter/dustbins and wheeled bins including functions relating to the recovery of charges, expenses and fines

Resilient Local Communities

- 3.93 To exercise functions in relation to the general management and operation of the Authority's burial grounds, cemeteries and crematoriums including but not limited to:-
- The grant of exclusive rights of burial under Section 2 of the Parish Councils and Burial Authorities (Miscellaneous Provisions) Act 1970.
 - Determine licence conditions and operating licensing arrangements of memorial stonemasons.
- 3.94 To be responsible for the libraries services including
- Temporary changes to the opening and closing times of the library and information points except that permanent changes shall be the decision of the relevant Portfolio Holder;
 - Temporary establishment and variation of mobile library schedules except that permanent changes shall be the decision of the relevant Portfolio Holder;
 - reviewing delivery models and implementing solutions relevant to individual communities except that permanent changes shall be the decision of the relevant Portfolio Holder
 - to promote cultural activities in libraries and other locations
 - To promote customer care and equality of access
- 3.95 To receive and determine applications for Housing Benefit including rent restrictions, rebates, allowances, backdating requests and overpayment

recovery and otherwise exercising all powers and responsibilities of the Authority under legislation relating to Housing Benefit

Housing

- 3.96 To administer all housing strategies and policies.
- 3.97 To advise on housing and energy conservation matters, including administering a Housing Advice Service
- 3.98 To maintain the Housing Waiting List and to make nominations to Registered Providers of Social Housing in accordance with the Authority's Allocations Policy
- 3.99 To work with other housing providers to meet the housing needs of the Borough
- 3.100 To deal with all matters in respect of the Borough's Registered Providers of social housing
- 3.101 To undertake all functions under the Housing Act 2004 in respect of assessing and reviewing housing conditions and enforcing housing standards including inspection and the power to enter premises and carry out works
- 3.102 To serve notices pursuant to the following legislation:
 - Environmental Protection Act 1990
 - Housing Act 1985
 - Local Government (Miscellaneous Provisions) Act 1982
 - Prevention of Damage by Pests Act 1949
 - Public Health Acts 1936 and 1961
 - Protection from Eviction Act 1977

4.0 DIRECTOR OF CHILDREN'S SERVICES

- 4.1 The Director of Children's Services has overall responsibility for the operational management of the Children's Services Directorate and for bringing forward such strategic plans and policies, and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to provide the services for which this directorate is responsible. It comprises the following main functions:-

1. Children's Services

- Education Services, including improvements and standards, school funding, school admissions and school transport
- Provision for children outside mainstream education
- Children's Social Care
- Engagement of young people
- Children's Health Services

- Inter-Agency Co-operation
- Corporate parent for looked after children
- Services for children with disabilities and special educational needs

2. Early intervention and prevention

- Assessment and Care management of Vulnerable children
- Child Protection
- Children in Need
- Adoption and Fostering
- Looked after Children
- Residential Children's Homes
- Care Planning and Review
- Out of hours response (Children and Adults)
- "Front Door" Access to Social Care (Children and Adults)
- Sexual Exploitation
- Children missing from home
- Education Welfare
- Children's Centres and Child Development Centres
- Early Years Provision and Childcare
- Health Prevention
- Targeted Youth Work
- Information advice and Signposting
- Early help Strategy
- Family Support
- Childcare and early education provision
- Drug and alcohol misuse – prevention services

4.2 Within the following areas, the Director of Children's Services is empowered to operate the services of the directorate and, except where powers, duties and functions are delegated elsewhere by the Council, to exercise all powers, duties and functions, including, but not limited to the following in this section:

4.3 To provide a professional focus and lead for children's and family services ensuring that the needs of children, young people and families are met in the locality:

- To be professionally accountable for the effectiveness, availability and value for money of all local authority children's services;
- To perform a leadership role to secure any necessary changes to culture and practice, so that services are organised around children and young people's needs; and
- To build and lead effective partnerships with and between those local bodies who also provide children's services, in order to focus resources jointly on improving outcomes for children and young people.

4.4 To discharge Children's Services functions in the following areas:

- Education services: the Authority's functions in its capacity as a local authority under the Education Acts, except those certain functions relating to further education, higher education and adult education.
 - Children's social care: the authority's social services functions within the meaning of the Local Authorities Social Services Act 1970 insofar as they relate to children and young persons, and the local authority's functions for children and young people leaving care.
 - Safeguarding: The Safeguarding and welfare of children
 - Health services: any health related functions exercised on behalf of an NHS body, insofar as they relate to children.
 - Inter-agency co-operation. The functions conferred on the authority under the Children Act 2004, in particular building and leading the arrangements for inter-agency co-operation and safeguarding.
 - Early Childhood Services. Ensuring the wellbeing of young children in the Authority's area under the Childcare Act 2006
 - Early intervention and prevention: Ensuring service intervenes early to prevent children and young people becoming vulnerable
- 4.5 To be responsible for all other functions conferred on Children Services Authorities under the Children Act 2004 and by any subsequent legislation or Regulations.
- 4.6 To observe all policy decisions taken by the Council and its relevant bodies and to exercise all functions of a "Director of Children's Services" specified in relevant legislation and Government Guidance, (such power, alternatively, to apply to any duly nominated officer in respect of Children's Services).
- 4.7 Licensing the Employment of Children
- 4.8 Bring forward to the Portfolio Holder/ Cabinet as appropriate strategic plans and policies as follows:
- to develop partnership and commissioning arrangements to ensure the provision of children's services.
 - To implement all necessary decisions, including the allocation of resources within approved estimates, so as to maintain the operation and effectiveness of the early years and related services
 - To implement all necessary decisions, including the allocation of resources within approved estimates, so as to maintain the operation, effectiveness and quality of post early years children's education and related services

- In relation to persons under 25 years of age, to bring forward proposals and implement all necessary decisions including the allocation of resources within approved estimates, so as to maintain the operation and effectiveness of children services
- To institute and defend proceedings in relation to the care of children, the exercise of parental responsibility, provision of secure accommodation and wardship proceedings and to intervene, where appropriate, in matrimonial, guardianship and special guardianship proceedings or any other proceedings pursuant to its functions relating to children and young persons, and to undertake the functions of the Authority as an adoption and fostering agency.
- To ensure the provision and quality of statutory youth and related Services, and the development of associated strategic plans and partnership arrangements for those services.

5.0 DIRECTOR OF ADULT SOCIAL CARE AND INDEPENDENT LIVING

5.1 The Director of Adult Social Care and Independent Living has overall responsibility for the operational management of the Adult Services Directorate and for bringing forward such strategic plans and policies, and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to provide the services for which this directorate is responsible. It comprises the following main functions:-

1. Adult Social care and Independent Living

- Provision of Adult Social Care
- SEN Assessment, Educational Psychology, Sensory Support, Autism
- People with Disabilities
- Housing Options and Homelessness
- Private Sector Landlords
- Supported Housing Strategy
- Medical Needs Team
- Respite Provision
- Reablement
- Intermediate Care
- Adult Day Care Provision
- Community Support Networks
- Supported Living Networks
- Supported Employment and occupational opportunities
- Virtual School
- Telecare/Assistive Technology
- Occupational Therapy
- Community Equipment
- Home Improvement Agency
- Leaving Care
- Assessment and Care Management Services (including Adult Safeguarding)
- Hospital Discharge

- Equipment Aids and Adaptations (including DFG allocation)
- Carers support
- Domestic Violence
- Community and Adult mental health

- 5.2 Within the following areas, the Director of Adult Social Care and Independent Living is empowered to operate the services of the directorate and, except where powers, duties and functions are delegated elsewhere by the Council, to exercise all powers, duties and functions, including, but not limited to the following in this section:
- 5.3 To provide a professional focus and lead for adult and social care services, ensuring that the social care needs of the local community are met. The Director has seven key roles in this regard:
- Professional leadership, including workforce planning;
 - Safeguarding and welfare of vulnerable adults
 - Leading the implementation of standards;
 - Managing cultural change
 - Promoting local access and ownership and driving partnership working;
 - Delivering an integrated whole systems approach to supporting communities; and
 - Promoting social inclusion and wellbeing.
- 5.4 To exercise the powers and duties of the Authority under the enactments listed in Schedule 1 of the Local Authority Social Services Act 1970 (excluding Children and Young Persons).
- 5.5 To apply for orders of receivership under the legislation relating to mental health and for grants of representation in respect of the estates in cases of intestacy arising under the appropriate provisions of the National Assistance Act 1948, non-recoverable expenses to be defrayed by the Authority.
- 5.6 To authorise the removal of parts of the body of a deceased resident in accordance with the wish expressed by the resident during his/her lifetime.
- 5.7 On terms approved by the Chief operating Officer and the head of legal Services and Monitoring Officer, to authorise adaptations to property and the provision of assistance and aids in accordance with the Chronically Sick and Disabled Persons' Act 1970
- 5.8 Act as trustee or appointee for the assets of service users for whom the Authority has a statutory responsibility.

- 5.9 Exercise powers to purchase domiciliary, residential and nursing home services vested in the Authority under the National Assistance Act 1948 as amended by subsequent legislation.
- 5.10 To exercise the powers and duties of the Social Services Authority under the legislative provisions relating to mental health, including those relating to Guardianship and the institution of Court proceedings.
- 5.11 To award and pay adaptation grants and loans pursuant to the Housing Grants Construction and Regeneration Act 1996 and within the Council's policies
- 5.12 To administer the Authority's responsibilities for the homeless including the commissioning of hostels and accommodation.

6.0 CHIEF OPERATING OFFICER

- 6.1 The Chief Operating Officer is the Council's "Section 151 Officer", appointed by Council and is the financial adviser to the Council, the Cabinet and Officers. The post has overall responsibility for operational management of the Commissioning Support functions and for bringing forward such strategic plans and policies, and implementing all necessary decisions including the allocation of resources within approved estimates, as are necessary to provide the services for which the directorate is responsible. It comprises the following main functions:-

1. Role of "Section 151 Officer"

2. Commercial Strategy, Business Innovation and Performance

- Corporate Policy and Business Strategy
- Business Support Services
- Business intelligence and performance
- Business Improvement and Innovation
- Commercial Strategy
- Internal Audit
- Risk management
- Complaints
- Strategic Partnerships
- Communication and Marketing
- ICT infrastructure
- Procurement

3. Finance

- Pensions
- Insurances
- Accountancy

4. Organisational Development

- Staff training and Development

- Workforce Planning
- Organisational Change and Support
- Internal Communications
- Talent Management and Succession Planning
- Staff Engagement
- HR Strategy/Policy
- Industrial Relations
- Occupational health
- Member Training and Development
- Organisational Culture

5. Democratic Decision making and Governance

- New Local Governance Arrangements
- Member Training and Development
- Registration Services
- Election Services
- Community Governance and Boundary Reviews
- Committee Servicing
- Member attendance on External Bodies
- Mayoral Support and Civic Functions
- Executive Office Support
- Support to the Lord Lieutenant
- Support for Sub-Regional Committees/Boards
- Administrative Support for School exclusion and other appeals
- Cross party Liaison support

ROLE OF SECTION 151 OFFICER

6.2 The Chief Operating Officer is:-

- The financial adviser to the Council, the Cabinet and Officers
- The Authority's 'responsible financial Officer' under the Accounts and Audit Regulations
- Responsible for the proper administration of the Authority's affairs as specified in, and undertake the duties required by, Section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Local Government and Housing Act 1989, the Local Government Act 2003, and all other relevant legislation.

6.3 The Chief Operating Officer shall act as the Authority's Proper Officer or appointed officer in respect of the following functions:

- Opening accounts to inspection under Section 228(3) of the Local Government Act 1972
- Officer responsible as regard reports under Section 114 of the Local Government Finance Act 1988

- Receipt of money due from officers (Section 115(2) of the Local Government Act 1972
- Declarations and Certificates with regard to securities under Section 146 of the Local Government Act 1972
- The Authority's Money Laundering Reporting Officer (Section A21 and 22 of the Finance Procedure Rules

Commercial Strategy Business Innovation and Performance

- 6.4 To be responsible for benchmarking and monitoring the performance of the Council, for promoting the performance management framework and reporting performance issues to relevant committees and cabinet/council
- 6.5 To undertake the communications, marketing and media functions of the authority and promote good public relations
- 6.6 To promote effective working through business improvement initiatives as relevant including recommendations on targets, service standards, performance indicators and consultation
- 6.7 To be responsible for the authority's risk management approach
- 6.8 To be responsible for the research and consultation function including the census and corporate public feedback mechanisms
- 6.9 To be responsible for the corporate customer services function and promote a culture of customer service and equality in service delivery, access and design.
- 6.10 To develop corporate policy for Council/Cabinet approval and to ensure implementation
- 6.11 To develop and implement the authority's approach to local area working with partners to ensure co-ordinated delivery of services to the community
- 6.13 To act as lead officer on behalf of the authority in relation to the Data Protection and Freedom of Information legislation, with an overall presumption of openness and transparency and that publication is the norm

Finance

The Chief Operating Officer, in accordance with the Finance Procedure Rules, will:-

- Carry out the functions and responsibilities which are detailed in the Finance Procedure Rules

- Secure effective treasury management, including taking all action necessary in relation to all debts, payment of accounts, loans (including guarantees and indemnities), grants, advances, investments, financing and banking generally
- Take all action necessary to ensure the safeguarding of assets by maintaining and administering appropriate insurance and approving requests to postpone legal charges
- To take all necessary action in respect of the Authority's role in relation to the administration and operation of the Cheshire Pension Fund.
- To make recommendations to the Council on Council Tax requirements, on the Council tax base and to administer and manage generally all matters relating to Council Tax, Non Domestic Rates, Community Charge and General Rates including the awarding of discounts, relief, and exemptions and the levying, collection, recovery, and disbursement of all sums due to the Authority in respect of the same in accordance with all governing Regulations.
- To negotiate, enter into arrangements and act generally on behalf of the Authority in respect of continuing financial matters arising from arrangements and obligations existing between the former Cheshire County and six District Councils.

Note: The Chief Operating Officer is not authorised to write off debt, which must be approved by the Portfolio Holder or Cabinet.

Procurement

- 6.14 Provided the limits are not exceeded in respect of European Tendering Rules, within the Contract Procedure Rules, to agree in consultation with Corporate Leadership Board, the Chief Executive and the Head of legal Services and Monitoring Officer, circumstances where normal procurement requirements and or requirements for quotations or tenders should be waived.

Organisational Development

- 6.15 Monitoring and reviewing the Authority's management and general sufficiency of staffing arrangements and reporting quarterly to the Staffing Committee on the effectiveness of the arrangements
- 6.16 To recommend to Council the development of policies on the full range of Human Resources and Organisational Development issues, after appropriate consultation with Members
- 6.17 To take responsibility for the health and safety of the Authority's employees

- 6.18 To submit Codes of Conduct in support of Human Resources, to the Constitution Committee for approval
- 6.19 To undertake the effective implementation and maintenance of Equal Opportunities in Employment Policy
- 6.20 To submit the Management Structure of each Directorate below Head of Service level and for all posts at Grade 10 and above, for approval by the Staffing Committee, and to produce departmental establishments and to monitor staff information reports against those establishments, reporting quarterly to the Staffing Committee.
- 6.21 To monitor developments relating to the Local Government Pensions Scheme and the Authority's Early Retirement Scheme (except where they are applied to individual employees), to implement mandatory changes and recommend policy changes as appropriate
- 6.22 In consultation with the Portfolio Holder and CLB, to determine annually the recruitment requirements for trainee positions at a level that can be met within budgetary provisions
- 6.23 To approve Job Descriptions/Person Specifications for all employees other than members of Corporate Leadership Board (CLB job descriptions and Person Specifications shall be approved by the Staffing Committee)
- 6.24 In consultation with the Chief Operating Officer, to apply the approved early retirement/redundancy scheme in certain circumstances EXCEPT that (a) decisions relating to redundancy must not be delegated by the Head of HR and OD under a local scheme of delegation and (b) decisions relating to redundancy of a post at Grade 15 and above shall be with the agreement of the relevant Portfolio Holder.
- 6.25 To determine honoraria in accordance with the NJC Scheme, reporting to Staffing Committee at the next available meeting
- 6.26 To determine the placement of staff to facilitate joint working with other organisations under sections 13(4) and (5) of the Local Government Act 2000 and to second staff from other organisations under Sections 111 and 113 of the Local Government Act 1972, and in particular, but not limited to, to second (and accept secondments of) staff to and from health bodies
- 6.27 To appoint and dismiss staff and take disciplinary or capability action against any member of staff, in accordance with the law and the Council's Policies and Procedures, including the Staff Employment Procedure Rules except:
 - The above authorisation shall not apply in respect of the Head of paid Service and Statutory Chief Officers and
 - The appointment of all CLB Members shall be the responsibility of Staffing Committee (this latter exception does not apply to dismissal, disciplinary or capability)

Democratic Services

6.28 Perform all other functions of the Authority as set out in the Schedule to the Local Government (Committees and Political Groups) Regulations 1990

6.29 The Democratic and Registration Services Manager is authorised to:

- Exercise all functions under the Registration Service Act 1953 and to act as the Authority's Proper Officer in respect of the Registration of Births, Marriages and Deaths
- Determine applications for the approval of premises under the Marriage Act 1994
- Act as the Designated Scrutiny Officer under the Local Democracy Economic Development and Construction Act 2009

7.0 HEAD OF LEGAL SERVICES AND MONITORING OFFICER

7.1 The Head of Legal Services and Monitoring Officer is the Authority's Monitoring Officer, appointed by Council, and has overall responsibility for the operational management of the Legal Services Division and for bringing forward such strategic plans and policies, and implementing all necessary decisions including the allocation of resources within approved estimates, as are necessary to provide the services for which the directorate is responsible. It comprises the following main functions:-

1. Monitoring Officer Role**2. Legal Services**

- Legal Services – Places
- Legal Services – Corporate
- Legal Services – Children and Adult Services

3. Democratic Services

- Registrar of Births Deaths and Marriages
- Electoral Services
- Democratic Services

MONITORING OFFICER ROLE

7.2 The Head of Legal Services and Monitoring Officer is the Authority's Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989 and is responsible for reporting on any proposal, decision or omission of the Council and its committees, the Executive, or an officer which appears to have given rise or be likely to give rise to a contravention of any enactment or rule of law, maladministration or failure in service and providing advice in respect of the Council's Code of Conduct for Members and the process of dealing with complaints under the Code of Conduct for Members.

- 7.3 The Monitoring Officer will provide advice to ensure that decisions are taken on proper authority, by due process, and in accordance with the budget and policy framework.
- 7.4 The Monitoring Officer shall, where necessary, and in consultation with the Head of Paid Service and the Chief Operating Officer, report any proposal, decision or omission considered to be unlawful or to amount to maladministration to the Council or the Executive, as appropriate in accordance with Section 5 of the Local Government and Housing Act 1989. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 7.5 The Head of Legal and Democratic Services and Monitoring Officer will act as the Authority's Proper Officer under the following provisions of the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000:
- Convening Council meeting to fill casual vacancy in office of chairman (Section 88(2))
 - Receipt of notice of interests in contracts or proposed contracts (Section 96(1))
 - Recording of disclosures of interests made under Section 94 and of notices under Section 96(1)
 - Supply of documents to the press (Section 100B(7)(c)); written summary of exempt proceedings (Section 100C(2); compilation of list of and inspection of background papers (Section 100D(1)(a); and exclusion of document containing exempt information (Section 100F(2))
 - Appearance of Council in legal proceedings (Section 223 (1))
 - Deposit of documents (Section 225)
 - Certification of photographic copies of documents (Section 229)
 - Authentication of documents (Section 234(1) and (2))
 - Certification of Byelaws (Section 238)
 - Signature of summons to council meetings and receipt of notices to which summons to meeting is to be sent (Schedule 12 para 4)
 - Certification of resolutions (Schedule 14 para 25(7))
 - Receipt of Notices relating to political groups (Section 15 – 17 of the Local Government and Housing Act 1989)

Receipt of notice of disclosable pecuniary interests under the Localism Act 2011

Legal Services

7.6 The Head of Legal Services and Monitoring Officer is authorised to settle actual or potential uninsured claims or Local Government Ombudsman cases across all functions of the Council as follows:-

- authorise settlement of up to £5,000 (which after settlement shall be reported to Cabinet)
- Authorise settlement above £5,000 and below £50,000 in consultation with the Portfolio Holder and the Chief Operating Officer, (which after settlement shall be reported to Cabinet)
- Claims in excess of £50,000 require Cabinet approval

7.7 The Head of Legal Services and Monitoring Officer shall be authorised to:-

- Conduct and appear on behalf of the Authority in any legal proceedings authorised by or on behalf of the Authority before any court or tribunal and similarly defending the Authority where any proceedings are instituted against it and to take all other action (within such proceedings or otherwise) considered by him or her to be necessary to protect and/or further the Authority's interests.
- Institute legal proceedings for any offences under any local Byelaws or Orders in force within the Borough area
- Lodge objections to any proposal affecting Borough interests.
- Determine applications for the display of the crest or logo of the Authority.
- Take all action including the completion of agreements, the service of notices, giving of directions, obtaining or issuing orders, authorising the execution of powers of entry, and the institution and defence of legal proceedings necessary or desirable to protect and advance the interests of or discharge the roles, functions and responsibilities of the Authority.
- To make discretionary payments under Land Compensation Act 1973 on the recommendation of the District Valuer

- In accordance with the Council's approved policy to monitor the integrity of the operation of the Regulation of Investigatory Powers Act 2000as follows:
 - Ensuring compliance with all relevant legislation and with the Codes of Practice.
 - Engagement with the Inspectors from the Office of the Surveillance Commissioner when they conduct their inspections, and, where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.
 - Monitoring authorisations and conducting a quarterly review of applications, authorisations and refusals, and reviewing renewals and cancellations.
- Make Orders for the Temporary Closure of Highways and Regulation of Traffic
- To exercise the Authority's duties in respect of the provision of a Coroners Service

7.8 The Head of Legal Services and Monitoring Officer is empowered to authorise appropriately qualified employees or persons acting on behalf of the council:

- To appear in, and conduct legal proceedings in, any Court or Tribunal on behalf of the Authority;
- To prove debts owed to the Authority in bankruptcy and liquidation proceedings.

7.9 The Head of Legal Services and Monitoring Officer is authorised to:

- Make minor and consequential amendments to the Constitution on account of drafting anomalies and authorised revisions, correcting any errors or omissions or otherwise giving effect to the intentions of the Council, subject to the agreement of the Chairman of the Constitution Committee and to the submission of the agreed amendments to the Committee for final confirmation.
- Receipt of notice of casual vacancy of Councillor (Section 80 (1) (b)) of the Local Government Act.

Designated Officer/Proper Officer

7.10 The Head of Legal Services and Monitoring Officer has been appointed as the Designated Officer as follows:

- The Electoral Registration Officer for the registration of electors under Section 8 of the Representation of the People Act 1983

- The Returning Officer for the election of Councillors for the District and Parishes within the District under Section 35 of the 1983 Act
- The Acting Returning Officer at UK Parliamentary elections; the Local Returning Officer at European Parliamentary Elections and for the Police and Crime Commissioner Elections

And will act as the Proper Officer for all related functions and relevant legislation

8.0 DIRECTOR OF PUBLIC HEALTH

The Director will have four key roles

- Health Improvement
- Health Protection
- Health Care, Commissioning and Service Planning
- Reduction of Health Inequalities

(The Scheme of Delegation for the Director of Public Health was approved by Council on 28th February 2013)

APPENDIX

In respect of public rights of way (paragraph 4.93)
Highways Act 1980 sections 31A; 115A to 115K; 118ZA; 118C; 119ZA;119C; 121B; 130; 130A; 130B; 135; 135B; 149; Schedule 12A
Wildlife and Countryside Act 1981 sections: 53B; 57A; 56
Road Traffic Regulation Act 1988: Section 33
In respect of regulatory functions (trading standards and environmental health) (paragraph 4.54)
Accommodation Agencies Act 1953
Administration of Justice Acts 1970 and 1985
Agriculture Acts 1947 and 1970
Agriculture(Miscellaneous Provisions) Act 1968
Agriculture(Safety, Health and Welfare Provisions) Act 1956
Agriculture Produce Acts 1928 and 1931
Agriculture Produce (Grading and Marketing) Act 1928
Animal Boarding Establishments Acts 1963 and 1970
Animal Health Acts 1971/1981 and 2002
Animal Health and Welfare Act 1984
Animal Welfare Act 2006
Anti-Social Behaviour Act 2003
Breeding of Dogs Act 1973/91
Breeding and Sale of Dogs (Welfare) Act 1999
Building Act 1984
Burials Act 1857
Cancer Act 1939
Caravan Sites Act 1968
Caravan Sites and Control of Development Act 1960
Cheques Act 1992
Children and Young Persons Act 1933
Children and Young Persons (Protection from Tobacco) Act 1991
Clean Air Act 1993
Clean Neighbourhoods and Environment Act 2005
Companies Act 1985
Companies (Consolidation (Consequential Provisions) Act 1985
Consumer Credit Act 1974
Consumer Protection Act 1974
Contracts (Rights of Third Parties) Act 1999
Control of Pollution (Amendment) Act 1989
Control of Pollution Act 1974
Copyright Designs and Patents Act 1988
County Courts Act 1984
Courts and Legal Services Act 1990
Crime and Disorder Act 1998
Criminal Attempts Act 1981
Criminal Damage Act 1971Criminal Justice Acts 1982/1988/1991/1993

Criminal Justice and Police act 2001
Criminal justice and Public order Act 1994
Criminal law Act 1977
Dangerous Dogs Act 1991
Dangerous Wild Animals Act 1976
Defective Premises Act 1972
Development of Tourism Act 1969
Dogs Act 1906
Dogs (Amendment) Act 1928
Dogs (Fouling of Land) Act 1996
Dogs (Protection of Livestock) Act 1953
Education Reform Act 1988
Energy Act 1976
Energy Conservation Act 1981
Enterprise Act 2002
Estate Agents Act 1979
Environment Act 1995
Environment and Safety Information Act 1988
Environmental Damage (Prevention and Remediation) Regulations 2009
Environmental Protection Act 1990
European Communities Act 1972
Explosives Act 1875
Factories Act 1961
Fair Trading Act 1973
Farm and Garden Chemicals Act 1967
Farriers (Registration) Act 1975
Fire Safety and Safety of Places of Sport Act 1987
Fireworks Act 2003
Food Act 1984
Food and Environment Protection Act 1985
Food Safety Act 1990
Forgery and Counterfeiting Act 1981
Fraud Act 2006
Guard Dogs Act 1975
Home Safety Act 1961
Hallmarking Act 1973
Health and Safety at Work Act 1974
Housing Act 2004
Indictable offences Act 1848
Intoxicating Substances (Supply) Act 1985
Land Drainage Act 1991
Law of Property (Miscellaneous Provisions) Act 1989
Legislative and Regulatory Reform Act 2006
Licensing Act 2003
Litter Act 1983
Local Government (Miscellaneous Provisions) Act 1976 and 1982
Local Government Acts 1972 and 1987
Local Government and Housing Act 1989

Malicious Communications Act 1988
Medicines Act 1968
Misrepresentation Act 1967
Motor Cycle Noises Act 1987
Motor Vehicles (Safety Equipment for Children) Act 1991
National Assistance Act 1948
National Lottery Act 1993
Noise Act 1996
Noise and Statutory Nuisance Act 1993
Offices, Shops and Railway Premises Act 1963
Olympic Symbol etc (Protection) Act 1995
Opticians Act 1989
Offensive Weapons Act 1996
Patents Designs and Marks Act 1986
Performing Animal (Regulation) Act 1925
Pesticides (Fees and Enforcement) Act 1989
Pesticides Act 1998
Pet Animals (Amendment) Act 1983
Pet Animals Act 1951
Petroleum (Consolidation) Act 1928
Petroleum (Transfer of Licences) Act 1936
Poisons Act 1972
Pollution Prevention and Control Act 1999
Prevention of Damage by Pests Act 1949
Prices Act 1974 and 1975
Private Security Industry Act 2001
Private Water Supply Regulations 1991
Proceeds of Crime Act 1995
Property Misdescriptions Act 1991
Prosecution of Offences Act 1985
Protection of Animals Act 1911
Protection Against Cruel Tethering Act 1988
Protection from Harassment Act 1997
Protection of Children (Tobacco) Act 1986
Public Health (Control of Diseases) Act 1984
Public Health (Infectious Disease) Regulations 1988
Public Health Acts 1936 and 1961
Refuse Disposal (Amenity) Act 1978
Registration Service Act 1953
Registered Designs Act 1949
Regulation of Investigatory Powers Act 2000
Rent Act 1965 and 1977
Riding Establishments Act 1964 and 1970
Rivers Prevention of Pollution Act 1961
Road Traffic Acts 1974/1988
Road Traffic (Foreign Vehicles) Act 1972
Road Traffic regulation Act 1984
Road traffic offenders Act 1988

Safety of Sports Grounds Act 1975
Sale and Supply of Goods Act 1994
Sale of Goods (Amendment) Act 1994/1995
Sale of Goods Act 1979
Solicitors Act 1974
Sunday Trading Act 1994
Supply of Goods and Services Act 1982
Tattooing and Minors Act 1969
Telecommunications Act 1984
Theft Acts 1969 and 1978
Timeshare Act 1992
Tobacco Advertising and Promotions Act 2002
Torts (Interference with Goods) Act 1977
Town Police Clauses Act 1847 and 89
Trade Descriptions Act 1968
Trade Marks Act 1994
Trade Representations Act 1972
Traffic Management Act 2004
Unfair Contract Terms Act 1977
Unsolicited Goods and Services Act 1971
Unsolicited Goods and Services (Amendment) Act 1975
Vagrancy Act 1824
Veterinary Surgeons Act 1966
Vehicles (Crime) Act 2001
Video Recordings Act 1984
Water Act 1989
Water Industry Act 1991
Water Supply (Water Quality) Regulations 2000
Water Resources Act 1963
Weeds Act 1959
Weights and Measures Act 1976 and 1985
Wildlife and Countryside Act 1981
Zoo Licensing Act 1981

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Appendix 2

KEY CHANGES TO THE SCHEME OF DELEGATIONS TO OFFICERS (FORMERLY POWERS AND RESPONSIBILITIES OF OFFICERS)

Overview

1. Delegations have been given to the highest level – CLB level or other appropriate senior officer.
2. Largely the powers remain the same or have been changed to enable more Member involvement.
3. Duplication and inconsistencies have been deleted
4. Ensures consistencies with the Finance and Contract Procedure Rules.
5. Simpler wording and a shorter document.
6. Ensure it is more up to date and give it some future proofing.

Changes giving more involvement for Members

7. The setting of fees and charges have been removed from officer delegation.
8. Opening and closing libraries and sports centres on a permanent basis has been removed from officer delegation. (3.94 and 3.37)
9. All CLB Members, not just Statutory Chief officers shall be appointed through the Staffing Committee (including approving job descriptions and person specifications for CLB. (1.17)
10. All grants (of any financial level) to voluntary and community organisations above to be decided by Portfolio Holder (up to £50,000) and by Cabinet (over £50,000). (1.15)
11. The Leader and Portfolio Holders may direct CLB members to undertake pieces of work in relation to new policy development. (1.7)
12. Freedom of Information requests shall only be refused with the permission of the Portfolio Holder. (1.22)
13. Financial settlement of Ombudsman cases are currently delegated to the Head of Legal Services and Monitoring Officer up to £50,000. It is proposed that this delegation to the Head of legal Services and Monitoring Officer be up to £20,000, whilst between £20,000 and £50,000 be in consultation with the Portfolio Holder. (7.6)
14. Assets section has been completely rewritten, since there were significant inconsistencies. The proposal is that essentially all maintenance of property

(granting licences, short term leases, easements etc is for officer decision. Acquisitions and disposals below £200K are officer decision provided they are in compliance with the Corporate Asset Management Plan. Acquisitions and disposals of land and property between £200K and £500K is for Portfolio Holder decision and over £500K is for Cabinet. (3.10 – 3.23)

15. Officers cannot refuse an application from a Town or Parish Council to place plant, structure, trees and equipment in, on or over a highway – Refusal can only be determined by the Portfolio Holder. (3.68)
16. The ability for a Portfolio holder to make minor changes to the implementation of a Cabinet Decision when there is a change of circumstances or something arises which is new. This minimises delay when officers come across something unexpected when implementing a Cabinet decision. (1.13 and 1.14)
17. CLB Members can make application for planning permission, (they can do this currently). The proposal is that they must notify the appropriate Portfolio Holder and cannot build anything prior to obtaining planning permission. (1.25)
18. There are some provisions where it is intended that ward members are to be notified or consulted before a decision is made: e.g. where work to council land or property will affect the external appearance or involve a change of use; the grant of permission for refreshment facilities on public footpaths; authorising the use of footpaths for motor vehicles or as cycle tracks. (3.83)
19. An ability to refer matters up to an appropriate portfolio holder is added for all decisions (it is currently only in some sections).
20. Traffic Regulation Orders: in the current Scheme of Delegation there are conflicting provisions – one provision is in consultation with Portfolio Holder and another is not. This proposal is to continue with consultation. (3.69)
21. Imposing or varying car park charges shall be a Portfolio Holder decision. This was something previously agreed by Council, but not written in the Constitution. (3.90)
22. A decision to remove a school crossing patrol is to be the decision of the Portfolio Holder. (3.82)
23. Concessionary travel schemes: the agreement of terms shall be in consultation with the Portfolio Holder. (3.82)
24. The organisation of school transport shall be in consultation with the Portfolio Holder. (3.82)
25. The delegations to manage Tatton Park are proposed to be restricted to the “day to day” management and changes to admission charges and permanent

changes to the opening hours shall only be with Portfolio Holder approval.
(3.23)

Other substantive changes

26. The Chief Executive is given the ability to take all powers of directors and either exercise them himself/herself or delegate them elsewhere. (1.11)
27. There is a requirement that all officers, before making decisions are under a duty to satisfy themselves that they have the delegated power to do so and that they have undertaken appropriate consultation. Also appropriate advice must be taken where the matter involves professional or technical considerations that are not within the Officer's sphere of competence. (1.8)
28. Officers do not have the authority to sign a compromise agreement which contains a clause requiring the non-disclosure of information by the employee. (1.17)
29. One of the general limitations on decision making shall be that there are regular briefings between senior management and portfolio holders. (1.7)
30. A database of council land ownerships shall be published. (3.16)
31. Missing legislation (some new) has been incorporated:
 - a. Animal Health Functions (3.46)
 - b. new provisions prohibiting payment for scrap metal by cash (3.43)
 - c. removal of dangerous trees. (3.9)
32. Secondment of staff to and from other organisations. The current scheme allows secondment to other organisations. The proposal is to be able to accept secondments from other organisations e.g. this may be needed as part of partnership working with health bodies. It will be noted that all these decisions must be within budget. (6.26)
33. To produce departmental establishments for all posts Grade 10 and above and monitor them, reporting quarterly to Staffing Committee. (6.20)
34. To ensure Value For Money when undertaking responsibility for Financial Management. (1.15)
35. The operational management shall be "in accordance with service standards and policies approved by the Council or Cabinet" has been added. (1.20)

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COUNCIL MEETING – 17TH OCTOBER 2013**Extract from the Minutes of the Constitution Committee Meeting on 19th September 2013****11 SCHEME OF DELEGATION FOR THE IMPLEMENTATION OF THE SCRAP METAL DEALERS ACT 2013**

The Committee considered a proposed scheme of delegation for the Implementation of the Scrap Metal Dealers Act 2013 which would be coming into force on 1st October 2013.

The Act was designed to provide a more robust scheme for monitoring the scrap metal industry. A scheme of delegation needed to be put in place to allow for full implementation of the Act by the time the first applications under it were made to the Council.

Decisions on fees and charges and a policy needed to be made by the Licensing Committee, which was due to consider the matter at its meeting on 30th September.

RESOLVED

That

- (1) subject to the detail being worked up and approved by the Licensing Committee on 30th September, Council be recommended that:
 - (a) in so far as it is necessary as a matter of local choice, this function be specified as a non-executive function; and
 - (b) procedures and a scheme of delegation be set up to implement the Scrap Metal Dealers Act 2013 and to determine applications for licenses under the Act, taking account of the following principles:
 - policy is delegated to the Licensing Committee
 - the ability to set fees and charges is delegated to the Licensing Committee
 - a member decision making body (e.g. a licensing sub-committee) shall determine any applications where the applicant has indicated he/she is taking advantage of their opportunity for a hearing (i.e. after a notice has been given under Section 7 of the Act by the licensing authority stating it proposes to refuse the application, the applicant may ask for a hearing and the opportunity to make written or oral representations)
 - a member decision making body only may initiate a revocation of a licence.
 - a member decision making body only may impose conditions on a licence.
 - An officer should be empowered to make decisions in respect of approvals of licences and may refuse a licence in circumstances where the applicant has not expressed the wish to make

representations within the specified time after a notice has been served under Section 7 stating the licensing authority proposes to refuse the application.

- (2) Council be recommended to authorise the Interim Head of Legal Services and Monitoring Officer to make appropriate changes to the Constitution following the meeting of the Licensing Committee.

Extract from the Minutes of the Licensing Committee Meeting on 30th September 2013

19 IMPLEMENTATION OF THE SCRAP METAL DEALERS ACT 2013

The Committee considered a report regarding the provisions of the Scrap Metal Dealers Act 2013, which was designed to provide a more robust scheme for monitoring the scrap metal industry and would be coming into force on 1 October 2013.

The current overlapping regimes for the vehicle salvage and scrap metal industries would be incorporated in a single regulatory system that reflected the current scope of the scrap metal industry. Local authorities were being given the power to better regulate these industries by being able to refuse to grant a licence to 'unsuitable' applicants and to revoke licences if the dealer became 'unsuitable'.

RESOLVED: – That Council be recommended:

- (a) To approve the scheme of implementation and delegations, as set out in Appendix 2 to the report.
- (b) To approve the details of the Suitable Person Test to be employed by Cheshire East Council, as set out in Appendix 1 to the report.
- (c) To approve the following fees and charges in relation to Scrap Metal Dealers licensing activities:

Site Licence: £160.00

Collectors Licence: £160.00

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 19th September 2013
Report of: Public Protection and Health Manager
Subject/Title: Scheme of Delegation for the Implementation of the Scrap Metal Dealers Act 2013

1.0 Report Summary

- 1.1 This report contains proposals for a Scheme of Delegation for the Implementation of the Scrap Metal Dealers Act 2013 which comes into force on 1 October 2013.

2.0 Recommendation

- 2.1 That subject to the detail being worked up and approved by Licensing Committee on 30 September, Constitution Committee recommends to Council that:

2.1.1 in so far as it is necessary as a matter of local choice, this function is specified as a non-executive function; and

2.1.2 procedures and a scheme of delegation be set up to implement the Scrap Metal Dealers Act 2013 and to determine applications for licenses under the Act consider and approve, taking account of the following principles:

- policy is delegated to the Licensing Committee
- the ability to set fees and charges is delegated to the Licensing Committee
- a member decision making body (e.g. a licensing sub-committee) shall determine any applications where the applicant has indicated he/she is taking advantage of their opportunity for a hearing (i.e. after a notice has been given under Section 7 of the Act by the licensing authority stating it proposes to refuse the application, the applicant may ask for a hearing and the opportunity to make written or oral representations)
- a member decision making body only may initiate a revocation of a licence.
- a member decision making body only may impose conditions on a licence.
- An officer should be empowered to make decisions in respect of approvals of licences and may refuse a licence in circumstances where the applicant has not expressed the wish to make representations within the specified time after a notice has been served under Section 7 stating the licensing authority proposes to refuse the application.

3.0 Reasons for Recommendations

- 3.1 To ensure that the Council meets its statutory obligations under the Scrap Metal Dealers Act 2013 and that the Licensing Committee and Officers of the Council are able to undertake the full range of roles and responsibilities due to be imposed by the Act.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 None

7.0 Financial Implications

- 7.1 The implementation of the proposed Scheme of Delegations will allow the authority to implement a system of fees and charges to cover the licensing of scrap metal dealers in accordance with the scope of the Act.
- 7.2 Fees and charges are to be set locally rather than nationally and officers are currently working on full cost recovery based charges with the Finance Team.

8.0 Legal Implications

- 8.1 The current legislation, (the Scrap Metal Dealers Act 1964) requires scrap metal dealers to register. The Scrap Metal Dealers Act 2013 is designed to provide a more robust scheme of monitoring the scrap metal industry. A scheme of delegation needs to be put in place to allow for full implementation of the Scrap Metal Dealers Act 2013, by the time the first applications under it are made to the Council. All current registered scrap metal dealers will be required to make application to the council for a licence between 1st and 15th October 2013. Guidance indicates that these applications should be determined by 1st December 2013.
- 8.2 The current function, under the Scrap Metal Dealers Act 1964, is specified in Regulations as a Council ("non executive") function. The Scrap Metal Dealers Act 2013 repeals the 1964 legislation and implements the new licensing system. It was expected that Regulations would be made to specify that this function is a Council function, or a local choice function, i.e. one where the council can decide whether it wants the function to be a council (non executive) or an executive function. The implementation regulations, which were made at the beginning of September, do not make any statement to this effect. The latest information is that the Department of Communities and Local Government

will make it a local choice function, but will not be consulting on regulations for this until October 2013, which is after the first tranche of licence applications are received.

- 8.3 In the absence of regulations making a function a Council (non-executive) function, the default position is that it is an Executive function. However, all other licensing functions are currently Council (non-executive) functions and whilst it is still likely that regulations will be issued to this effect in respect of the licensing of Scrap Metal Dealers, it should be noted that Section 17 of the Interpretation Act 1978 already provides that where an Act repeals and re-enacts, with or without modification, a previous enactment, then unless the contrary intention appears, in so far as any subordinate legislation made or other thing done under the enactment so repealed, or having effect as if so made or done, could have been made or done under the provision re-enacted, it shall have effect as if made or done under that provision. The effect of this is that the new regulatory provisions should, even if no new confirmatory Regulations emerge, be capable of being done through the Council's non-Executive framework.
- 8.4 It is recommended that decisions on fees and charges and on a policy need to be made by both the Licensing Committee (as delegated by Council) and by the Portfolio Holder for Communities and Regulatory Services.
- 8.5 The Scrap Metal Dealers Act 2013 states that in determining licences the licensing authority has to be satisfied that the applicant is a suitable person to hold a licence. It requires the Council to give an applicant for a licence the opportunity of a hearing if the Council sends that person a notice to indicate that the Licensing Authority is minded to refuse the licence. The applicant can then make written or oral representations at a hearing.

9.0 Risk Management

- 9.1 Consideration of the legal provisions relating to the proper process for the carrying out of this statutory function mitigate the risk of an incorrect route being chosen.

10.0 Background

- 10.1 In order to set up the necessary procedures and the scheme of delegation for the licensing functions under the Scrap Metal Dealers Act 2013 Licensing Committee will need to consider detailed processes based upon the following principles which mirrors the delegations for other licensing functions:
- policy is delegated to a member body
 - the ability to set fees and charges are delegated to a member body
 - a member decision making body (e.g. a licensing sub-committee) shall determine any applications where the applicant has indicated he/she is taking advantage of their opportunity for a hearing (i.e. after a notice has been given under Section 7 of the Act by the licensing authority stating it proposes to refuse the application, the applicant may ask for a hearing and the opportunity to make written or oral representations)

- a member decision making body only may initiate a revocation of a licence.
- a member decision making body only may impose conditions on a licence.
- An officer should make decisions in respect of approvals of licences and may refuse a licence in circumstances where the applicant has not expressed the wish to make representations within the specified time after a notice has been served under Section 7 stating the licensing authority proposes to refuse the application

10.2 The delegations as outlined above would address the risks and difficulties which arise from the lack of regulations.

11.0 Access to Information

11.1 The Scrap Metal Dealers Act 2013, the Scrap Metal Dealers Act 1964 and the Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013 can all be found on the www.legislation.gov.uk website.

11.2 The Council's Constitution can be found on the Council's website: www.cheshireeast.gov.uk

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

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CHESHIRE EAST COUNCIL

Licensing Committee

Date of Meeting:	30 th September 2013
Report of:	Public Protection and Health Manager
Subject/Title:	Implementation of the Scrap Metal Dealers Act 2013

1.0 Report Summary

- 1.1 This report introduces the new provisions of the Scrap Metal Dealers Act 2013 which comes into force on 1 October 2013.

2.0 Recommendation

- 2.1 Using the principles anticipated to be recommended to Council by Constitution Committee, the Licensing Committee recommends Council:

- 2.1.1 To approve the scheme of implementation and Delegations in Appendix 2
- 2.1.2 To approve policy on the Suitable Person Test to be employed by Cheshire East Council as outlined in Appendix 1.
- 2.1.3 To approve fees and charges in relation to Scrap Metal Dealers licensing activities.

3.0 Reasons for Recommendations

- 3.1 To ensure that the Council meets its obligations under the Scrap Metal Dealers Act 2013.
- 3.2 To provide a transparent and consistent approach to the Suitable Persons Test.
- 3.3 To provide a transparent basis on which fees and charges have been set.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 Contained within the report.

- 6.2 Section 13.0 of the report and Appendix 1 describe the policy to be implemented in relation to 'Suitable Person Test'.
- 6.3 Appendix 3 contains details of how the 2013 Fees for Scrap Metal Dealers have been developed and further supports information contained within Section 19.0.

7.0 Financial Implications

- 7.1 Contained within the report.
- 7.2 Fees will be set locally by Cheshire East Council on a cost recovery basis, but local authorities will have a duty to have regard to guidance issued by the Secretary of State outlining what should be considered by them when setting the fee and what activities the fee can cover.

8.0 Legal Implications

- 8.1 The current legislation, (the Scrap Metal Dealers Act 1964) requires scrap metal dealers to register. The Scrap Metal Dealers Act 2013 is designed to provide a more robust scheme of monitoring the scrap metal industry. A scheme of delegation needs to be put in place to allow for full implementation of the Scrap Metal Dealers Act 2013, by the time the first applications under it are made to the Council. All current registered scrap metal dealers will be required to make application to the council for a licence between 1st and 15th October 2013. Guidance indicates that these applications should be determined by 1st December 2013.
- 8.2 The current function, under the Scrap Metal Dealers Act 1964, is specified in Regulations as a Council ("non executive") function. The Scrap Metal Dealers Act 2013 repeals the 1964 legislation and implements the new licensing system. It was expected that Regulations would be made to specify that this function is a Council function, or a local choice function, i.e. one where the council can decide whether it wants the function to be a council (non executive) or an executive function. The implementation regulations, which were made at the beginning of September, do not make any statement to this effect. The latest information is that the Department of Communities and Local Government will make it a local choice function, but will not be consulting on regulations for this until October 2013, which is after the first tranche of licence applications are received.
- 8.3 In the absence of regulations making a function a Council (non-executive) function, the default position is that it is an Executive function. However, all other licensing functions are currently Council (non-executive) functions and whilst it is still likely that regulations will be issued to this effect in respect of the licensing of Scrap Metal Dealers, it should be noted that Section 17 of the Interpretation Act 1978 already provides that where an Act repeals and re-enacts, with or without modification, a previous enactment, then unless the contrary intention appears, in so far as any subordinate legislation made or other thing done under the enactment so repealed, or having effect as if so

made or done, could have been made or done under the provision re-enacted, it shall have effect as if made or done under that provision. The effect of this is that the new regulatory provisions should, even if no new confirmatory Regulations emerge, be capable of being done through the Council's non-Executive framework.

- 8.4 It is therefore recommended that decisions on fees and charges and policy need to be delegated to the Licensing Committee.
- 8.5 The Scrap Metal Dealers Act 2013 states that in determining licences the licensing authority has to be satisfied that the applicant is a suitable person to hold a licence. It requires the Council to give an applicant for a licence the opportunity of a hearing if the Council sends that person a notice to indicate that the Licensing Authority is minded to refuse the licence. The applicant can then make written or oral representations at a hearing.

9.0 Risk Management

- 9.1 Relying on the interpretation Act 1978 to decide this is a non-executive function does carry some small risk, but a course of action has to be determined prior to regulations making the position certain.

10.0 Background

- 10.1 Metal theft has, over the last few years had a significant impact on communities, businesses and councils themselves. This experience and the expectation that high metal prices will continue to encourage metal theft and onward sale created a drive to reform the regulation of scrap metals dealers and the development of specific legislation.
- 10.2 The Scrap Metal Dealers Act 2013 replaces the previous registration system for scrap metal dealers created by the 1964 Scrap Metal Dealers Act to create a new licensing regime. The Act maintain local authorities as the principal regulator but gives them the power to better regulate these industries by allowing them to refuse to grant a licence to 'unsuitable' applicants and a power to revoke licences if the dealer becomes 'unsuitable'.
- 10.3 The Act provides that an application for a licence must be accompanied by a fee. The fees will be set locally by each local authority on a cost recovery basis, but local authorities will have a duty to have regard to guidance issued by the Secretary of State which will outline the issues that can be considered by them when setting the fee and what activities the fee can cover. This fee will be an essential component of the new regime as it will provide local authorities with the funding they need to administer the regime and ensure compliance.
- 10.4 The Act incorporates the separate regulatory scheme for motor salvage operators under the Vehicles (Crime) Act 2001 into this new regime. This is to replace the current overlapping regimes for the vehicle salvage and scrap

metal industries to a single regulatory system that reflects the current scope of the scrap metal industry.

11.0 Definitions under the Act

11.1 *Scrap Metal Dealer*

A dealer is defined under S21(2) of the Act as someone carrying on a business which consists wholly or in part of buying or selling scrap metal, whether or not the metal is sold in the form in which it is bought. However, where a manufacturing business that sells scrap metal as a by-product of the processes it uses, or because it has a surplus of materials is not captured by this definition (S21(3)).

Within this broad definition there is also a need to have consideration to further criteria to establish the applicability of the Act. Generally where the sale of the metal is incidental to the main type of work or business undertaken then a licence will not be needed.

A dealer also includes someone carrying on a business as a motor salvage operator. This is defined as a business that;

- Wholly or in part recovers salvageable parts from motor vehicles for reuse or resale and then sells the rest of the vehicle for scrap;
- Wholly or mainly involves buying written off vehicles and then repairing and selling them off;
- Wholly or mainly buys or sells motor vehicles for the purpose of salvaging parts from them or repairing them or selling them off.

11.2 *Scrap Metal Collectors*

A collector is defined (S22(4)) as a person who carries on a business as a scrap metal dealer otherwise than at a site, and regularly engages in the course of that business in collecting waste materials and old, broken, worn out or defaced articles by means of door to door visits.

11.3 *Scrap Metal Site*

A site is defined in the Act (S22(9)) as 'any premises used in the course of carrying on a business as a scrap metal dealer (whether or not metal is kept there)'. Due to the wording of the definition this means that someone who trades in scrap metal and is thus defined as a dealer under S21(2) will need a site licence for their office even if they do not operate a scrap metal store or yard.

12.0 Applications & Licences

12.1 Section 1 of the Act requires that a scrap metal dealer is required to obtain a licence in order to carry on business as a scrap metal dealer; failure to do so is a criminal offence punishable on summary conviction with a fine not exceeding level 5 on the standard scale.

12.2 Section 2 details the two types of licence available. These are a site licence and a mobile collectors licence where the applicant does not carry on the business at a designated site.

- A site licence will be issued by the local authority in whose area a scrap metal site is situated. All sites within the local authority area where a licensee carries on a business as a scrap metal dealer have to be identified and a site manager has to be named for each site. This licence allows the licensee to transport scrap metal to and from those sites from any local authority area.
- A collectors licence allows the licensee to operate as a collector in the area of the issuing local authority. It does not allow the collector to operate in any other local authority area, so a separate licence has to be obtained from each council the collector wishes to operate in. The licence does not authorise the licensee to operate a site; to do so, they will need a site licence from the relevant local authority. There is no restriction as to the location where the collector may transport and sell their metal.

12.3 It is important to note that a dealer can only hold one type of licence in any one local authority area and they will need to ensure that they apply for the correct licence to continue their operations.

12.4 Licences are issued for a period of three years.

13.0 Suitable Person Test

13.1 Section 3 of the Act requires that the licensing authority has to be satisfied that an applicant is a suitable person to carry on business as a scrap metal dealer. In making this decision Cheshire East Council will have regard to any relevant information including whether any relevant enforcement action has been taken against the applicant or whether the applicant has been convicted of a relevant offence.

13.2 Appendix 1 provides further detail on the information that Cheshire East Council will take into account as part of the 'Suitable Person Test'.

14.0 Attaching Conditions to Licences

14.1 Where a licensee of site manager has been convicted of a relevant offence the authority has the opportunity to apply conditions to any licence that is issued.

The legislation provides for two specific conditions;

- a) That a dealer must not receive scrap metal except between the hours of 09.00 and 17.00 on any day;
- b) That all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time that it is received.

15.0 Display of Licences

- 15.1 Section 10 requires that the licensee display a copy of their licence. It is a criminal offence punishable on summary conviction where a licensee does not meet display requirements
- 15.2 For site operators this must be in a prominent place in an area accessible to the public.
- 15.3 For mobile collectors display must be in a manner which enables the licence to be easily read by a person outside the vehicle.

16.0 Further Duties for Licensed Scrap Metal Dealers

- 16.1 Section 11 places a requirement on scrap metal dealers, site managers and employees who have been delegated the responsibility to do so, to verify the identity of the person they are receiving metal from and the persons address. This verification must be done by reference to data, documents or other information obtained from a reliable or independent source, such as the Identity and Passport Service, the Driver and Vehicle Licensing Agency (DVLA), a bank or utility company etc. The Secretary of State will prescribe in regulations the data or documents which are sufficient, or otherwise as the case may be for verifying identity.
- 16.2 It will be an offence not to obtain and verify the seller's identity as part of the transaction. The offence will apply to the scrap metal dealer, the site manager and any person, who under arrangements made by either the scrap metal dealer or the site manager, has responsibility for fulfilling this requirement on behalf of the business.
- 16.3 Section 13 sets out the record keeping requirements in respect of any scrap metal received by a scrap metal dealer in the course of their business. Information that is required to be recorded includes the type of metal being purchased; the time/date of the transaction; personal information on the seller; who is acting on behalf of the dealer and proof of the non-cash transaction. Failure to comply with the requirements of this section is an offence.

17.0 Revocations, Variations and Refusals

- 17.1 Section 4 provides the licensing authority with the discretion to revoke a licence on particular grounds, including where the local authority is no longer satisfied that the licensee is a suitable person to carry on the business as a scrap metal

dealer. The revocation of a licence can only be carried out by a local authority as the licensing authority.

- 17.2 Section 4 also allows the licensing authority to vary a licence; imposing those conditions stipulated in paragraph 14.1 above if a licensee is convicted of a relevant offence.
- 17.3 If the licensing authority proposes to refuse an application for the grant or variation of a licence, or intends to revoke a licence it must give the applicant or licensee a notice which sets out what the authority proposes to do and the reasons for it. The notice must state that the applicant may make representations against any of these decisions within 14 days.

18.0 Scheme of Delegation

- 18.1 A report to Constitution Committee on 19th September recommended that “subject to the detail being worked up and approved by Licensing Committee on 30 September, Constitution Committee recommends to Council that:

2.1.1 in so far as it is necessary as a matter of local choice, this function is specified as a non-executive function; and

2.1.2 procedures and a scheme of delegation be set up to implement the Scrap Metal Dealers Act 2013 and to determine applications for licenses under the Act consider and approve, taking account of the following principles:

- policy is delegated to the Licensing Committee
 - the ability to set fees and charges is delegated to the Licensing Committee
 - a member decision making body (e.g. a licensing sub-committee) shall determine any applications where the applicant has indicated he/she is taking advantage of their opportunity for a hearing (i.e. after a notice has been given under Section 7 of the Act by the licensing authority stating it proposes to refuse the application, the applicant may ask for a hearing and the opportunity to make written or oral representations)
 - a member decision making body only may initiate a revocation of a licence.
 - a member decision making body only may impose conditions on a licence.
 - An officer should be empowered to make decisions in respect of approvals of licences and may refuse a licence in circumstances where the applicant has not expressed the wish to make representations within the specified time after a notice has been served under Section 7 stating the licensing authority proposes to refuse the application.”
- 18.2 The recommendation of Constitution Committee will be reported to the Licensing Committee at the meeting.
- 18.3 Using the above principles it is recommended that Licensing Committee make a recommendation to Council to approve the Delegations as in Appendix 2, and

to approve a policy and approve fees and charges. The recommendation for the future is to delegate all these issues to Licensing Committee, but because of the short timescale at this implementation stage it is necessary for Council to approve these matters.

19.0 Fees and Charges

- 19.1 The Act provides that an application for a licence must be accompanied by a fee. The fees will be set locally by each local authority on a cost recovery basis, but local authorities will have a duty to have regard to guidance issued by the Secretary of State which will outline the issues that can be considered by them when setting the fee and what activities the fee can cover. Appendix 3 provides relevant information.
- 19.2 When setting fees the authority cannot take into account any costs associated with enforcement activity against unlicensed scrap metal dealers including Closure Notices, applications for Closure Orders and applications for warrants or the defence of Appeals.
- 19.3 The following fees have been calculated for Scrap Metal Dealers Licences;
- Site Licence: £160.00
Collectors Licence: £160.00
- 19.4 Fees and charges will be reviewed within the initial three year licensing period to ensure that they accurately reflect the full costs associated with the provision of the service including the renewal process. At the current time it has been necessary to estimate the amount of time each element of the licensing regime will take and apportion costs accordingly. However, to support any future review of fees and charges for this area of work, more detailed time recording work will be undertaken across a sample of licence applications to ensure greater accuracy.
- 19.5 A separate income account has been created to capture the income received by the scrap metal dealers licensing regime and to support the calculation of future licensing fees.

20.0 Public Register

- 20.1 Section 6 places a duty on the local authority to supply any such information as requested relating to a scrap metal licence to any other local authority in England and Wales, the Environment Agency and to police forces.
- 20.2 Section 7 requires that a register of licences issued under the Act should be maintained by the Environment Agency. Local authorities will provide the appropriate information on all licences issued in their geographic areas in order that this register can be updated regularly.
- 20.3 This register will be made openly accessible to the public and will include: the name of the authority which issued the licence; the name of the licensee; any

trading name; the type of licence; the site(s) covered by the licence and the expiry date of the licence.

- 20.4 Contact with the Environment Agency in relation to protocol for the creation and maintenance of public registers indicates that currently no fee has been set for this service. This issue will need to be reviewed in line with any future review of fees and charges.

21.0 Access to Information

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

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Appendix 1

Policy Notes: Suitable Person Test

Section 3 of the Act states that the authority must not issue a licence unless it is satisfied that the applicant is a suitable person to carry on business as a scrap metal dealer – ‘the suitability test’. This would apply to;

- Individuals;
- All partners within a partnership business;
- Directors, shadow directors or company secretaries in the case of a Company.

In considering suitability the authority will consult with;

- Any other Local Authority (if an application has been made or a licence issued to the same applicant);
- The Environment Agency;
- Cheshire Constabulary (The Police) or any other relevant Police Force.

Factors that the authority will take into account in determining suitability include;

- Whether the applicant or any site manager has been convicted of any relevant offence(to be laid out in regulations due to be laid before Parliament in September 2013);
- Whether the applicant or any site manager has been the subject of any relevant enforcement action;
- Any previous refusal for issue of or renewal of a scrap metal licence;
- Any previous refusal of an environmental permit or registration;
- Any previous revocation of a scrap metal licence;
- Whether the applicant has demonstrated that there will be adequate procedures to comply with the Act.

As part of the application process the authority will request that the applicant provide a Basic Disclosure certificate with their completed application which would offer transferable information for them to use for applications to other local authorities. This offers the possibility of providing a fair, transparent and objective means of identifying matters that might lead the authority to conclude that an applicant is not a suitable person to hold a scrap metal dealers licence.

There is no requirement under the Act for applicants to provide a Basic Disclosure certificate and the deemed licence for previously registered dealers will not lapse if it

is not supplied with the application. However refusing to supply a certificate would be grounds for the authority to consider what further information it needed to judge whether the applicant was suitable. Refusing to provide a Basic Disclosure certificate would also be grounds under paragraph 4(2) of Schedule 1 for the local authority to decline to proceed with the application.

In order to ensure that a Basic Disclosure is as current as possible the authority will only accept certificates that are up to three months old.

Appendix 2**Scheme of Implementation and Delegations****Delegations to Licensing Committee, General Licensing Sub-Committee and Officers**

Function	Full Committee	Sub-Committee	Officers – Head of Public Protection and Enforcement unless otherwise stated
Power to approve policy in relation to the Scrap Metal Dealers Act 2013	Power to set policy		
Power to set fees and charges in relation to scrap metal dealers licences	Power to set fees and charges		
Power to licence (first grant, renewal and application to vary) regarding a site licence and a collectors licence under the Scrap Metal Dealers Act 2013		To determine applications where the applicant has indicated s/he is taking advantage of the opportunity for a hearing under Section 7 of the Act or where conditions are proposed by officers	To grant a licence and to refuse a licence in circumstances where the applicant has not expressed the wish to make representations within the specified time after a notice has been served under Section 7 stating the licensing authority proposes to refuse the application
Power to revoke or vary a licence under the Scrap Metal Dealers Act 2013		The power to revoke or vary a scrap metal dealers licence	
Power to issue a Closure Notice under the Scrap Metal Dealers Act 2013		Power to issue a Closure Notice	
Termination of a Closure Order		Power to terminate a Closure Order	

Application to a Justice of the Peace for a Closure Order			Power to make application for a Closure Order
Power to institute criminal proceedings under the Scrap Metal Dealers Act 2013			Power to Head of Legal Services and Monitoring Officer to institute criminal proceedings

Appendix 3

Policy Notes: Fees and Charges

Fees and charges for a licence under the Scrap Metal Dealers Act 2013 will be set locally by the Licensing Authority. In determining the fee to be applied the authority will have regard to the following processes;

- All activities required with the processing and granting a licence such as considering applications and assessing the suitability of the applicant.
- The costs of staff associated with supporting the service including senior staff with managerial responsibility for the service.
- Support provided by other parts of the council to the licensing team such as legal services and any recharges there might be for rooms, heating and lighting from the centre of the authority.
- The cost of providing advice and guidance to applicants on what will be a new process.
- Carrying out inspections and ensuring compliance with the law.
- Training for staff and councillors in the requirements of the new legislation.
- Costs associated with consulting other agencies and bodies when considering if an application is a suitable person.
- Working with any partners to ensure compliance.
- Making and reviewing any policies in relation to the operation of the new licensing regime.
- Issuing the licence.
- Any officer time spent providing information for inclusion in the register of dealers.
- Costs associated with Hearings to include communication with applicants/representatives; preparation and issue of information; report preparation; Member expenses for hearing attendance; room hire; printing and dissemination of agenda materials; legal services costs; and officer costs associated with actually running the hearing itself.

CHESHIRE EAST COUNCIL

Council

Date of Meeting:	17 October 2013
Report of:	Chief Executive
Subject/Title:	Appointment of Head of Legal and Monitoring Officer

1.0 Purpose of Report

- 1.1 To outline the process used for the recruitment of the Head of Legal and Monitoring Officer and request that the Council agree that the appointee be designated as Monitoring Officer.

2.0 Decision Required

- 2.1 To agree the appointment of Mrs Anita Bradley as the Head of Legal and Monitoring Officer of Cheshire East Council, with effect from a date to be agreed.

3.0 Reasons for Recommendations

- 3.1 In accordance with the Constitution, Council must approve the designation of the Council's Monitoring Officer.

4.0 Wards Affected

- 4.1 Not applicable

5.0 Local Ward Members

- 5.1 Not applicable

6.0 Policy Implications

- 6.1 Not applicable

7.0 Financial Implications

- 7.1 The post of Head of Legal Services and Monitoring Officer is an established post within the Councils staffing structure.

8.0 Legal Implications

- 8.1 The designation of Monitoring Officer must be approved by Council. The Monitoring Officer is appointed under Section 5 of the Local Government and Housing Act 1989, who is required to report to Council

where it appears to him/her that the Authority has done or is about to do anything which would contravene the law or which would constitute maladministration.

9.0 Risk Assessment

- 9.1 It is a statutory duty to appoint a Monitoring Officer to undertake the role as set out in Section 5 of the Local Government and Housing Act 1989 and subsequent legislation.

10.0 Background and Options

- 10.1 The recruitment process for the Head of Legal Services and Monitoring Officer has been managed by the Staffing Committee.
- 10.2 Three candidates were considered as part of the final selection process, which involved a presentation and formal interview with the Staffing Committee on 6 September 2013.
- 10.4 The Staffing Committee unanimously agreed that the position of Head of Legal Services and Monitoring Officer be offered to Mrs Anita Bradley.
- 10.5 Mrs Bradley's designation as Monitoring Officer requires the formal agreement of Council.
- 10.6 Mrs Bradley is currently employed as Head of Corporate Administration and Monitoring Officer at Mansfield District Council with responsibility for Legal Services, and a wide range of other functions.
- 10.7 She has a total of 23 years experience as a practising solicitor, which includes 10 years experience in private law firms, 1 year for a charity and 12 years of Local Government experience, with 7 years experience as a Monitoring Officer and 3 years experience as a Deputy Monitoring Officer

11.0 Access to Information

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

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CHESHIRE EAST COUNCIL

COUNCIL

Date of Meeting:	17 October 2013
Report of:	Director of Economic Growth & Prosperity
Subject/Title:	Engine of the North – Enabling Value for Money
Portfolio Holders:	Councillor Don Stockton, Portfolio Holder for Housing, Planning, Economic Development & Regeneration; Councillor Peter Raynes, Portfolio Holder for Finance

1.0 Report Summary

- 1.1 This report updates on the development programme for housing and economic growth, to be delivered by East Cheshire Engine of the North Limited. As noted in the Budget Report approved in February 2013, *“projects will continue to come forward during 2013/14 as part of the longer term capital vision”*. A development programme has been prepared, in respect of an initial portfolio of sites, to deliver the desired outcomes for the community (including over 4,000 new homes and 3,000 jobs) and generate significant economic growth and prosperity for local residents. It is also anticipated to generate major capital receipts for the authority – some **£40m** in the next 3 years (potentially in excess of **£80m** over a 10-year period), **net of development costs**.
- 1.2 The full programme will be considered in February 2014, for inclusion in the Capital Programme, as part of the Budget Setting process for 2014/15-2016/17. The purpose of this report is to seek approval for potential development spending in the current year, to March 2014.
- 1.3 Following approval of capital finance, the programme will be taken through the project gateway process, with the Technical Enabler Group (TEG) and Executive Monitoring Board (EMB) providing the appropriate challenge and assurance, to inform a decision of the Shareholder Committee on the delivery of the Programme by East Cheshire Engine of the North Limited.

2.0 Recommendations

- 2.1 That the potential to generate significant economic growth and capital receipts (i.e. £40m in the next 3 years; £80m+ over a 10-year period, net of development costs) is noted and incorporated in future strategic Capital and Revenue budget planning, at Council in February 2014
- 2.2 In order to enable Engine of the North to fully deliver £40m of capital receipts over the next 3 years, we may need enabling funds before budget setting in February 2014. As such we recommend that a supplementary capital estimate of £5.5m be approved, funded initially by virement from within the current Capital Programme, pending financing through the capital receipts generated from disposals of the sites during 2014

- 2.3 That acknowledgement be made that the Engine of the North is enhancing the assets of Cheshire East as directed by Council from £13m to a potential £80m of net value
- 2.4 To note the Shareholder's Committee and its role, as set out in paragraph 9.3 in the body of this report

3.0 Reasons for Recommendations

- 3.1 The Council has a plan to deliver additional economic growth and local prosperity by creating at least 20,000 jobs and 27,000 new homes by 2030, plus major new highways infrastructure; the target for the next five years is to deliver at least 7,000 new homes.
- 3.2 Following Council approval of the capital finance, the development programme will be taken through the project gateway process, to inform a decision of the Shareholder Committee on the delivery of the programme by East Cheshire Engine of the North Limited, prior to release of funds.
- 3.3 All actions of Engine of the North are to enable development and maximisation of receipts for the Council and are not for speculative investments.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 The recommendations support the Council's priority of promoting and investing in local economic growth and the outcomes set out in the Three Year Plan, particularly in relation to ensuring Cheshire East has the infrastructure necessary for a strong, diverse and resilient local economy, and that the area is a good place to live and work.

7.0 Financial Implications

- 7.1 The report seeks approval for a supplementary capital estimate of £5.5m, to be funded initially by virement from within the current Capital Programme, pending financing by the capital receipts generated from disposals of the sites. This will enable a start on the development of sites in the current financial year.
- 7.2 The development programme as prepared, in respect of an initial portfolio of sites worth an estimated £13m, shows the prospects for generation of significant capital receipts for the authority – some £40m in the next 3 years, potentially in excess of £80m over a 10-year period, *net of development costs*. Regarding the costs of developing the sites, it is recommended that they be funded by the capital receipts generated, taking “first call” on income from site

disposals. The full programme and its financing on this basis will be considered in February, for inclusion in the Capital Programme, as part of the Budget Setting process for 2014/15-2016/17.

7.3 Looking at the prospects over a 10-year period, there is the potential to generate in excess of £80m net capital cash gain to the Council. This would be the subject of further reporting in due course; however it is worth noting that this presents a number of opportunities in relation to future Capital investment planning; e.g. options would include:

- investing in other service capital projects (replacing the need for borrowing in respect of those)
- repaying existing borrowing (reducing the debt financing pressure on the Revenue Account)
- re-investing in other new land/ regeneration schemes (i.e. extending the Development Programme – with other Council-owned sites and/ or new acquisitions – to further the housing and economic growth plan and create greater capital gains)

7.4 It is recommended that these options are considered as part of the current Business Planning round, enabling a longer-term view in the further development of the Council's Capital Investment Strategy and related Revenue Budget planning, in particular, the prospects for making a significant contribution to debt repayment in the next 3 years.

8.0 Legal Implications

8.1 There are no particular legal implications with regard to this report and its recommendations in respect of approval of Capital project budgets. Legal advice has been provided in relation to the setting-up of East Cheshire Engine of the North Limited, its governance arrangements and also the roles of the Council, Cabinet and the Shareholder Committee (as representative) in the control of the authority's alternative service delivery vehicles.

9.0 Risk Management

9.1 There are a number of risks associated with land development, including those relating to variations between estimated and actual site valuations, contracting and managing construction works, etc. The formation of East Cheshire Engine of the North Limited has provided a focus of specialist and experienced resources, along with dedicated governance arrangements; the Company's 3-year Business Plan will demonstrate its awareness of and ability to manage those risks and benefit from the opportunities presented by the Programme, for the Council.

9.2 As noted in the report, the development programme will be taken through the project gateway process, with the Technical Enabler Group (TEG) and Executive Monitoring Board (EMB) providing the appropriate challenge and assurance, to inform a decision of the Shareholder Committee on the delivery of the programme by the Company.

9.3 The Shareholder Committee will oversee all activities to ensure that the Company focuses on enabling sustainable economic growth through its membership of the Chief Executive, Leader and Deputy Leader and Portfolio Holder for Finance and the

Executive Director for Commissioning. Alongside Members of the Committee the Director for Economic Growth and Prosperity will advise on all activities relating to East Cheshire Engine of the North Limited.

10.0 Background and Options

- 10.1 On 15 May 2013 Council considered a report which set out the benefits, implications and proposed approach to the creation of a new delivery vehicle to develop the Council's land assets, so as to promote housing and economic growth. Council resolved to set up a Development Company – East Cheshire Engine of the North - to drive forward this ambition.
- 10.2 The Council has a Growth Plan to create at least 20,000 jobs and 27,000 new homes by 2030, plus major new highways infrastructure; the target for the next five years is to deliver at least 7,000 new homes.
- 10.3 As applicable to each site, development spending can include: *site investigations; land assembly/ site acquisitions; masterplanning; planning applications; design and construction of infrastructure; and the professional services of Engine of the North*. Clearly, the Council's role is one of "enabling", in developing and offering sites to the market - it will also be for the private sector to come forward, acquire the sites and build the new homes, business, retail and community premises.

11.0 Access to Information

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

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COUNCIL – 17 OCTOBER 2013**NOTICES OF MOTION****Submitted to Council in Accordance with Procedure Rule 12****1 Auditor's Value for Money Conclusion**

Proposed by Councillor Sam Corcoran and Seconded by Councillor Peter Nurse

Background

For the second year running an independent body has found poor practice that is wasting public money. In September Grant Thornton presented their report to the Audit & Governance Committee which found weaknesses in

- Arrangements to procure goods and services
- Understanding of costs and performance
- Arrangements to develop business proposals and manage significant prospects

The report went on to say that the Council was unable to demonstrate that it was prioritising resources within budgets – in a planned way - and achieving sustainable cost reductions alongside greater efficiencies and improved productivity.

A list of 14 recommendations with 7 'High Priority' items included the following points

- Ensure that budgets are realistic and therefore less reliant on remedial savings during the year
- Ensure that the capital budget is set at a realistic level ... and therefore avoid in year slippage
- Ensure that robust governance and risk management arrangements are embedded in the Council and in the emerging arms length companies being created by the Council
- Ensure that the Council's policies, procedures and decision making processes remain fit for purpose during the period of significant change to a commissioning authority
- Ensure that Council policies are followed and decision making is – and is seen to be – transparent to the public

Motion

This Council welcomes the qualified value for money conclusion from the external auditors and:

- accepts that 'more needs to be done to ensure that tough decisions are taken when setting the budget rather than relying on services to deliver savings in the year';
- commits to setting a realistic budget for 2014/15 so that the major overspends seen in recent years do not recur and that unplanned remedial actions are not necessary;
- agrees to ensure that its decision making is – and is seen to be – transparent to the public.

2 Reducing Carbon Emissions

Proposed by Councillor Steve Hogben and seconded by Councillor Sam Corcoran

That this Council build on its previous work in reducing its own carbon emissions.

This Council will promote strenuous further efforts to cut not only its own carbon emissions but those of its many partners within the sub-region, including the private and business sectors.

The Council recognises that financial pressures face all sectors of the economy, but also recognises the vital importance for future generations of conserving resources of all kinds and cutting environmental pollution.

In view of the loss of Invest to Save funding, and in its role as a community leader, the Council commits to redouble its efforts to fund carbon reduction projects, and seek support in this work from all its partners.

3 Payday Lending

Proposed by Councillor Laura Jeuda and Seconded by Councillor David Newton

Cheshire East must be applauded in the attempt to tackle the irresponsible lending of payday loan companies by banning access to the top 50 company websites in public buildings.

Debt Counselling Agencies report of the misery and desperation caused by payday lending companies who prey on the poor causing increased poverty and anxiety to those already struggling to cope. People are borrowing more to pay off their existing debt, often using more than one company to do so. Payday lenders offer loans of £50 - £1,250 without credit checks. The transaction can be completed in a matter of minutes.

While the newly formed Financial Conduct Authority, which comes into operation next spring, has proposed some restrictions on payday loan companies it will not ameliorate the risk for many families struggling to repay the vast amount of interest on what was a relatively small sum to start with. A realistic and ethical alternative to this type of borrowing is Credit Unions who provide realistic loans that can be repaid at 6.9% compared to a massive 5,853%. Credit Unions offer savings and loans which are prudent and that do not encourage irresponsible lending and borrowing.

Motion

Cheshire East will encourage the growth of Credit Unions and follow the example of Glasgow in using Trading Standard Officers to ensure that payday lenders are not breaching the Consumer Credit Act

To encourage young people to save responsibly by allocating Credit Union accounts to Secondary School pupils

To provide premises for Credit Unions to operate in communities across Cheshire East.

4. Designated Public Places Orders

Proposed by Councillor D Brickhill

Designated Public Places Orders (DPPO's), made under Section 13 of the Criminal Justice and Police Act 2001, have overtaken the use of byelaws for regulating the use of alcohol in public places.

A DPPO gives the Police and other persons accredited by the Police force e.g Police Community Support Officers, the power, in a DPPO area, not to drink alcohol in that area, where an officer reasonably believes that the person has been drinking alcohol, or intends to do so. In addition an officer has the power to ask a person to surrender the alcohol and any opened or sealed containers in their possession.

Motion

That this Council will consider making DPPs for areas of Cheshire East.

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