

Constitution Committee

Agenda

Date: Thursday, 19th September, 2013
Time: 2.00 pm
Venue: Committee Suite 1, 2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

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

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

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

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

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

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

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

To approve the minutes of the meeting held on 5th June 2013.

Contact: Paul Mountford, Democratic Services Officer
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5. **Terms of Reference of the Civic Sub-Committee** (Pages 5 - 14)

To consider whether the terms of reference of the Civic Sub-Committee should be reviewed.

6. **Review of Powers and Responsibilities of Officers** (Pages 15 - 60)

To consider a newly-drafted section of the Constitution dealing with the Powers and Responsibilities of Officers and Proper Officer Provisions.

7. **Scheme of Delegation for the Implementation of the Scrap Metal Dealers Act 2013** (Pages 61 - 64)

To consider proposals for a Scheme of Delegation for the Implementation of the Scrap Metal Dealers Act 2013 which comes into force on 1st October 2013.

8. **Work Programme** (Pages 65 - 68)

To review the Committee's work programme.

THERE ARE NO PART 2 ITEMS

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Wednesday, 5th June, 2013 at West Committee Room - Municipal
Buildings, Earle Street, Crewe, CW1 2BJ

PRESENT

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

Councillors S Hogben, S Jones, F Keegan (for Cllr Menlove), W Livesley,
B Murphy, D Newton, L Smetham (for Cllr Andrew) and P Whiteley

In attendance

Councillor J P Findlow

Officers

Brian Reed, Head of Governance and Democratic Services
Julie Openshaw, Deputy Monitoring Officer
Paul Bayley, Customer Service and Libraries Manager
Paul Mountford, Democratic Services Officer

Apologies

Councillors C Andrew, G Baxendale, P Groves, R Menlove, A Moran and
G Wait

1 DECLARATIONS OF INTEREST

There were no declarations of interest.

2 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

3 MINUTES OF PREVIOUS MEETING**RESOLVED**

That, it being noted that Councillor L Brown had declared a non-pecuniary interest in relation to an appointment to the Board of Governors of the King's School, Macclesfield, the minutes of the meeting held on 26th April 2013 be approved as a correct record.

4 TRANSPARENCY

Members considered an update report on the work that was going on across the authority to encourage openness and transparency.

Members also gave further consideration to the following motion which had been moved by Councillor B Murphy and seconded by Councillor P Edwards at the Council meeting on 19th July 2012 and referred to the Committee for consideration:

“In the light of the ever-growing demand for public accountability in public services and the need to sustain public trust and confidence in democratic governance, this Council calls for a review of its policies and protocols in relation to confidentiality.”

The Committee had first considered the motion at its meeting on 26th November 2012 and had resolved ‘that the officers review the approach to confidentiality and the publication of information in this and other local authorities and consult all members of the Council and appropriate Council decision-making bodies before reporting back to the Committee’.

The Council’s Compliance Unit continued to champion transparency and openness within the Council and actively encouraged Services to provide accurate and timely information on request and to allow customers to access as much information as possible without having to resort to Freedom of Information requests.

The Protection of Freedoms Act 2012 had amended the Freedom of Information Act 2000 to require public authorities to release datasets in an electronic format in a way that allowed businesses, non-profit organisations and others to re-use them for social and commercial purposes. Much of the detail about the requirements to publish datasets would be provided in a new Code of Practice, but this remained in draft form only at this stage. The report outlined the current focus of activity within the Council.

The Committee was informed that the Council was increasingly receiving requests for data rather than Freedom of Information Requests. This was therefore the main focus at present.

Members made the following comments:

- There should be an accurate and publicly-accessible register of Council land and buildings.
- The Council should move from a position of responding to requests for information to one of actively releasing information, and in doing so should aim to provide more information than was strictly required under current guidance.
- At present, the Council applied certain tests before releasing information; the situation should be reversed so that the default position would be to release information unless there were specific reasons not to do so.
- Information should be released and presented to the public in a form that was helpful and meaningful.

In response, the officers advised that in general operational managers were currently recommended to publish information. Where there were valid reasons for not doing so, these would be clearly articulated.

RESOLVED

That

- (1) the member working group appointed to review the scheme of delegation be asked to review the issue of transparency, openness and access to information, with the support of the Customer Service and Libraries Manager;
- (2) Members of the Committee be invited to forward any comments or suggestions for the working group's consideration; and
- (3) to assist the working group, the Customer Service and Libraries Manager obtain comparative data from other local authorities.

5 GENERAL DISCUSSION ON THE CONSTITUTION

Members held a general discussion on the Constitution with a view to identifying ways in which it could be improved.

The following issues were identified as priorities for review:

- Size of the Constitution. The current version of the Constitution was quite large and complex. It was felt that Members would benefit from the production of a more concise version which contained the most essential information in a clear and straightforward way. The officers were currently working on a concise document for Members' consideration.
- Procedure Rules. The various procedure rules were often the subject of discussion and amendment and it was felt that a general review of the rules would be beneficial.
- Scheme of delegation. The scheme of delegation had been under review for some time by the a member working group appointed by the Committee. The review was taking place against the background of a second review of the senior management structure. The working group was expected to report to the Committee in September.
- Transparency. This had been discussed earlier in the meeting and was to be reviewed by the member working group.

In addition to these key issues, Members recognised the need to include reference in the Constitution to the various arms-length companies which were now being established to deliver Council services.

Members also recognised the need to encourage Members and officers to use the online electronic version of the Constitution. This would ensure that they were using the most recent edition of the Constitution. The electronic version was also easier to search through relatively quickly and could be downloaded onto portable electronic devices as a PDF document. The electronic version could be further enhanced through the introduction of hyperlinks to provide logical trails, making it easier to navigate.

RESOLVED

That

- (1) the priorities identified above be pursued with a view to reporting to the Committee on 19th September 2013; and
- (2) in view of its proximity, and the lack of other business to consider for the time being, the meeting of the Committee scheduled for 4th July 2013 be cancelled.

The meeting commenced at 10.00 am and concluded at 11.14 am

Councillor A Martin (Chairman)

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting:	19 th September 2013
Report of:	Head of Governance and Democratic Services
Subject/Title:	Terms of Reference of the Civic Sub-Committee

1 Report Summary

To provide an opportunity for the Constitution Committee to consider whether the terms of reference of the Civic Sub-Committee should be reviewed.

2 Recommendations

It is recommended that the Committee consider whether the existing terms of reference of the Civic Sub-Committee should be reviewed and, if so, whether the Constitution Working Group should undertake this task.

3 Policy Implications

The terms of reference of all decision-making and other bodies are contained in the Council's Constitution.

4 Financial Implications

No financial implications would appear to arise from the recommendations of this report.

5 Legal Implications

If it is proposed that the terms of reference of the Civic Sub-Committee should be changed, a recommendation to that effect would need to be made by the Constitution Committee to full Council.

6 Risk Management

No risks would appear to arise from the recommendations of this report.

7 Background and Options

- 7.1 The terms of reference of the Civic Sub-Committee are appended to this report as Appendix A. These have remained largely unchanged since the authority came into being in April 2009.
- 7.2 It can be seen that the Sub-Committee has an advisory role in respect of the Mayoralty and civic dignitaries, civic events and civic regalia.
- 7.3 An important role of the Sub-Committee is to review and make recommendations on the Mayoralty Code of Practice, which contains a range of provisions relating to the role, behaviour and duties of the Mayor and Deputy, the election of the Mayor, and support provided to the Mayor and Deputy. The Code of Practice is appended to this report as Appendix B.
- 7.4 Whilst comment is occasionally made at Council meetings and elsewhere about the arrangements which apply to the Mayor and Deputy, the Mayoralty Code of Practice would appear to have served the Council well over the period since it was adopted in April 2009.
- 7.5 At a recent Council meeting, comment was made that it was perhaps time for the terms of reference of the Civic-Sub Committee to be reviewed. It is possible that this comment related more to the content of the Mayoralty Code of Practice than to the terms of reference of the Sub-Committee but, nevertheless, it would seem appropriate for the Constitution Committee to consider whether any further work should be undertaken to this effect.
- 7.6 This report therefore provides the Committee with an opportunity to do so.

8 Access to Information

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

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Civic Sub-Committee

8 Members: (5:2:1:0)

The Sub-Committee is responsible for:

- reviewing and making recommendations to the Constitution Committee on the Mayoralty, including the Mayoral Code of Practice;
- reviewing and making recommendations to the Constitution Committee on all matters relating to Honorary Aldermen and Freemen, including upon the benefits, rights and privileges to which they should be entitled;
- determining all matters relating to nationally significant events except for those matters which the Sub-Committee considers it appropriate to refer to the Constitution Committee for determination; and
- reviewing and making recommendations to the Constitution Committee on civic matters such as the Council's flag flying policy and civic regalia.

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THE MAYORALTY CODE OF PRACTICE

1. General

The Mayoralty (or Chairmanship of the Council) is the most exalted position within the gift of the Council. Officers and staff must, at all times, respect the Mayor and show deference to his office. Throughout this Code of Practice the word 'his' is not gender specific. As Chairman of the Council his authority is derived from the Local Government Act of 1972, Section 3, and his construction or application of any of the Council's Constitution, or as to the proceedings of the Council, should not be challenged.

2. Policy Developments

The Mayor throughout his term of office should remain impartial in all matters of policy and should not be involved in the direction of affairs or get involved in any campaigns. But should matters be raised with him, he should take no action and instead raise the matter in the first instance with the Leader of the Council or the appropriate Cabinet Member or Department for action. Where there are matters of Policy, all press enquiries should be made via the Council's Communications Team.

3. Controversial Activities

The Mayor should not become involved in Council Policy or activities of a controversial nature. Where the Mayor is confronted with a controversy or enquiries on matters of policy he should refer the matter to the appropriate Cabinet Member. Where there are matters of a controversial nature, all press enquiries should be made via the Council's Communications Team.

4. Political Events

The Mayor should take no active involvement in political events, particularly formal meetings, and may therefore choose not to attend group meetings during his year of office.

It would be a matter for the Mayor's discretion as to whether he attended social functions arranged by political parties, but if so attending should not attend as Mayor of the Borough but as a private individual.

5. Relationship with Cabinet Members

The Mayor should not normally become involved in any matter, which is within the role of a Cabinet Member, but if an occasion arises, as indicated in (2) above, then the Mayor should receive the fullest support of the appropriate Cabinet Member, or the appropriate Director.

As the Chairman of the Council, the Mayor should be regularly briefed by officers, via regular diarised meetings, as to current policy.

6. Other Appointments

The Mayor should not be appointed as Chairman or Vice-Chairman of any Committee or Sub-Committee of the Council. He may accept ex officio positions with an outside organisation or body where his membership stems from his position as Mayor for the time being. He may attend the annual meeting or other special meetings of an outside organisation or body and may accept the position of patron or president, but should not become actively involved during his term of office.

7. Selection of Mayor

The Deputy Mayor will normally succeed to the Mayoralty in the following year. The selection process should normally ensure that, upon election to office, the Mayor will have served at least one term of office as a local authority Councillor.

8. Civic Services

The venue for the Civic Service will be chosen by the Mayor. It is often the case that the Mayor will be invited to visit his own church during the term in office, however, this is not a Civic Service as such, it is a 'civic presence'. The Mayor, at his own choice, may designate a Civic Church for his term of office.

9. Civic Duties

In his capacity as the Civic Head, or First Citizen, the Mayor represents the Sovereign in the Borough, ranking in precedence only after the Lord Lieutenant (if attending in his official capacity representing the Queen) and members of the Royal Family. He should, therefore, officiate at all formal civic events involving the Council, the public and press. In his absence the Deputy Mayor should officiate, or at the Mayor's discretion, the appropriate Portfolio Holder- but always subject to the Mayor's ruling.

10. Mayoral Regalia and dress code for Members at meetings

The Mayor and Deputy Mayor should wear their robes, chains and badges of office on all formal occasions within the Borough. At meetings of the Council the Mayor and Deputy Mayor should wear their robes, chains and badges of office provided that at the discretion of the Mayor, in the light of prevailing weather conditions, the wearing of robes may be dispensed with.

The Mayor and Deputy Mayor should wear their chains and badges of office when attending functions unless, at their discretion, the badges of office or a ribbon would be more appropriate.

Members of the Council should also always be appropriately dressed at Council meetings as a mark of respect to the Mayor. At the discretion of and with the permission of the Mayor, jackets may be removed during hot weather. Members should also stand, as a mark of respect for the Mayor, when he enters and leaves the Council chamber at Council meetings, and when he enters a room in which a meeting is taking place.

11. Use of Mace

The mace should be used on all Borough Ceremonial occasions and will be carried before the Mayor.

12. Chief Executive

The wearing of regalia by the chief Executive on royal occasions, at Council meetings, at Mayor Making, and on other special occasions will be at the discretion of the Chief Executive, provided that, in respect of royal occasions, the advice of the royal office or Lord Lieutenant will be sought.

13. The Deputy Mayor

Each year, the Deputy Mayor will be chosen for appointment by Council by the political group which has the majority of Council Members, provided that in making such choice, another political group or groups may be invited to put forward a nomination for consideration by the majority group.

The role of the Deputy Mayor should be one of support to the Mayor in fulfilment of civic engagements and to take the Chair in the absence of the Mayor at Council Meetings.

The Deputy Mayor, in consultation with the Chairman of the Constitution Committee, will decide how the Mayor Making ceremony will be organised, subject to advice from officers.

14. Mayoress or Consort and Deputy Mayoress or Consort

There is no legal status for these offices, appointments being made on the invitation of the Mayor and Deputy Mayor respectively, subject, in the case of persons other than relatives being proposed, to appointments being at the discretion of the Sub-Committee.

15. Mayor's Chaplain

The Mayor's Chaplain is his spiritual adviser and is appointed by the Mayor.

16. Administrative/Secretarial Support

Administrative/secretarial, civic and administrative support is provided by staff of and under the control of the Democratic Services Manager.

The administrative/secretarial support will be responsible for making all arrangements for the attendance of the Mayor and Deputy Mayor at any event. (Note - The Communications Team will give such assistance as required to the Mayor and Deputy Mayor, see also paragraphs 2 and 3.)

17. Civic Cars

The following rules will apply for the use of the official cars:

(a) The Mayor will have first claim on use of the civic cars, subject to (b) and (c) below, and the car bookings will be the responsibility of the personal assistant allotted to the Mayor. He/she will draw up the weekly list of engagements for the Mayor.

(b) The Deputy Mayor will be entitled to use a civic car when performing a duty at the request of, or on behalf of, the Mayor.

(c) The Mayoress/Consort and Deputy Mayoress/Consort will be entitled to use a civic car when performing a duty at the request of, or on behalf of the Mayor.

(d) On occasions (eg when no civic car is available due to maintenance etc), the Deputy Mayor may drive himself to engagements, but where considered appropriate, the administrative/secretarial support will arrange suitable alternative transport.

(e) For the avoidance of doubt, the civic cars may only be used for journeys directly associated with the performance of duties on behalf of the Borough Council arising from the office held by the user and will not be used for attendance at private functions unless prior arrangements have been made to reimburse the costs of driver and vehicle. The Mayor and/or Deputy Mayor will use the civic cars to convey them to and from meetings of the Council but will not use them for meetings of a Committee, Sub-Committee, etc. or of an outside body, which they are attending as an ordinary member, unless they are subsequently attending a public engagement.

(f) Because of the need to give the chauffeurs/civic attendants time off in lieu of hours worked or to arrange a substitute driver when they are not available, the maximum notice should be given of any engagements for the civic cars.

18. Accommodation

The Mayor has the use of Parlours at Macclesfield Town Hall, the Municipal Buildings, Crewe and, on occasions, the Members Room at Westfields. These premises will be used by the Mayor for civic and social occasions only. When necessary, the Mayor shall seek the assistance of officers in identifying other accommodation which he may need, in order to perform his civic functions.

19. Indisposition of the Mayor/Deputy Mayor

In the event that, due to the indisposition for whatever reason, the Mayor could not reasonably be asked to fulfil the normally accepted duties of his post, the Deputy Mayor will be requested, for that period of time, to assume the full duties of the post of Mayor, but will not take the title.

In the event that, due to indisposition for whatever reason, the Deputy Mayor could not reasonably be asked to fulfil the duties of his post, the Deputy Mayor Elect or the Leader of Council, will, for that period of time, assume the civic and social duties of the post of Deputy Mayor, but will not take the title.

20. Financial

The allowances for the Mayor, Deputy Mayor and Civic Hospitality should be reviewed annually and increased by an appropriate amount to cover inflation. When the Deputy Mayor is called upon to carry out the full duties of the Mayor for a period of two weeks or more, then an allowance of the difference between the Mayor's allowance and the Deputy Mayor's allowance will be paid for the period he so acts. Similar arrangements will apply in the case of the Deputy Mayor Elect.

The Civic Hospitality allowance is controlled by the Democratic Services Manager, and expenditure is subject to the approval of the Mayor and the Democratic Services Manager.

21. Civic Ceremonial and Procedure

The former Mayors of the Council, and the last Mayors of the demised Cheshire East authorities will be presented with a medallion as a memento of their office which should be worn only at:-

- (a) Mayor-Making ceremonies;
- (b) Annual Meetings of the Council;
- (c) meetings of the Council when the Mayor is robed;
- (d) ceremonies or processions when robes are worn;
- (e) civic dinners, receptions or other social functions of a civic character within the Borough;
- (f) other civic functions within the Borough at the request of the Mayor;
- (g) civic functions in another Authority's area only at the express invitation of the Mayor or Chairman concerned.

Preferential arrangements should be made at the Annual Council Meeting and on Civic Sunday for former Mayors.

22. Civic Events

The list of invitations to the Civic Service will be examined and extended as necessary and invitations should be sent in the name of the Mayor.

23. Christmas Cards

The persons to whom the Mayor sends Christmas cards, of his own choice, is a matter for his discretion. Only the cost of official cards and postage is borne by the Council.

24. Civic Hospitality - Mayor's At Home

Light refreshments will be provided and arrangements will be reviewed regularly.

25. Acceptance of Invitations

It is the wish of the Council that the Mayor should accept as many invitations as possible to attend events and functions to which he has been invited and that the services of the Deputy Mayor should also be used in the event of competing invitations being received.

Normally the Mayor is expected to accept the first invitation received for a particular time and date.

26. Mayor's Charity

It should be borne in mind that any fundraising activities undertaken for the Mayor's Charity are the responsibility of the Mayor, the Mayoress and 'friends'. Fund raising is discretionary and does not form part of the Mayor's duties.

Officers will only provide support to the Mayor in respect of charitable activity at civic occasions, including the Mayoral Ball, including the selling of tickets and reservation of places. The Mayor may consider establishing a committee to assist in the planning and preparation for such activity.

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting:	19 th September 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 Recommendations

- 2.1 To recommend to Council that

1. the Scheme of Delegation to Officers be approved; and t
2. the Interim Head of Legal Services and Monitoring Officer be authorised, 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 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.
- 10.2 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.
- 10.3 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.
- 10.4 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.
- 10.5 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.
- 10.6 As the work of the Member Working Group reached its conclusion, the Management Restructure was commenced. The Scheme of Delegation recommended by the Working Group to this Committee is based on the management structure prior to May. The Management Restructure is taking place over a period of several months and there is not yet sufficient detail in all aspects of the restructure to incorporate it into the Scheme of Delegation to Officers. In particular it is not clear where each function will ultimately sit.
- 10.7 It will also be noted that the Corporate Management Board is now known as the Corporate Leadership Board and this has been changed within the Scheme.
- 10.8 It is therefore recommended that delegation be given to the Interim Head of Legal Services/Monitoring Officer, in consultation with the Chairman of the Constitution Committee, to incorporate those changes as they are clarified. It is not anticipated that there will need to be any changes to the substance of the delegations in undertaking this process. If substantive changes are required they will be brought back to Constitution Committee.

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).
- 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 Director of Finance and Business Services 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 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 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) 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	Director of Finance and Business 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 Director of Finance and Business Services	Up to and including £2,500
Bad Debt Write Off	CLB in consultation with Director of Finance and Business Services and Borough Solicitor	Over £2500 and up to and including £5,000
Bad Debt Write Off	CLB in consultation with Director of Finance and Business Services, Borough Solicitor, appropriate Portfolio	Over £10,000 and up to and including £50,000

	Holder and Finance Portfolio Holder	
Write off of losses of obsolete or surplus equipment, materials, vehicles or stores	CLB	Up to £5,000
Disposals of obsolete or surplus equipments, materials, vehicles or stores	CLB with consent of Finance Portfolio Holder	Over £5000
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

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 HR and OD 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

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 and with the approval of the relevant Portfolio Holder to set fees and charges for these goods and services

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, which permission 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 Borough Solicitor, 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. 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 Strategic Director, the delegated authorities in respect of that service will move to the officer taking on the new responsibility

2.0 HEAD OF PAID SERVICE AND CHIEF EXECUTIVE

- 2.1 The Head of Paid Service is the Council's Chief Executive, 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 HEAD OF HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT (HR and OD)

3.1 The Head of HR and OD has overall responsibility for the operational management of the HR and OD functions and for bringing forward strategic plans and policies, implementing policies and decisions and allocation of resources within approved budgets as are necessary to provide the services. It comprises the following main functions:

1. HR Strategy

- HR Strategy and Policy
- Organisational Development
- Health and Safety

2. HR Delivery

- Council HR Delivery Service
- Schools HR Delivery Service

3.2 Within the following areas the 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:

HR STRATEGY

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

- 3.6 To submit Codes of Conduct in support of Human Resources, to the Constitution Committee for approval
- 3.7 To undertake the effective implementation and maintenance of Equal Opportunities in Employment Policy
- 3.8 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.
- 3.9 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
- 3.10 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

HR DELIVERY

- 3.11 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)
- 3.12 In consultation with the Director of Finance and Business Services to apply the approved early retirement /redundancy scheme in cases where the post is to be deleted EXCEPT that (a) decisions relating to redundancy may 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.
- 3.13 To determine honoraria in accordance with the NJC Scheme, reporting to Staffing Committee at the next available meeting
- 3.14 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
- 3.15 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)

4.0 STRATEGIC DIRECTOR, PLACES AND ORGANISATIONAL CAPACITY

4.1 The Strategic Director (Places and Organisational Capacity) is the Council's nominated Deputy Chief Executive and 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. Development

- Strategic Planning and Housing
- Development Management and Building Control
- Economic Development and Regeneration and Assets
- Visitor Economy and Tatton Park

2. Communities

- Leisure and Cultural Services
- Regulatory Services (Environmental health, Licensing and Trading Standards)
- Parking and neighbourhood enforcement
- Emergency Planning
- Streetscape
- Bereavement Services
- Greenspaces (Park Development)

3. Recycling and Waste Management

- Waste Management
- Recycling

4. Performance, Customer Services and Communications

- Communications
- Customer Services and Libraries
- Partnerships and Performance
- Organisational Capacity

5. Highways and Transport

- Highways (including management of the Ringway Jacobs contract)
- Transport
- Fleet
- Public Rights of way

- 4.2 Within the following areas, the Strategic Director, Places and Organisational 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

- 4.3 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

DEVELOPMENT**Strategic Planning and Housing**

- 4.4 To enforce all functions of the 'local housing authority'
- 4.5 To award and pay adaptation grants and loans pursuant to the Housing Grants Construction and Regeneration Act 1996 and within the Council's policies
- 4.6 To administer all housing strategies and policies.
- 4.7 To advise on housing and energy conservation matters, including administering a Housing Advice Service
- 4.8 To maintain the Housing Waiting List and to make nominations to Registered Providers of Social Housing in accordance with the Authority's Allocations Policy
- 4.9 To work with other housing providers to meet the housing needs of the Borough
- 4.10 To deal with all matters in respect of the Borough's Registered Providers of social housing
- 4.11 To administer the Authority's responsibilities for the homeless including the commissioning of hostels and accommodation.
- 4.12 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

- 4.13 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

Development Management and Building Control

- 4.14 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

- 4.15 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
- 4.16 To vary the Standard Fee Scales of the Local Government Association Model Scheme by plus or minus 10%
- 4.17 To exercise all powers and duties relating to Local Land Charges
- 4.18 To act as Proper Officer in respect of the Ordnance Survey under Section 191 of the Local Government Act 1972
- 4.19 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

Economic Development, Regeneration and Assets

- 4.20 To produce for Cabinet approval and implement the Corporate Asset Management Plan.
- 4.21 To make all delegated decisions in accordance with the Corporate Asset Management Plan
- 4.22 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 Director of Finance and Business Services must be obtained for all agreements which may involve a leasing charge
- 4.23 Subject to prior notification to the Director of Finance and Business Services (in respect of sales) and prior approval of the Director of Finance and Business Services (in respect of leases), to accept any offer or tender and agree the disposal of any interest in land or property, provided the Strategic Director, Places and organisational Capacity is of the opinion that it is the best consideration that can reasonably be obtained:
 - In consultation with the Director of Finance and Business Services 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 Director of Finance and Business Services 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
- 4.24 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 Director of Finance and Business Services and after having notified the Portfolio Holder
 - With the approval of the Portfolio Holder and in consultation with the Director of Finance and Business Services where the consideration of compensation is between £200,000 and £500,000
- 4.25 To take all actions under the Land Compensation Act 1973 including the payment of necessary compensation for claims
- 4.26 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.
- 4.27 To take action with regard to rating issues, including the conduct of appeals.
- 4.28 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
- 4.29 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
- 4.30 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
- 4.31 To authorise and complete the transfer of freehold land at nil value for education purposes, where it is a statutory requirement to do so.
- 4.32 To authorise deeds of rectification with Housing Associations
- 4.33 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

Visitor Economy and Tatton Park

- 4.34 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

COMMUNITY SERVICES**Leisure and Cultural Services**

4.35 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.

4.36 To maintain the Register of Commons

4.37 To manage all Council sports and leisure facilities for public use, including caravan parks and allotments including

- Temporary opening and closing times (note: permanent opening and closing times shall be a decision of the Portfolio Holder)
- Reviewing delivery models and implementing solutions relevant to individual communities
- Promotion of sporting activity in the community
- Promotion of customer care and equality of access

Parking and Neighbourhood Services

4.38 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

REGULATORY SERVICES (including Licensing, Trading Standards, Environmental Health and Animal Health)

4.39 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

4.40 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

4.41 To grant consent for the operation of a loudspeaker

4.42 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

4.43 To undertake all functions under the Scrap Metal Dealers Act 1964 (as amended) and to take all enforcement action under the Act

4.44 To carry out all enforcement under the Health Act 2006 and regulations made under it

4.45 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)

4.46 To undertake all the Authority's functions in respect of animal health

4.47 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
- 4.48 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)
- 4.49 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.
- 4.50 To issue street trading consents where no representations have been received or those that have been received have been withdrawn
- 4.51 To licence performances of hypnotism
- 4.52 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 Borough Solicitor

- 4.53 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.
- 4.54 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 .
- 4.55 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)

PERFORMANCE CUSTOMER SERVICES AND CAPACITY

- 4.56 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
- 4.57 To undertake the communications, marketing and media functions of the authority and promote good public relations
- 4.58 To promote effective working through business improvement initiatives as relevant including recommendations on targets, service standards, performance indicators and consultation
- 4.59 To be responsible for the authority's risk management approach
- 4.60 To be responsible for the research and consultation function including the census and corporate public feedback mechanisms

- 4.61 To be responsible for the corporate customer services function and promote a culture of customer service and equality in service delivery, access and design.
- 4.62 To develop corporate policy for Council/Cabinet approval and to ensure implementation
- 4.63 To develop and implement the authority's approach to local area working with partners to ensure co-ordinated delivery of services to the community
- 4.64 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
- 4.65 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.

HIGHWAYS AND TRANSPORT

- 4.66 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
- 4.67 To grant consents and impose requirements in connection with works in highways or adjacent premises.
- 4.68 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.

- 4.69 To construct carriageway crossings over footways and verges, erect fences, boundary posts, cattle grids and carry out works for the drainage of highways.
- 4.70 To exercise the Authority's responsibilities under the New Road and Street Works Act 1991 and, where appropriate, waive charges
- 4.71 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.
- 4.72 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.
- 4.73 Set charges for work and maintenance carried out by the Authority for which the costs are to be met by third parties.
- 4.74 Authorise the installation of sound insulation.
- 4.75 Appoint safety supervisors.
- 4.76 Make observations on planning applications consultations.
- 4.77 Take traffic censuses.
- 4.78 On the advice of the Assets Manager or District Valuer, to settle claims for borehole damage up to £1,500.
- 4.79 In consultation with the Portfolio Holder 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
- 4.80 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.
- 4.81 Determine the manner in which the requirements of Schedule 14 to the Highways Act 1980 shall be carried out.
- 4.82 Take emergency measures to protect persons and property from escapes of water from reservoirs.
- 4.83 Grant licences under Sections 142, 176, 177 and 181 of the Highways Act 1980.

- 4.84 To exercise powers and duties under Part VIIA of the Highways Act 1980
- 4.85 To exercise powers and duties under the Traffic Management Act 2004
- 4.86 To accept land for road improvements by dedication subject to the total consideration not exceeding £30,000.
- 4.87 To enter into agreements for the construction and adoption of estate roads.
- 4.88 To manage the Highways Services Contract
- 4.89 To take all decisions and actions in respect of nameplates and of street naming/renaming and numbering/renumbering provided it is within policy
- 4.90 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
- 4.91 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
- 4.92 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.
- 4.93 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
- 4.94 To make temporary diversion orders for footpaths
- 4.95 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.
- 4.96 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.
- 4.97 To authorise the erection of stiles and gates across any public right of way.
- 4.98 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
- 4.99 To manage the Council's vehicle fleet and to maintain, acquire and dispose of vehicles

BEREAVEMENT SERVICES

- 4.100 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.

STREETS AND OPEN SPACES

- 4.101 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

- 4.102 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

5.0 STRATEGIC DIRECTOR, CHILDREN, FAMILIES AND ADULTS

- 5.1 The Strategic Director, Children, Families and Adults has overall responsibility for the operational management of the Children, Families and Adults 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. Deputy Director of Children, Families and Adults

2. Children's and Family Services

- Education Services
- Children's Social Care
- Health Services
- Inter-Agency Co-operation
- Early Childhood Services
- Early intervention and prevention service

3. Adult and Social Care Services

- 5.2 Within the following areas, the Strategic Director (Children, Families and Adults) 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:

CHILDREN'S AND FAMILY SERVICES

- 5.3 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.

- 5.4 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
- 5.5 To be responsible for all other functions conferred on Children Services Authorities under the Children Act 2004 and by any subsequent legislation or Regulations.
- 5.6 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).
- 5.7 Licensing the Employment of Children
- 5.8 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.

ADULT AND SOCIAL CARE SERVICES

- 5.9 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 Strategic 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.
- 5.10 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).
- 5.11 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.
- 5.12 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.
- 5.13 On terms approved by the Director of Finance and Business Services and Borough Solicitor, to authorise adaptations to property and the provision of assistance and aids in accordance with the Chronically Sick and Disabled Persons' Act 1970
- 5.14 Act as trustee or appointee for the assets of service users for whom the Authority has a statutory responsibility.

4.15 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.

5.16, 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.

6.0 DIRECTOR OF FINANCE AND BUSINESS SERVICES

6.1 The Director of Finance and Business Services 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 Finance and Business Services Directorate 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. Financial Services

- Treasury Management
- Pensions
- Insurances
- Accountancy
- Revenues and Benefits

3. ICT Strategy

4. Procurement

5. Internal Audit

ROLE OF SECTION 151 OFFICER

6.2 The Director of Finance and Business Services 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 Director of Finance and Business Services 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

FINANCIAL SERVICES

6.4 The Director of Finance and Business Services, 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 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
- 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 Director of Finance and Business Services is not authorised to write off debt, which must be approved by the Portfolio Holder or Cabinet.

PROCUREMENT

- 6.5 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 Monitoring Officer, circumstances where normal procurement requirements and or requirements for quotations or tenders should be waived.

7.0 BOROUGH SOLICITOR AND MONITORING OFFICER

- 7.1 The Borough Solicitor is the Authority's Monitoring Officer, appointed by Council, and has overall responsibility for the operational management of the Borough Solicitor's Directorate 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 and Registration Services

- Registrar of Births Deaths and Marriages
- Electoral Services

- Democratic Services

MONITORING OFFICER ROLE

- 7.2 The Borough Solicitor is the Authority's Monitoring Officer in accordance with Section 5 Local Government and Housing Act 1989 and is responsible for ensuring the lawfulness and fairness in decision making and matters relating to the conduct of elected 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 Director of Finance and Business Services, 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 Borough Solicitor as 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 Borough Solicitor 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 £20,000, (which after settlement shall be reported to Cabinet)
- Authorise settlement above £20,000 and below £50,000 in consultation with the Portfolio Holder and the Director of Finance and Business Services, (which after settlement shall be reported to Cabinet)
- Claims in excess of £50,000 require Cabinet approval

7.7 The Borough Solicitor 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 Borough Solicitor 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.

DEMOCRATIC SERVICES

7.9 The Borough Solicitor 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 and shall subsequently notify the Chairman of the Constitution Committee.

- Receipt of notice of casual vacancy of Councillor (Section 80 (1) (b) of the Local Government Act
 - To exercise the Authority's duties in respect of the provision of a Coroner's Service
- 7.10 Perform all other functions of the Authority as set out in the Schedule to the Local Government (Committees and Political Groups) Regulations 1990
- 7.11 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

ELECTORAL SERVICES

- 7.12 The Borough Solicitor 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

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. (4.64 and 4.37)
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). (4.5)
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 Borough Solicitor up to £50,000. It is proposed that this delegation to the Borough Solicitor 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. (4.20 – 4.33)

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. (4.68)
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. (1.14)
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. (4.22)
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. (4.79)
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. (4.38)
22. A decision to remove a school crossing patrol is to be the decision of the Portfolio Holder. (4.92)
23. Concessionary travel schemes: the agreement of terms shall be in consultation with the Portfolio Holder. (4.92)
24. The organisation of school transport shall be in consultation with the Portfolio Holder. (4.92)
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. (4.34)

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. (4.26)
31. Missing legislation (some new) has been incorporated:
 - a. Animal Health Functions (4.46)
 - b. new provisions prohibiting payment for scrap metal by cash (4.43)
 - c. removal of dangerous trees. (4.19)
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. (3.14)
33. To produce departmental establishments for all posts Grade 10 and above and monitor them, reporting quarterly to Staffing Committee. (3.8)
34. To ensure Value For Money when undertaking responsibility for Financial Management. (1.15)
35. The management of green spaces shall be "in accordance with service standards and policies approved by the Council or Cabinet" has been added. (1.20)

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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

Constitution Committee

Date of Meeting: 19th September 2013
Report of: Head of Governance and Democratic Services
Subject/Title: Work Programme

1.0 Report Summary

- 1.1 This report reviews the programme of work approved previously by the Constitution Committee.

2.0 Recommendations

- 2.1 That
1. the Committee consider its work programme and agree any required amendments;
 2. a full report on the frequency of meetings, including the related issues identified in the report, be brought to the Committee in due course; and
 3. a working group be appointed to commence the review of the scrutiny and policy development group structure, the group to include non-Committee members if it is felt that a wider perspective of the structure would be of benefit.

3.0 Reasons for Recommendations

- 3.1 To enable the Committee to monitor progress with the work programme and make any desired changes.

4.0 Wards Affected

- 4.1 N/A

5.0 Local Ward Members

- 5.1 N/A

6.0 Background

- 6.1 Members have commented previously that it would be helpful for a report to be included on the Committee's agenda setting out the programme of work agreed by the Committee. This would enable Members to keep track of the work the Committee has commissioned and to monitor progress. It would also enable

Members to make informed decisions on additional work in the light of existing commitments, and to set priorities.

- 6.2 The work programme is set out below. For completeness, the programme also includes matters which have been referred to the Committee for consideration by another body of the Council and which have not yet been dealt with by the Committee.

1. Review of Officer Scheme of Delegation

The officer scheme of delegation has been reviewed by a member working group appointed by the Committee. It was necessary to review the scheme following the recent reviews of and significant changes to the Council's senior management structure. The other main aim of the review was to improve officer accountability and increase member involvement in decision-making. The working group has now completed its review and a report is included on this agenda.

2. Frequency of Meetings

The Committee at its meeting on 24th January 2013 considered a report on whether the frequency of the Council's meetings should be reviewed. The officers were asked to submit a further report to the Committee's meeting on 19th September 2013 following further detailed work, and having allowed time for the new scrutiny committees and policy development groups to settle in.

It has not been possible to bring to the Committee a full report on this matter. This is partly because the new structure of policy development groups and scrutiny committee is still settling in. In addition, more work is required on issues such as the size of committees, member attendance, comparisons with other authorities, the potential for joining up decision-making, and substitution rules. There could be positive resource implications arising from this work. It is therefore recommended that a full report be brought to the Committee in due course.

3. Policy Development Groups and Scrutiny Committees

As mentioned above, the new structure of policy development groups and scrutiny committees is still settling in. Training proposals are being developed for policy development group members which will assist them in their work. However, it would be beneficial if the awaited review of the scrutiny and policy and development group structure could be commenced. It is therefore recommended that a working group be appointed to commence the review of the scrutiny and policy development group structure, the group to include non-Committee members if it is felt that a wider perspective of the structure would be of benefit.

4. Transparency

The Committee at its meeting on 5th June 2013 considered an update report on the work that was going on across the authority to encourage

openness and transparency. Members also gave further consideration to a motion which had been moved by Councillor B Murphy and seconded by Councillor P Edwards at the Council meeting on 19th July 2012 calling for a review of the Council's policies and protocols in relation to confidentiality."

The Committee resolved that That the member working group appointed to review the scheme of delegation be asked to review the issue of transparency, openness and access to information, with the support of the Customer Service and Libraries Manager To assist the working group, the Customer Service and Libraries Manager was asked to obtain comparative data from other local authorities.

The member working group appointed to consider the scheme of delegation has now completed that work and a meeting of the working group will shortly be convened to consider the issue of transparency and openness. As a result of the ongoing review of the management structure, the officer responsibility for this matter has changed and Democratic Services are now liaising with the Customer Relations and Compliance Manager who will be advising the working group on this matter and who is currently obtaining the necessary comparative data.

5. Size and Structure of the Constitution

The Committee at its meeting on 5th June 2013 had a general discussion on the Constitution to identify key priorities for review. One of these was the size and structure of the Constitution. The Committee felt that the current version of the Constitution was quite large and complex and that Members generally would benefit from the production of a more concise version which contained the most essential information in a clear and straightforward way. The officers have been working with the Committee's Vice-Chairman to produce a concise, user-friendly version for the Committee's consideration, although this work is still in its early stages. Alongside this work, the Interim Head of Legal Services has instructed an officer working group to undertake a review of the Constitution/finance and contract procedure rules. These two streams of work will be co-ordinated with a view to submitting proposals for consideration in due course.

6. Review of the Procedure Rules

At the meeting on 5th June, the Committee also felt that a general review of the various procedure rules within the Constitution would be beneficial. Given the present workload, this review has yet to begin. Because of the nature of such a review, which would involve detailed working through many pages of the Constitution, the Committee may wish to consider appointing a working group to undertake this work and report back with any recommended changes.

7. Notice of Motion – Staffing Committee Terms of Reference

Council at its meeting on 18th July 2013 considered a motion proposed by Councillor Brendan Murphy and seconded by Councillor Arthur Moran that "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.” The motion stood referred to this Committee.

The Head of Human Resources is investigating this matter with a view to reporting to the Committee’s meeting on 21st November 2013.

7.0 Policy Implications

7.1 There are no direct policy implications

8.0 Financial Implications

8.1 There are no direct financial implications

9.0 Legal Implications

9.1 There are no direct legal implications

10.0 Risk Management

10.1 There are no direct risk management implications

11.0 Access to Information

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

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