

# **Annual Council Meeting and Mayor Making Ceremony**

## **Agenda**

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**Date:** Wednesday, 14th May, 2014  
**Time:** 11.00 am  
**Venue:** The Tenants' Hall, Tatton Park, Knutsford

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

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

1. **Prayers**

2. **Apologies for Absence**

To receive any apologies for absence.

3. **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.

4. **Election of Mayor 2014/15**

To elect a Mayor for 2014/15, who will also act as Chairman of the Council.

5. **Appointment of Deputy Mayor 2014/15**

To appoint a Deputy Mayor for 2014/15, who will also act as Vice-Chairman of the Council.

6. **Appointment of Mayor's Chaplain**

7. **Vote of Thanks to the Retiring Mayor**

8. **Mayor's Announcements**

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

**Adjournment for Lunch and Reconvening of Meeting at 1.45pm**

9. **Apologies for Absence**

To receive any further apologies for absence.

10. **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 for the afternoon session of the meeting.

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

To approve the Minutes of the meeting held on 10 April 2014 as a correct record.

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

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

Individual members of the public may speak for up to 5 minutes, but the Chairman will decide how the period of time allocated for public speaking will be apportioned, where there are a number of speakers.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given. It is not a requirement to give notice of the intention to make use of public speaking provision. However, as a matter of courtesy, a period of 24 hours notice is encouraged.

13. **Appointments to the Cabinet/Leader's Announcements**

In accordance with the Cabinet Procedure Rules, for the Leader to present to Council information about executive functions in the forthcoming year, including the names, addresses and electoral divisions of those Members appointed to Cabinet.

Details of the Leader's appointments to the Cabinet and the functions delegated to the Cabinet will be circulated at the meeting.

14. **Recommendation from Constitution Committee: The Council's Decision Making and Governance Arrangements** (Pages 9 - 74)

To consider the recommendations from the Constitution Committee.

15. **Political Representation on the Council's Committees** (Pages 75 - 78)

To determine the political group representation on the Council's Committees.

16. **Appointment of Members to Committees** (Pages 79 - 80)

To receive the political groups' nominations of Members to the Council's Committees, in accordance with item 15 above.

17. **Appointment of Chairmen and Vice Chairmen** (Pages 81 - 82)

To appoint the Chairman and Vice-Chairmen of the Council's Committees

18. **Appointments to Adoption Panel and Fostering Panel** (Pages 83 - 86)

To approve the appointments to Statutory Panels which do not fall within the definition of "a Committee".

19. **Appointments to Cheshire Fire Authority and the Cheshire Police and Crime Panel** (Pages 87 - 90)

To make appointments to the Cheshire Fire Authority and the Cheshire Police and Crime Panel.

20. **Recommendation from Constitution Committee: Cheshire/Wirral/Merseyside - Joint Scrutiny Arrangements** (Pages 91 - 108)

To consider the recommendations from the Constitution Committee

21. **Recommendation from Constitution Committee: Review of Polling Districts and Polling Places** (Pages 109 - 118)

To consider the recommendations from the Constitution Committee

22. **Recommendation from Constitution Committee: Council Constitution - Revision to Scheme of Delegation to Officers** (Pages 119 - 172)

To consider the recommendations from the Constitution Committee

23. **Reaffirmation of the Council's Constitution** (Pages 173 - 174)

To reaffirm the Council's Constitution.

24. **Questions**

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

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

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**CHESHIRE EAST COUNCIL****Minutes of a meeting of the Council**

held on Thursday, 10th April, 2014 at The Ballroom, Sandbach Town Hall,  
High Street, Sandbach, CW11 1AX

**PRESENT**

Councillor D Flude (Chairman)

Councillor W Fitzgerald (Vice-Chairman)

Councillors C Andrew, Rachel Bailey, Rhoda Bailey, A Barratt, G Barton, G Baxendale, D Brickhill, D Brown, L Brown, B Burkhill, P Butterill, S Carter, R Cartlidge, S Corcoran, H Davenport, W S Davies, R Domleo, D Druce, K Edwards, I Faseyi, J P Findlow, R Fletcher, H Gaddum, S Gardiner, L Gilbert, M Grant, P Groves, J Hammond, M Hardy, K Hickson, S Hogben, D Hough, P Hoyland, O Hunter, M Jones, S Jones, F Keegan, A Kolker, W Livesley, J Macrae, D Mahon, D Marren, A Martin, M A Martin, P Mason, R Menlove, G Merry, A Moran, B Moran, B Murphy, H Murray, D Neilson, D Newton, M Parsons, P Raynes, L Roberts, J Saunders, M Sherratt, L Smetham, D Stockton, C G Thorley, A Thwaite, D Topping, G M Walton, M J Weatherill, R West, P Whiteley, S Wilkinson and J Wray

**Apologies**

Councillors D Bebbington, J Clowes, P Edwards, A Harewood, P Hayes, J Jackson, L Jeuda, M J Simon and G Wait

**81 PRAYERS**

In the absence of the Mayor's Chaplain, Cllr Wilkinson said prayers, at the request of the Mayor.

**82 DECLARATIONS OF INTEREST**

Councillor W Fitzgerald declared a non pecuniary interest in respect of item 8 – Election of Mayor and Deputy Mayor for the 2013/14 Civic year and left the meeting during consideration of this matter.

**83 MINUTES OF PREVIOUS MEETINGS****RESOLVED**

That the minutes of the meetings held on 27 February and 28 February 2014 be approved as a correct record.

**84 MAYOR'S ANNOUNCEMENTS**

The Mayor:-

1. Welcomed Councillor Kevin Hickson to his first Council meeting. Councillor Hickson had been elected to the Crewe West Ward on 13 March 2014, following the sad passing away of Councillor Peter Nurse.
2. Announced that since the last Council meeting she and the Deputy Mayor had attended over thirty events and these were detailed on a sheet which had been circulated around the Chamber.
3. As this was the first time that Council has met at Sandbach Town Hall she thanked the Town Council for their invitation for Council to meet in the wonderfully refurbished building.
4. As she was coming towards the end of her Mayoral year, she reflected on the organisations and individuals that she had met across the Borough and on how impressed she was with the energy, enthusiasm and commitment to the community that she had seen on an almost daily basis. She would continue on this theme in her speech at the Mayor Making in May.
5. Announced that, on 1<sup>st</sup> April, she had attended, as a guest of the Lord Lieutenant, a presentation ceremony for British Empire Medals which had been held in Chester. One of the recipients of this prestigious award had been Mrs Valetta Cranmer, a Sandbach resident, who had received her award for services to the community and charity. Mrs Cranmer was very closely associated with Sandbach Ladies Choir, which had, on many occasions, performed at Sandbach Town Hall and it had been very pleasing to see her contribution to society marked in such a public manner.
6. Announced that Denis Dunn, Pro-Vice-Chancellor responsible for international issues and Dean of the Cheshire campus at Manchester Metropolitan University, would be retiring shortly. Denis had been a very good friend to Cheshire East since the Council's creation. She asked Members to join with her in sending him the Council's best wishes. Denis had many other interests and she was delighted that he had been appointed as Chairman of the Mid Cheshire Hospitals NHS Foundation Trust.
7. Announced that former Congleton Borough Councillor Steve Morris, who had represented the Alsager West Ward from 2004 to 2009, had passed away on Sunday 23rd March and that she had sent condolences to his family.

## **85 PUBLIC SPEAKING TIME/OPEN SESSION**

Mr Shaun Devaney, of Woodside Golf, Cranage, used public speaking time to ask a question relating to a planning application which had been registered on 8th February 2013. He queried why, when he had been

advised by his design team that a planning application should take 8 to 12 weeks to determine, he was still waiting for this to be resolved.

The Leader of the Council undertook to look into this matter, along with the Housing, Planning, Economic Development and Regeneration Portfolio Holder, Cllr Stockton and to provide a written response to Mr Devaney.

## 86 NOTICES OF MOTION

Consideration was given to the following Notices of Motion :-

### 1 **Blacklisting of Workers**

**Proposed by Councillor R Cartlidge and Seconded by Councillor S Corcoran**

The following Notice of Motion had been submitted by Councillor R Cartlidge, with support from by Councillor S Corcoran.

Cheshire East Council deplores the practice of blacklisting carried out by some building and construction companies, which have denied employment to workers who were carrying out legitimate trade union activities such as health & safety representatives. In noting the Prime Minister's comments that blacklisting is 'a completely unacceptable practice, and the previous government were right to bring in legislation to make it unlawful.'

Council resolves:

- To make clear to all construction companies bidding for Council contracts that any unlawful blacklisting of workers will not be tolerated; and
- To ask Legal Services to explore how to enable the Council to not contract with companies that have engaged in blacklisting and haven't paid compensation to workers.

In moving the motion, Councillor Cartlidge amended it to delete the second bullet point, the motion to now read:-

Cheshire East Council deplores the practice of blacklisting carried out by some building and construction companies, which have denied employment to workers who were carrying out legitimate trade union activities such as health & safety representatives. In noting the Prime Minister's comments that blacklisting is 'a completely unacceptable practice, and the previous government were right to bring in legislation to make it unlawful.'

Council resolves:

To make clear to all construction companies bidding for Council contracts that any unlawful blacklisting of workers will not be tolerated.

**RESOLVED**

That the motion, as amended, stand referred to Cabinet.

**2      Withdrawal of Reasons for Refusal**

**Proposed by Councillor D Brickhill and Seconded by Councillor A Moran**

In view of the fact that planning officers have withdrawn reasons for refusal, given and voted upon by councillors at planning committees, without the consent of the members, before the matter comes to the relevant appeal hearing, Council instructs the Director to ensure that any future withdrawals are authorised before they are signed by the relevant planning committee in full session.

**RESOLVED**

That the motion stand referred to the Strategic Planning Board.

**3      Council Tax Single Person Discount**

**Proposed by Councillor S Corcoran and Seconded by Councillor M Sherratt.**

This Council supports the proposals of the Local Government Association for reforming the single person discount. Under the plans, councils would have the flexibility to adjust the discount for working people living alone in large homes – rated council tax band E and above. Discounts for single people in smaller homes and all pensioners would remain protected.

**RESOLVED**

That the motion stand referred to Cabinet.

**87    ELECTION OF MAYOR AND DEPUTY MAYOR FOR THE 2014-15 CIVIC YEAR**

*(Councillor Wesley Fitzgerald, having declared a non pecuniary interest, left the meeting during consideration of this matter).*

Consideration was given to the nominations for the office of Mayor and Deputy Mayor for 2014/15.

It was moved and seconded that Councillor Wesley Fitzgerald be designated as the Mayor elect and that Councillor Hilda Gaddum be designated as Deputy Mayor elect, with a view to their formal election as



Mayor and appointment as Deputy Mayor respectively, for the Borough of Cheshire East for the 2014-15 civic year, at the Mayor making ceremony on 14 May 2014.

*(Following her nomination, Councillor Hilda Gaddum, declared a non pecuniary interest and left the meeting during consideration of this matter).*

## **RESOLVED**

That Councillor Wesley Fitzgerald be designated as Mayor Elect and that Councillor Hilda Gaddum be designated as Deputy Mayor Elect, with a view to their formal election as Mayor and appointment as Deputy Mayor for Cheshire East for 2014-2015 civic year, at the Mayor Making ceremony to be held on 14 May 2014.

## **88 CORPORATE LEADERSHIP BOARD APPRAISALS**

Consideration was given to a report requesting Council to approve the establishment of an appraisal board for Corporate Leadership Board (CLB) members and delegate the arrangements for establishing and running the appraisal board to the Council's Staffing Committee.

The establishment of an Appraisal Board would ensure that Members were fully engaged with and able to lead on future appraisals for all CLB members which would, in turn, link to any performance related pay awarded to each CLB member, in line with the Council's Pay Policy Statement 2014/15.

## **AMENDMENT**

An amendment to the wording of the recommendation to read "To agree to the establishment of an appraisal board for CLB members, from the whole of the Council, and delegate the running of the appraisal board to the Staffing Committee" was proposed and seconded and declared lost.

## **RESOLVED**

That the establishment of an appraisal board for Corporate Leadership Board members and the delegation of the arrangements for establishing and running the board to the Council's Staffing Committee be approved.

## **89 DESIGNATION OF DEPUTY ELECTORAL REGISTRATION OFFICER**

Consideration was given to a report seeking Council's approval to the designation of the Head of Governance and Democratic Services as the Council's Deputy Electoral Registration Officer (DERO).

It was reported that, unless local authorities required their Electoral Registration Officers to personally discharge formal electoral registration

duties, it was a requirement that they had a DERO, and Section 52(2) of the Representation of the People Act 1983 made provision for the appointment of a DERO.

Council was recommended to formally designate the Head of Governance and Democratic Services as the Council's Deputy Electoral Registration Officer. Under the designation, the designated officer would be responsible for deputising for the Electoral Registration Officer (the Chief Executive) in respect of all electoral registration matters, including the maintaining of the register of parliamentary and local government electors.

## **RESOLVED**

That the Head of Governance and Democratic Services be designated as its Deputy Electoral Registration Officer, with the full powers of the Electoral Registration Officer.

## **90 LEADER'S ANNOUNCEMENTS**

The Leader of the Council :-

1. Referred to the Council's new ways of working in the form of Alternative Service Delivery Vehicles. The Council was one of the few Authorities in the country to work in this way. The process was both transitionary and evolutionary and the Leader invited all Members to be a part of this process. He hoped that all Members would support the proposals put forward at the recent all Member briefing in respect of the ambition for the Authority to become a commissioning Council .
2. Announced that he was pleased that the Transport Minister had supported the HS2 transport hub for Crewe. The Secretary of State for Transport had not yet made his decision in respect of this matter, but he was confident that that the proposals would be approved.
3. Reported that he had asked the Monitoring Officer to look into changing the Council's IT policy to ensure that it was made clear that all Members and officers should take care to abide by the rules regarding the use of Council IT facilities and not to use them for their personal gain.

## **91 QUESTIONS**

The following Members asked Questions :-

Cllr Marren, in respect of which Town Councils supported the new arrangements for CCTV monitoring - Cllr Michael Jones, the Leader of the Council responded.

Cllr Kolker, in respect of progress on HS2 and Stoke-on-Trent - Cllr Michael Jones, the Leader of the Council responded.

Cllr Corcoran in respect of the holding company CE Ltd - Cllr Michael Jones, the Leader of the Council responded.

Cllr Weatherill, in respect of the Leader of the Council's comments made on local radio regarding Crewe Town Council - Cllr Michael Jones, the Leader of the Council responded.

Cllr Cartlidge in respect of the plans for the location of Crewe Station, if the HS2 hub did not go ahead - Cllr Michael Jones, the Leader of the Council responded.

Cllr A Moran in respect of delays in the determination of a planning application for housing in Stapeley - Cllr Michael Jones, the Leader of the Council responded.

Cllr Thorley in respect of the delay in repairing the automatic doors at Crewe market - Cllr Topping, the Environment Portfolio Holder responded.

Cllr Brickhill in respect of the start date for the building of the Crewe Green Link Road - Cllr Michael Jones, the Leader of the Council responded.

Cllr Smetham, in respect of the current position regarding the Council's 5 year housing supply - Cllr Michael Jones, the Leader of the Council responded.

Cllr Hickson in respect of the Leader of the Council's comments regarding Crewe Town Council - Cllr Michael Jones, the Leader of the Council responded.

## 92 **THANKS**

As this was her last full Council meeting, the Mayor thanked Members and officers for their support during her term of office.

The meeting commenced at 4.00 pm and concluded at 5.20 pm

Councillor D Flude (Chairman)  
CHAIRMAN

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**COUNCIL MEETING – 14<sup>TH</sup> MAY 2014****Extract from the Minutes of the Constitution Committee Meeting on 1<sup>st</sup> May 2014****43 THE COUNCIL'S DECISION-MAKING AND GOVERNANCE ARRANGEMENTS**

The Committee considered a range of proposals concerning the Council's governance arrangements.

*PDG/Scrutiny Review*

The Constitution Committee had appointed a cross-party member working group to conduct a review of the arrangements relating to the Council's scrutiny committees and policy development groups. The Working Group had appointed Professor Steve Leach and Professor Colin Copus of DeMontfort University to undertake the work required in respect of the review. Professors Leach and Copus were widely acknowledged for their expertise in scrutiny and other local government matters.

Professors Leach and Copus had presented their report to the PDG/Scrutiny Review Working Group on 14<sup>th</sup> April 2014. The report was attached to the Committee's report as Appendix A. The Working Group had supported the recommendations in the report.

In considering the proposals, Members felt that the policy and performance commissions should be termed 'overview and scrutiny committees'.

Members also had regard to recommendation (12) of the Professors' report which stated that the chair and vice-chair of each commission should be held by councillors from different political parties and that in the medium term it would be advantageous if there were some sharing of commission chairs with opposition parties, provided that an appropriate behavioural protocol could be agreed.

*Size of Committees*

The Constitution Working Group had recently considered the merits of reducing the size of committees to free-up members' time and to make meetings shorter and more manageable. The Working Group had suggested the following reductions subject to further consideration:

<b>Committee (current size)</b>	<b>Proposed size</b>
Constitution Committee (14)	10
Strategic Planning Board (14)	12
Northern Planning Committee (14)	12

Southern Planning Committee (15)	12
Public Rights Of Way Committee (7)	5
Licensing Committee (15)	10
Lay Members Appointments Committee (7)	5
Local Authority School Governor Appointments Panel (8)	5
Appeals Sub-Committee (5)	3

No changes had been proposed to the size of the Audit and Governance and Staffing Committees.

In considering the proposed reductions, Members had regard to the fact that the Licensing Committee's sub-committees met very frequently and at relatively short notice and that the membership for each meeting was drawn from the membership of the parent committee. Any reduction in the size of the Licensing Committee would result in a smaller pool of members available for sub-committee meetings, making it more difficult for such meetings to be convened. Members concluded therefore that the Licensing Committee's membership should remain at 15 (and that consequently the quorum of the Committee should remain unchanged).

#### *Terms of Reference of Committees*

The Committee considered revised terms of reference for the Staffing Committee, Audit and Governance Committee and Health and Wellbeing Board.

The background to each review was set out fully in the report.

The Staffing Committee at its meeting on 24<sup>th</sup> April 2014 had considered revised terms of reference which were recommended to the Constitution Committee for approval by Council. These were circulated at the meeting and replaced the version attached to the report at Appendix C.

A number of additional amendments to the terms of reference of the Audit and Governance Committee were also proposed and agreed at the meeting. The terms of reference as attached to the report at Appendix D would be amended accordingly.

The Constitution Committee at its meeting on 20<sup>th</sup> March 2014 had approved revised terms of reference for the Health and Wellbeing Board for submission to Council subject to certain amendments. The terms of reference as amended were attached to the report at Appendix E.

### *Cabinet Support Members*

In considering the report of the Independent Remuneration Panel at its meeting on 27<sup>th</sup> February 2014, Council had noted the Panel's conclusion that in the absence of a job description or terms of reference, a Cabinet Support Member did not appear to have any individual responsibility in order to qualify for a Special Responsibility Allowance (SRA) under its criteria.

It was now considered opportune to review the role of Cabinet Support Members. A suggested list of responsibilities of those appointed by the Leader of the Council to undertake a support role for Cabinet Members was attached as Appendix F to the report. Given the comments of the IRP, it was considered appropriate for these roles to be defined in the Constitution, which would require a recommendation to Council.

The Leader had indicated that the title of those appointed to these roles should properly reflect their responsibilities; he had therefore allocated the title "Deputy Cabinet Member" to these positions.

The Committee was asked to determine whether, having regard to the recommendations of the Panel, and in the light of the roles in question now being clearly defined, SRAs should be paid to the newly-appointed Deputy Cabinet Members and, if so, whether these should mirror the arrangements which currently applied to Cabinet Support Members.

### **RESOLVED**

That Council be recommended to approve the following:

1. the abolition of the Council's existing Scrutiny and Policy Development Group arrangements and the creation of five overview and scrutiny committees, reflecting Cheshire East Council's five strategic priorities: Communities, Economy, Life Skills, Environment and Health;
2. the adoption of the terms of reference, attached as Appendix B to the report, as the committees' terms of reference, with each committee having all relevant overview and scrutiny powers under the Local Government Act 2000; together with the appropriate committee having responsibility for the ASDV which best fits within the work of that committee;
3. the creation of an overarching Cheshire East Overview and Scrutiny Committee, having all relevant overview and scrutiny powers under the Local Government Act 2000, and the terms of reference and scrutiny powers appended to the report, with those additional responsibilities set out in recommendation 10 of the PDG/Scrutiny Review Report; the powers of this committee also to include the power to determine which overview and scrutiny committee should take responsibility for specific pieces of work where there may be uncertainty;
4. the designation of the Communities Overview and Scrutiny Committee to deal with crime and disorder issues under the Police and Justice Act 2006; the Environment

Overview and Scrutiny Committee to deal with scrutiny of Flood Risk Management arrangements under the Flood Risk management Overview and Scrutiny (England) Regulations 2011; the Health Overview and Scrutiny Committee to deal with health scrutiny requirements under the Health and Adult Social Care Act 2012;

5. that the Life Skills Overview and Scrutiny Committee have the responsibility of co-opting faith and parent-governor representatives to deal with education matters;
6. the amendment of the existing call-in arrangements as set out in recommendation 13 of the PDG/Scrutiny Review Report, including the reduction in the number of Members required to trigger a call-in from 8-6 and the inclusion of provisions requiring reasons for call-in (as set out in the PDG/Scrutiny report) to be stipulated and the empowerment of the Head of Legal Services and Monitoring Officer to be the arbiter if the justification for call-in is disputed;
7. that the number of Council Members who will be members of each of the five overview and scrutiny committees be eight (which may be supplemented by up to two members of the public);
8. that, in acknowledgement of recommendation 12 of the report by Professors Leach and Copus as set out in Appendix A, the Council move to a position where there is some sharing of committee chairs and vice chairs with opposition parties, subject to an appropriate behavioural protocol being adopted;
9. the Special Responsibility Allowances paid to the Chairmen and Vice-Chairmen of the new overview and scrutiny committees be the same as those paid to the Chairmen and Vice-Chairmen of the Council's existing scrutiny committees;
10. the membership of those bodies referred to in paragraph 12.2 of the report be reduced as indicated in that paragraph with the exception of the Licensing Committee whose membership shall remain at 15 (and whose quorum as a consequence shall remain unchanged), with the quorum for planning boards and committees being reduced from 5 to 4 members;
11. the proposed terms of reference of the Staffing Committee as circulated at the meeting, and those of the Audit and Governance Committee and the Health and Wellbeing Board, as set out in Appendices D and E respectively, be adopted as the terms of reference of those bodies subject to the further amendments to the Audit and Governance Committee's terms of reference as agreed at the meeting;
12. the responsibilities of Deputy Cabinet Members, as contained in Appendix F, be noted and included in the Constitution subject to any further drafting changes which might be made to reflect the discussion at the Committee's meeting and which might be put forward before consideration by Council;
13. given that a recommended job description is now in place in respect of the role of Deputy Cabinet Members, and having regard to the report of the Independent Remuneration Panel presented to Council on 27<sup>th</sup> February 2014, Special Responsibility Allowances be paid to the newly-appointed



Deputy Cabinet Members in accordance with the arrangements which currently apply to Cabinet Support Members; and

14. the Head of Legal Services and Monitoring Officer be given delegated authority to make such consequential and other changes to the Council's Constitution as she considers necessary to give effect to the wishes of Council.

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Notes:

- 1 The Staffing Committee terms of reference at Appendix C have been amended in accordance with the recommendations of the Staffing Committee and the Constitution Committee.
- 2 The Audit and Governance Committee terms of reference at Appendix D have been amended to incorporate the further changes agreed by the Constitution Committee.

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# CHESHIRE EAST COUNCIL

## Constitution Committee

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**Date of Meeting:** 1<sup>st</sup> May 2014  
**Report of:** Head of Governance and Democratic Services  
**Subject/Title:** The Council's Decision-Making and Governance Arrangements

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### 1.0 Report Summary

- 1.1 This report addresses a range of decision-making and governance issues and seeks a recommendation from the Constitution Committee to Council upon proposed constitutional change.
- 1.2 The report seeks to ensure transparency, public accountability and openness in the Council's decision-making and governance arrangements, following the Council's approach of "residents first", and asks the Constitution Committee to make appropriate recommendations to Council to ensure this.

### 2.0 Recommendations

That the Committee recommends to Council as follows:

- 2.1 The abolition of the Council's existing Scrutiny and Policy Development Group (PDG) arrangements and the creation of five policy and performance commissions, as indicated in the appended PDG/Scrutiny Review report, reflecting Cheshire East Council's five strategic priorities: Communities, Economy, Life Skills, Environment and Health.
- 2.2 The adoption of the terms of reference, appended at **Appendix B** of this report, as the Commissions' terms of reference, with each Commission having all relevant overview and scrutiny powers under the Local Government Act 2000; together with the appropriate Commission having responsibility for the ASDV which best fits within the work of that Commission.
- 2.3 The creation of an overarching Cheshire East Policy and Performance Commission, having all relevant overview and scrutiny powers under the Local Government Act 2000, and the appended terms of reference and scrutiny powers, with those additional responsibilities set out in recommendation 10 of the PDG/Scrutiny Review Report; the powers of this Commission also to include the power to determine which Commission should take responsibility for specific pieces of work, where there may be uncertainty.
- 2.4 The designation of the Communities Commission to deal with crime and disorder issues under the Police and Justice Act 2006; the Environment Commission to deal

with scrutiny of Flood Risk Management arrangements under the Flood Risk management Overview and Scrutiny (England) Regulations 2011; the Health Commission to deal with health scrutiny requirements under the Health and Adult Social Care Act 2012.

- 2.5 That the Life Skills Commission will have the responsibility of co-opting faith and parent-governor representatives to deal with education matters.
- 2.6 The amendment of the existing call-in arrangements as set out in recommendation 13 of the appended PDG/Scrutiny Review Report; including the reduction in the number of Members required to trigger a call-in from 8-6 and the inclusion of provisions requiring reasons for call-in to be stipulated and the empowerment of the Head of Legal Services and Monitoring Officer to be the arbiter if the justification for call-in is disputed.
- 2.7 The number of Council Members who will be members of the Commissions.
- 2.8 The Special Responsibility Allowances (SRAs) paid to the Chairmen and Vice Chairmen of the new Commissions should be the same as those paid to the Chairmen and Vice Chairmen of the Council's existing scrutiny committees and that, if it is legally possible to do so, the Council could seek to recover any of the costs of administering its commissions from the ASDVs.
- 2.9 The membership of those bodies referred to in paragraph 12.2 of this report be reduced as indicated in that paragraph, with the quorum for planning boards and committees being reduced from 5 to 4 members, and the quorum for licensing committees being reduced from 8 to 5 members.
- 2.10 The terms of reference of the Staffing Committee, the Audit and Governance Committee and the Health and Wellbeing Board, as set out in Appendices C,D and E respectively be adopted as the terms of reference of those bodies.
- 2.11 The responsibilities of Deputy Cabinet Members, as contained in **Appendix F**, be noted and included in the Constitution.
- 2.12 Given that a draft job description is now in place in respect of the role of Deputy Cabinet Members and, having regard to the report of the Independent Remuneration Panel presented to Council on 27<sup>th</sup> February 2014; Special Responsibility Allowances be paid to the newly appointed Deputy Cabinet Members in accordance with the arrangements which currently apply to Cabinet Support Members.
- 2.13 The Head of Legal Services and Monitoring Officer be given delegated authority to make such changes to the Council's Constitution in order to give effect to the wishes of Council, and to make such consequential and other changes as she considers are necessary, and which arise from the recommendations of this report.

### **3.0 Reasons for Recommendations**

- 3.1 The recommendations of this report are made in order to ensure that the Council's decision-making and governance arrangements are properly reflected in the Constitution.

### **4.0 Wards Affected**

- 4.1 Not directly applicable.

### **5.0 Local Ward Members**

- 5.1 Not directly applicable.

### **6.0 Policy Implications**

- 6.1 Much of the content of this report relates to proposed changes to the Council's decision-making and other governance arrangements. If such changes are recommended to, and accepted by Council, the Council's Constitution will need to be amended accordingly.

### **7.0 Financial Implications**

- 7.1 The main body of this report refers to financial implications. In respect of Cabinet Support Members/Deputy Cabinet Members, the financial implications of the recommendations of this report are neutral. With regard to the financial implications of the acceptance of the report's recommendations on Policy Development Groups/Scrutiny Committees, there would be a saving of approximately £25,000pa.

### **8.0 Legal Implications**

- 8.1 Any legal implications are contained in the main body of this report. The report recommends that changes should be made to the Council's Constitution. In order for such change to take place, there must be a recommendation from the Constitution Committee.
- 8.2 Certain recommendations of this report relate and respond to the report of the Independent Remuneration Panel which was presented to Council on 27<sup>th</sup> February 2014. Council needs to have regard to the relevant extract from the Panel report, as contained in this report.

### **9.0 Risk Management**

- 9.1 There would not appear to be any risks arising from the recommendations of this report. Indeed, the proposals contained in the report relating to robust scrutiny arrangements in respect of the ASDVs eg those relating to the Policy Development Group/Scrutiny Review will, if agreed by Council, result in measures being introduced to minimise risk in respect of the Council's approach to commissioning and alternative service delivery vehicles.

## **10.0 Background**

- 10.1 Over recent months, tremendous change has taken place in respect of the way in which the Council delivers services. Alternative Service Delivery Vehicles (ASDVs) have been created and more will follow.
- 10.2 Alongside this change is the need to ensure that the work of the ASDVs is transparent to the Council, and that openness and public accountability are at the heart of the way in which these arrangements operate.
- 10.3 When the current Policy Development Group (PDG)/Scrutiny arrangements were established in December 2012, Council resolved that they should be subject to review. This review has now been completed by Professors Steve Leach and Colin Copus of DeMontfort University under the direction of the Constitution Committee, and the PDG/Scrutiny Review Working Group.
- 10.4 Furthermore, the Constitution Committee, the Constitution Member Working Group, and other committees have given consideration to other issues such as:
- The size of certain committees.
  - The terms of reference of committees, in particular those of the Staffing Committee, the Audit and Governance Committee, and the Health and Wellbeing Board.
- 10.5 And further, at its meeting on 27<sup>th</sup> February, Council gave consideration to the recommendations of the Independent Remuneration Panel, in which the Panel indicated that further thought should be given to the duties of Cabinet Support Members.
- 10.6 Given the pace of change within the authority, and its ambition to continue to transform the way in which it works, this report draws together a number of issues which, it is recommended, should result in constitutional change.
- 10.7 In order for the Constitution to change, a recommendation to that effect is needed from the Constitution Committee.

## **11.0 PDG/Scrutiny Review**

- 11.1 In response to the resolution of Council, made when the current PDG/Scrutiny arrangements were established in December 2012, the Constitution Committee appointed a cross-party Working Group to conduct a review of those arrangements. The Working Group was chaired by Councillor Peter Groves. The Vice Chairman was Councillor David Marren.
- 11.2 The Working Group appointed Professor Steve Leach and Professor Colin Copus, of DeMontfort University to undertake the work required in respect of the Review. Professors Leach and Copus are widely acknowledged for their expertise in scrutiny and other local government matters.

- 11.3 Professors Leach and Copus presented their Review report to the PDG/Scrutiny Review Working Group on 14<sup>th</sup> April 2014. Their report is appended to this report as **Appendix A**. The Working Group supports the recommendations in the report, which are now presented to the Constitution Committee in order for consideration to be given to what recommendations should be made to Council.
- 11.4 If the Committee is minded to accept the broad thrust of the recommendations of the Review, it is asked to recommend to Council that the accepted elements be immediately adopted by the Council and implemented. However, certain of the recommendations would result in the need for constitutional change, and specific recommendations to Council would therefore be needed upon the following:
- 11.4.1 The abolition of the Council's existing Scrutiny and Policy Development Group arrangements and the creation of five policy and performance commissions, as indicated in the Review report, reflecting Cheshire East Council's five strategic outcomes: Communities, Economy, Life Skills, Environment and Health.
- 11.4.2 The adoption of the terms of reference, appended at **Appendix B**, as the Commissions' terms of reference, with each Commission having all relevant overview and scrutiny powers under the Local Government Act 2000; together with the appropriate Commission having responsibility for the ASDV which best fits within the work of that Commission.
- 11.4.3 The creation of an overarching Cheshire East Policy and Performance Commission, all relevant overview and scrutiny powers under the Local Government Act 2000, and the appended, terms of reference and scrutiny powers, with those additional responsibilities set out in recommendation 10 of the Review Report; the powers of this Commission also to include the power to determine which Commission should take responsibility for specific pieces of work, where there may be uncertainty.
- 11.4.4 The designation of the Communities Commission to deal with crime and disorder issues under the Police and Justice Act 2006; the Environment Commission to deal with scrutiny of Flood Risk Management arrangements under the Flood Risk management Overview and Scrutiny (England) Regulations 2011; the Health Commission to deal with health scrutiny requirements under the Health and Adult Social Care Act 2012.
- 11.4.5 To note the fact that the Life Skills Commission will have the responsibility of co-opting faith and parent-governor representatives to deal with education matters.
- 11.4.6 The amendment of the existing call-in arrangements as set out in recommendation 13 of the Review Report; including the reduction in the number of Members required to trigger a call-in from 8-6 and the inclusion of provisions requiring reasons for call-in to be stipulated and the empowerment of the Head of Legal Services and Monitoring Officer to be the arbiter if the justification for call-in is disputed.

- 11.5 The Constitution Committee may wish to give some thought to the size of the proposed Commissions. The following is an analysis of current Council composition, and the way in which this would affect potential membership:

Size	Conservative 60.98%	Labour 19.51%	Independent 13.41%	Lib/Dem 4.88%
6	3.659 = 4	1.170 = 1	0.804 = 1	0.293 = 0
7	4.269 = 4	1.366 = 1	0.939 = 1	0.342 = 0
8	4.878 = 5	1.561 = 2	1.071 = 1	0.39 = 0
9	5.488 = 5	1.756 = 2	1.207 = 1	0.439 = 0
10	6.1 = 6	1.951 = 2	1.341 = 1	0.488 = 0
11	6.708 = 7	2.146 = 2	1.475 = 1	0.537 = 1
12	7.32 = 7	2.341 = 2	1.609 = 2	0.59 = 1

- 11.6 The Committee is asked to make a recommendation to Council upon the size of the Commissions. It should be noted that some of the sizes of commissions above do not readily align with the Council's proportionalities: 7, 9 & 10
- 11.7 Given that the proposed Commissions will have all of the powers and responsibilities of the Council's existing scrutiny committees, together with an additional responsibility in respect of one or more ASDV, a recommendation is needed from the Committee as to whether the existing Special Responsibility Allowances (SRAs) paid to the Chairmen and Vice Chairmen of the Council's scrutiny committees should be replicated in those paid to the Chairmen and Vice Chairmen of the new Commissions. The Committee may wish to consider whether the Council could seek to recover any of the costs of administering its commissions from ASDVs. However it is not clear that such costs would amount to a legitimate company expense.

## **12.0 Size and terms of reference of committees**

### **Size of committees**

- 12.1 The Constitution Working Group recently considered the merits of reducing the size of committees to free-up members' time and to make meetings shorter and more manageable, whilst taking into account the responsibilities of each committee.
- 12.2 The Working Group suggested the following reductions subject to further consideration:



<b>Committee (current size)</b>	<b>Proposed size</b>
Audit and Governance Committee (10)	10 (no change)
Constitution Committee (14)	10
Strategic Planning Board (14)	12
Northern Planning Committee (14)	12
Southern Planning Committee (15)	12
Public Rights Of Way Committee (7)	5 (or incorporate functions into planning committees)
Licensing Committee (15)	10
Staffing Committee (8)	8 (no change)
Lay Members Appointments Committee (7)	5
Local Authority School Governor Appointments Panel (8)	5
Appeals Sub-Committee (5)	3

- 12.3 The Committee will therefore need to decide whether to make a recommendation to Council upon the numbers of Members of these bodies.

#### **Terms of reference of committees**

- 12.4 Much work has taken place in recent weeks and months in respect of three key areas of the Council's business: Staffing Committee, Audit and Governance Committee and Health and Wellbeing Board.
- 12.5 A Motion proposed at Council on the 18th July 2013 requested a review of the Staffing Committee 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 employee relations and communications, senior appointments, disciplinary matters and management structures
- 12.6 This motion was passed to the Council's Constitution Committee for consideration and a report was presented to the Committee on the 21<sup>st</sup> November 2013 outlining the current remit of the Staffing Committee, taking into account the Terms of Reference as detailed in the Council's Constitution, and the practice of the committee since its inception in 2009. It also considered practice in other authorities.

- 12.7 The Constitution Member Working Group, in consultation with the Chairman of Staffing Committee, progressed the review of the terms of reference. Following this work, new draft terms of reference were prepared. These appear as an appendix to a report to the Staffing Committee (24<sup>th</sup> April 2014), the whole of which being appended to this report as **Appendix C**. It should be noted that the draft terms of reference also take into account the powers allocated to the Staffing Committee by the meeting of Council on 10<sup>th</sup> April 2014.
- 12.8 Whilst the Staffing Committee, at its meeting on 24<sup>th</sup> April 2014 may make comments to the Constitution Committee, the Constitution Committee is responsible for making a recommendation to Council upon the adoption of the draft Staffing Committee terms of reference, as reproduced at Appendix C.
- 12.9 Audit and Governance Committee terms of reference:
- 12.10 The Constitution Member Working Group has undertaken a review of the terms of reference of the Audit and Governance Committee. The Working Group felt that the Committee's current role was largely a passive one, responding to, and noting, reports initiated by officers. The Working Group felt that the Committee's work programme should be much more member-driven. The Committee's current terms of reference did not allow the Committee a sufficiently active and robust role in scrutinising and challenging the Council's governance arrangements and initiating its own investigations and reviews.
- 12.11 At its meeting on 3<sup>rd</sup> March 2014 the Working Group considered model terms of reference for local authority audit committees which had been produced by CIPFA. These had been considered by the Audit and Governance Committee on 30<sup>th</sup> January 2014 and referred to the Working Group for consideration. The aim of the CIPFA model was to empower local audit committees in providing an independent review of the authority's governance, risk management and control frameworks and in overseeing the financial reporting and annual governance processes.
- 12.12 The Working Group noted that the Audit and Governance Committee was also responsible for the Council's standards regime in respect of the Member Code of Conduct. In this respect, it was noted that the Head of Legal Services and Monitoring Officer was aiming to submit a report to the Audit and Governance Committee in June with revised arrangements covering this aspect of the Committee's work.
- 12.13 The Working Group asked the Constitution Committee to recommend to Council that the CIPFA model terms of reference for audit committees, as Appended to this report at **Appendix D**, be adopted as the terms of reference of the Audit and Governance Committee.

12.14 Health and Wellbeing Board terms of reference:

12.15 The Constitution Committee at its meeting on 20<sup>th</sup> March 2014 considered a report proposing amendments to the terms of reference of the Health and Wellbeing Board. The proposed terms of reference were agreed by the Committee, with some amendments, including those necessary to clarify the functions required of the Board by legislation, to reflect the restructuring of the Council over the last year, and to ensure that the terms of reference aligned with the Council's Constitution and Committee Procedure Rules.

12.16 The amended terms of reference are attached for information at **Appendix E**. These will now be submitted to Council for approval and adoption and the Committee is therefore asked to note the terms of reference and recommend them on to Council for adoption.

### **13.0 Cabinet Support Members**

13.1 At the 27<sup>th</sup> February 2014 meeting of Council, the report of the Independent Remuneration Panel (IRP) report was considered. The following is an extract from the report:

"Cabinet Support Members: Having evaluated the role against the matrix and noting the evidence supplied as part of the 2012 review, the Panel concluded that in the absence of a job description or terms of reference, a Cabinet Support Member did not appear to have any individual *responsibility* in order to qualify for an SRA under its criteria. In the Panel's opinion, their role was to provide *support* to the Portfolio Holder and accordingly recommended that the allowance be removed".

13.2 It is now an opportune time for a review of the role of Cabinet Support Members to take place.

13.3 The allocation of Cabinet business, given that it is "executive" in nature, is for the Leader and is not a responsibility of Council. However, the IRP raised a valid point that the role of Cabinet Support Members had never been defined. **Appendix F** is a suggested list of responsibilities of those appointed by the Leader to undertake a support role for Cabinet Members.

13.4 Given the comments of the IRP, it may be appropriate for these roles to be defined in the Constitution and, therefore, a recommendation from the Committee to Council would be required. It should be noted that the Leader has indicated that the title of those appointed to these roles should properly reflect the significant responsibilities they have and has therefore allocated the title "Deputy Cabinet Member" to these positions.

13.5 The IRP concluded that, in the absence of any job description for Cabinet Support Members, it appeared that those appointed to these positions did not have any individual responsibilities. A recommendation is therefore sought from the Committee, having regard to the recommendations of the IRP, as to whether, in the light of the roles in question now being clearly

defined, SRAs should be paid to the newly appointed Deputy Cabinet Members and, if so, whether these should mirror the arrangements which currently apply to Cabinet Support Members.

#### **14.0 Access to Information**

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

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## Appendix A

# OVERVIEW AND SCRUTINY IN CHESHIRE EAST FINAL REPORT

Steve Leach and Colin Copus; DeMontfort University

## 1 Context

- 1.1 The new unitary authority of Cheshire East commenced operations in April 2009. It has thus had only 5 years of experience of the overview and scrutiny function, much less than all those authorities which were in existence in 2000 when overview and scrutiny were first introduced. No doubt councillors elected in 2009 from the four predecessor authorities brought their own experience of the function into the new authority. But the fact remains that Cheshire East has a much shorter history of dealing with overview and scrutiny than almost all existing authorities (most new unitaries designated in 2007/08 were co-terminous with former counties or districts).
- 1.2 The system installed in 2009 was (understandably) based on the dominant pattern prevailing at the time. The overview (support) and scrutiny ('holding to account') functions were operated together in five (later six) scrutiny committees (see Section 2 for details). An informal co-ordination mechanism involving the five chairs and vice-chairs started to operate, with a view to achieving a consistent approach to the two related functions. A scrutiny support unit of three officers was appointed, which is broadly of the size one would expect in an authority with size and status of Cheshire East. Cabinet decisions could be called in if any eight members submitted a request, a provision which enabled opposition groups, individually or collectively to do so.
- 1.3 In May 2012, after just three years of existence, the overview and scrutiny arrangements were subjected to a major change. The existing Overview and Scrutiny Committees were dissolved, and replaced by six Policy Development Groups (see Section 2 for details). The Scrutiny Committee structure per se was slimmed down, with two Scrutiny Committees being retained to deal with the statutory scrutiny of

Health and Community Safety, together with a single Corporate Scrutiny Committee to cover the full range of remaining council responsibilities.

- 1.4 So far as we can judge from our interviews and the reports which justified the introduction of these changes, they were inspired less by a dissatisfaction with the existing system, than by a politically-led vision to give a strengthened emphasis to policy development, and the involvement of backbenchers in this task. The intention was to separate it out from the ‘holding to account’ role central to the operations of the previous committees, which combined both overview and scrutiny functions. In these circumstances it was felt (not unreasonably) that fewer scrutiny committees were needed.
- 1.5 The reasons for introducing a system of PDGs are discussed in the next section. A persuasive and coherent case was made for taking this step. The report of the Constitution Committee (20<sup>th</sup> November 2012) also expressed concerns about the capacity of the existing system to meet council priorities.

‘It is our ambition that we become an increasingly inclusive Council...which listens to a wider range of voices and which works in partnership with other key local agencies, as well as across the political divide for the benefit of all the people in Cheshire East. **The current Overview and Scrutiny arrangements have not achieved this**’ (our emphasis).

- 1.6 There was little elaboration as to why the existing overview and scrutiny structure lacked the capacity to achieve these commendable objectives (and in our judgement the introduction of PDGs has failed to deliver on these priorities). We certainly picked up criticisms of the pre-2012 arrangements from our interviews, but also more positive evaluations, included a view that several high quality influential reports were produced, typically utilising ‘task and finish groups’. There is no sense that the arrangements instigated in 2009 had proved widely unacceptable, or were widely viewed as a disaster area. It is also worthy of note that they had been in operation for a relatively short period of time – three years – perhaps insufficient to prove themselves?

- 1.7 In December 2013, a further review of the overview and Scrutiny arrangements was initiated, reflecting the original intention to review PDG arrangements after six months of their introduction, but acknowledging that PDGs have taken longer than expected to settle into their new working arrangements. The review was to cover both PDGs and the three remaining scrutiny committees, but was also mindful of the potential impact on overview and scrutiny of the increased amount of partnership work, and ‘the Council’s long-term aims regarding new service delivery vehicles’. The focus on this potential impact, in particular the role of ‘alternative service delivery vehicles’ (ASDVs) and ‘wholly-owned companies’ (WOCs) intensified as the Review Group commissioned to manage the review developed its thinking.
- 1.8 On 6<sup>th</sup> March 2014, we were appointed by the Review Group to undertake the Review on behalf of the council. The agreed terms of reference and scope of the review are attached to this report as Appendix 1.
- 1.9 In this report, we first provide an evaluation of the effectiveness of the five PDGs since their inception late in 2012 (Section 2). We then examine in Section 3) the three Scrutiny Committees on the same basis. In Section 4 we consider the challenges posed by the move to a Commissioning Council and the introduction of ASDVs and WOCs for the redesign of effective overview and scrutiny arrangements. Finally in Section 5, having clarified the principles of effective scrutiny, we set out and justify our recommendations, which are summarised in Section 6.
- 1.10 The fieldwork for the review commenced on 6 March 2014 and concluded on April 3<sup>rd</sup> 2014. During this period we observed meetings of all five PDGs and the Corporate Scrutiny Committee (our intention to observe the other two Scrutiny Committees were frustrated by postponements and timetable clashes). We interviewed 32 councillors (sometimes in pairs or small groups), and 15 council officers. Minutes, agendas and reports of previous PDG and scrutiny meetings were examined.

- 1.11 In forming our recommendations, we have drawn on our experience in carrying out similar evaluations of overview and scrutiny in over 20 local authorities over the past ten years. We have also incorporated evidence of good practice from reports published by the Centre for Public Scrutiny (including two by one of the researchers) and from other authorities of which we have experience. But it is important to stress that we have applied good practice experience to Cheshire East only where it is appropriate to do so, given the unique history and political and organisational culture of the authority.
- 1.12 Dependent upon the outcome of the Review, and any subsequent decision by the Council it may be necessary to prepare terms of reference of any decision-making or other bodies which Council decides to appoint. This work forms part of our brief.
- 1.13 We would like to thank all those who have discussed with us with such frankness their experience of overview and scrutiny in Cheshire East, and in particular Councillors Peter Groves and David Marren of the Review Group for liaising with us so effectively, and James Morley of the Scrutiny Team for his accessibility, the efficient way he organised our programme of interviews and observations, and his patience when we occasionally had to make late changes in the schedule.

## 2 The Policy Development Groups (PDGs)

- 2.1 In December 2012, six PDGs were established (Corporate and Performance; Finance, Health and Adult Care; Children and Families; Environment and Prosperity; and Communities). The expectations regarding the role of these PDGs were set out in the 20<sup>th</sup> November 2012 report of the Constitution Committee (8.1 – 8.5) and included the following
- ✓ the active involvement of backbench Members on a cross-party basis, giving them a key role in the formulation of policy across the board
  - ✓ the development of major new Council policies from their most formative early stages through to their adoption
  - ✓ ‘real influence’ on the role and work of the relevant cabinet members in the development of policies
  - ✓ a key role in respect of major service and financial changes



- 2.2 The intention was that the PDGs should replace Scrutiny Committees in formulating policy, thereby allowing the latter to focus on monitoring and evaluation of existing policies and decisions.
- 2.3 There were to be eight members on each PDG, allocated on a cross-party basis. All chairs were Conservative nominees, but in two cases, Labour vice-chairs were nominated. Meetings were normally to be held in private (to facilitate ‘blue-sky thinking’) but at least two per year were expected to take place in public.
- 2.4 The dilemma of how to deal with the two key elements of overview and scrutiny; policy development (overview) and ‘holding to account’ (scrutiny) has faced all authorities since the 2000 Local Government Act came into force. The term ‘critical friend’ has been coined to characterise the challenging role involved. In most authorities, the two functions have been carried out by the same organisational mechanisms (Panels, Committees or Commissions), but it is not illogical to separate out the two functions as Cheshire East did in 2012<sup>\*</sup>. To do so gives a clearer focus for the respective ‘support’ and ‘challenge’ activities, although one must be careful not to over-emphasise the feasibility of a total role separation (the review of an existing policy is in principle a ‘scrutiny’ function which often results in a change in (or development of) policy).
- 2.5 The intentions behind the introduction of PDGs in Cheshire East were laudable. For a council with a relatively large number of members, it is potentially beneficial to seek to involve a wider range of members in policy development. In Cheshire East (as elsewhere) cabinet members have many demands on their time, and, in principle, support from a wider group of members, in an informal setting, in thinking about policy, would be expected to be welcomed by them. Indeed the link between cabinet member and PDG is crucial for the success of the initiative. If portfolio holders take the lead in initiating policy development projects which the PDGs work on in depth, and their reports prove helpful to the portfolio holders in influencing the cabinet, then you would have a system which demonstrably adds value. The

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<sup>\*</sup> and as one of their report’s authors recommended in LB Kingston-on-Thames in 2006

involvement of opposition members in the process is also a positive feature of Cheshire East's scheme; in some other authorities the kind of work earmarked for PDGs is carried out by small cabinet sub-committees whose membership is limited to majority party members only.

- 2.6 We observed meetings of each of the five remaining PDGs (Corporate and Performance was disbanded late in 2013) and analysed the content (and impact) of agendas and reports since they were introduced in December 2012. It is worth remembering that PDGs have only been in operation for 15 months, a point emphasised to us by several of the chairs, who felt understandably that all new initiatives of this nature needed time to develop a clear picture of what was expected of them, before they could really make an impact ('steep learning curves' were often referred to). All the chairs felt that the initial role uncertainty had now been overcome. Some members of the PDGs expressed positive views about their experience; others were more critical.
- 2.7 All the chairs could identify pieces of in-depth policy development work which their groups had produced, and which had wholly or largely been taken on board by the cabinet, via the relevant portfolio holder. As far as we could judge they were justified in their view (examples include the Cheshire Neighbours Credit Union Support project, the work on the recruitment and retention of social workers, and the review of waste collection).
- 2.8 But there were also differences of approach which could be identified. Some PDGs relied heavily on cabinet members to suggest topics. Others took a more proactive approach to topic-definition; whilst others were more responsive to suggestions from officers (including the Scrutiny Support Team). Some developed close working relationships with their cabinet counterparts, others more of an 'arms-length' type of contact. Some had used a 'task and finish' approach to policy development, whilst others preferred an intensive one-day approach to the subject. There were several examples too of an officer presentation followed by question-and-answer sessions, from which a list of recommendations (to the cabinet) were drawn up.

2.9 Our observations of meetings yielded the following impressions:

- ✓ meetings were usually formal in their settings and procedures, with an ambience similar to traditional committee meetings. They were not conducive to ‘blue-sky thinking’ or creativity
- ✓ it was not at all clear why some of the items had been tabled, in that they provided little if any scope for policy development as such. Some agenda items (and presentations) were in effect items for information, generating at best a smattering of diverse comments. Others were concerned with existing policies which the group scrutinised (albeit often superficially), thus illustrating the difficulty of a clean break between the ‘overview’ and ‘scrutiny’ functions
- ✓ there was an absence of coherent programming, particularly in respect of adequate time being made available to undertake a piece of policy development work before it was scheduled to be considered by cabinet. The lack of ‘advance warning’ made both in-depth ‘policy development’ and productive ‘pre-decision scrutiny’ difficult
- ✓ there was often lively discussion, but little in the way of tangible ‘added value’ which could be identified
- ✓ attendances varied. The Environment and Prosperity PDG was well attended (and lively), others less so, including Finance, where there is a problem of overlap with work of all the other PDGs.

2.10 However the meetings, although patchy in content and limited in added value, were not without their uses. Members undoubtedly ended up better-informed about a range of policy issues (as used to happen in the old committees) although there may be better vehicles for imparting such information. There were occasions where officers clearly found members involvement and support helpful (e.g. over the proposal in Children and Families PDG to ensure a stronger council briefing for members who were school governors). There were instances where cabinet members had clearly found the work of PDGs useful in influencing the cabinet (e.g. the Health Impact Assessment Policy in the Health and Adult Care PDG). Some projects had proved beneficial at a more operational level (e.g. the work on the Recruitment and Retention of Social Workers).

- 2.11 However our overall conclusion would be that the beneficial outcomes of PDGs have not justified the organisational time and effort involved. The time of both members and senior officers is a valuable resource, which has often not been made best use of in the PDGs.
- 2.12 Disappointment was expressed within the council leadership that the intention to hold at least two meetings a year in public had not been achieved. But there is a dilemma here. If ‘blue-sky thinking’ is to be encouraged, as it should be, then the presence of the public (and in particular the press) is likely to have an inhibiting effect on discussion. If a councillor was to think that the closure of half Cheshire East’s branch libraries should be considered, as part of a savings package, he or she is not likely to bring this idea into the open, if there is a reporter from the press present! However when a PDG is in a position to table and discuss a policy development report, resulting from a series of private sessions, then there is a much stronger case for holding the meeting in public.
- 2.13 It is important, however, to ensure that the potential benefits of PDGs (even if these have so far been realised only partially) continue to be built into the arrangements for overview and scrutiny, in particular the wider involvement of members in policy development, the scope for blue-sky thinking, and the support available for overworked cabinet members. Even if PDGs were to be discontinued, it would be important to ensure that the organisational capacity to operate in this way was retained.

### 3 Scrutiny arrangements

- 3.1 As noted in 2.4, there are finely-balanced arguments for both keeping the overview and scrutiny functions together in the same organisational units, and for separating them out, as Cheshire East did in 2012. In particular there is an area of overlap around ‘pre-decision scrutiny’ (which is in effect ‘policy development’) and ‘policy review’ (which although predominantly scrutiny, contributes to policy development) which hampers an organisational separation of the two functions, as some of the PDGs have discovered. Although the role of ‘critical friend’ in one organisational unit is a difficult one to navigate satisfactorily, there are examples of

authorities which have succeeded reasonably well doing so (Nottingham, LB Merton).

- 3.2 Before the changes introduced in 2012, our impression from interviews and documentary analysis is that a reasonable approximation to the ‘critical friend’ role was achieved in Cheshire East.
- v there were several examples of cabinets decisions being ‘called in’ (call-in should be regarded as an important test of the legitimacy of ‘holding to account’ rather than a ‘problem’)
  - v there were several examples of productive policy reviews (contributing to policy development), most of them, carried out in ‘task and finish’ mode
  - v cabinet members were questioned (usually in a civilised manner; sometimes less so) about proposals or performance data which concerned scrutiny committee members.
- 3.3 Our interviews also suggested that there was variation in the achievements of the different scrutiny committees, and a degree of frustration about their mode of operation; but this is by no means unusual. We have yet to find a problem-free overview-and-scrutiny system! It was also apparent that some members found the pre-2012 system more rewarding than the arrangements which have replaced it
- 3.4 Although it has never been the practice in Cheshire East to share the chairs of scrutiny committees with opposition members, there has been readiness to allow opposition members to hold some vice-chairs, a practice which has continued in the post-2012 scrutiny committees. Some degree of sharing of positions of responsibility with opposition members in the overview and scrutiny arrangements is widely regarded as conducive to effective scrutiny and hence ‘good practice’.
- 3.5 In the new system introduced in 2012, the role of ‘holding to account’ (scrutiny) has undoubtedly been weakened. In addition to the Health and Well-Being and Community Safety Scrutiny Committees (which are by statute required in some form), there is now only one other organisational mechanism for scrutinising the whole range of council activities. Our impression is that much of the time of Corporate Scrutiny is taken up in reviewing performance and financial information

across this range of services (whether internally- or externally- delivered). Valuable though this process is, it leaves inadequate scope for the in-depth scrutiny of other features of council activity (including pre-decision scrutiny and policy review, assuming these are not seen as PDG tasks). Compared with most authorities, the scope for scrutiny as a ‘holding to account’ mechanism is limited in Cheshire East – not a healthy situation in terms of transparency and accountability.

3.6 Not only had the cabinet members we interviewed little or no experience of being summoned to Corporate Scrutiny (as opposed to regular attendance at the performance review sessions), but call-in too has become increasingly rare, despite the accessible criterion for initiating a call-in procedure (8 members, irrespective of party).

3.7 Although the Health and Well-Being Scrutiny Committee has had to grapple with the complex organisational changes in the NHS over the past 18 months, in particular the move to Clinical Commissioning Groups, it has managed to undertake some ‘holding to account’ work (notably on response times in the North West Ambulance Service) as well as some valuable joint activities with the health representatives. The Community Safety Scrutiny Committee has imaginatively operated in ‘Select Committee’ mode, and has on occasions proved influential. It has however found it difficult to persuade the Cheshire Constabulary that the Committee is an appropriate venue for it to be scrutinised. The view was expressed that the Committee would benefit from a widening of its’ terms of reference to include other external partnership-related activities.

3.8 As was the case with the PDGs, our overall conclusion would be that although valuable work has been done in the three Scrutiny Committees, they have not always proved effective in their key task of ‘holding to account’, nor have they inspired commitment in some of their membership.

## 4 The implications of the ‘Commissioning Council’ model

- 4.1 Cheshire East has recently designated itself as a ‘Commissioning Council’, and, as part of the strategy which underpins this self-designation, is in the process of establishing a series of alternative service delivery vehicles (ASDVs) or ‘wholly-owned companies’ (WOCs). These proposals have been recently set out in the report ‘‘Best Fit’ to be resident first’ (February 2014) and elaborated in further reports (‘Cheshire East Ltd – Group Structure and Governance Arrangements’ and ‘ASDV Scrutiny Governance and Stewardship’ both March 2014).
- 4.2 There is a widespread recognition (which we endorse) that there needs to be a robust form of scrutiny mechanism for ‘holding to account’ the five WOCs already in the pipeline, and any further WOCs (or other forms of ASDV) which may be set up subsequently. A proposal has already been made for the establishment of one or more cross-party commissions with scrutiny-like powers. Amongst the functions that these commissions will be expected to carry out are ‘assistance in policy development’ and ‘scrutinising performance’. In principle there would also be scope, if desired, for these commissions to be consulted in relation to ‘choice of service delivery vehicle’ (for ASDVs considered in the future) and the ‘commissioning process’ (e.g. the outcomes sought in the contract which form the basis of the commission, which is in a sense an extension of the policy development role).
- 4.3 In the next section – A Fit-for Purpose Overview and Scrutiny System for Cheshire East- we seek to combine our understanding of the strengths and weaknesses of the council’s current system (5 PDGs and 3 scrutiny committees) with what we see as the best way of dealing with the scrutiny implications of the move towards WOCs and ASDVs (which is likely to gather momentum in the next few years), taking into account the thinking on this issue that has already taken place within Cheshire East. There is little in the way of precedents from other authorities to draw upon here, as few if any councils have moved in this specific direction. How the ‘Commissioning Council’ would work in practice, including how it could best be supported and held

to account by a wider group of members would be an area for the Commission to continue to develop.

## **5 Towards a ‘fit for purpose’ overview and scrutiny system**

5.1 There have been various attempts to establish ‘principles of good scrutiny’. The best known are those set out in the Centre for Public Scrutiny’s ‘Good Scrutiny Guide’ (CfPR 2004):

- ✓ to provide ‘critical friend’ challenge to executives, as well as external authorities and agencies (holding to account)
- ✓ to reflect the voice and concerns of the public and its communities (engaging the public as active citizens)
- ✓ to take the lead and own the scrutiny process on behalf of the public (facilitation of community leadership and effective representation)
- ✓ to make an impact on the delivery of public services (performance/quality assurance)

5.2 Although this list is admirable, it does not make specific reference to the benefits scrutiny can generate in terms of supporting the work of the executive, notably in relation to kind of policy development work which Cheshire East had in mind when it introduced the PDGs. It is appropriate, therefore, in our view to add a fifth principle, viz:

- ✓ to support the cabinet in the process of developing and reviewing council policy

These principles will be used in evaluating the potential benefits of our recommendations.

5.3 Our proposals, set out below, are also intended to

- ✓ provide a powerful mechanism for holding the WOCs and ASDVs to account
- ✓ incorporate into the new arrangements the ethos of the ‘Commissioning Council’ across the whole range of council responsibilities.
- ✓ provide ample scope for non-executive council members to be involved
- ✓ maximise opportunities to ‘add value’



- ✓ embody a sense of fairness in relation to the involvement of the different party groups

5.4 There are four changes which can contribute to effective overview and scrutiny:

- ✓ changes in structure
- ✓ changes in processes and procedures
- ✓ changes in support mechanisms
- ✓ changes in attitudes and behaviour

5.5 Of these, the most important is arguably the fourth; changes in attitude and behaviour. Indeed changes in structure and processes which have potential benefit can often fail to realise that potential of the political/organisational culture of a council acts as a barrier.

### **Structural changes**

5.6 If it were not for the major changes in the way Cheshire East sees its role, and in particular the move towards a Commissioning Council (including ASDVs, WOCs etc), we would be inclined to recommend only limited changes of structure. Most overview and scrutiny structures can be made to work, if the political and managerial commitment is there. The PDGs in Cheshire East have been patchy in achieving the objectives set for them, but they have only been in operation for 15 months and if their role was clarified and the processes for carrying out policy development strengthened, there is no reason to suppose that they could not deliver what it was hoped they would deliver. Similarly, with some structural adjustments, the effectiveness of the current Scrutiny Committees could be significantly enhanced.

5.7 But because of the introduction of its WOCs, and the (totally justified) recognition on the part of the council that there will need to be some scrutiny mechanism introduced to strengthen their accountability and ensure a wider involvement of council members in their operations, a more fundamental structured review is

necessary, not least because it is envisaged that the proposed Commissions will have both a policy development **and** a Scrutiny role

- 5.8 Let us consider the structural options. In principle there are two.
- (1) The introduction of one (or more) Commission as envisaged in the ‘Best Fit’ report, to deal with the unique circumstances of the five WOCs, but otherwise to make only minor amendments to the existing structure.
  - (2) The re-shaping of the overview and scrutiny arrangements on an authority-wide basis in the form of number of Policy and Performance Commissions which would operate both a scrutiny and policy development role for the whole range of council responsibilities.
- 5.9 The main problem with the first option (although it has its attractions) is that it would be incompatible with the (almost certain) extension of the number of services provided by ASDVs, WOCs etc. The vision underpinning ‘The Commissioning Council’ indicates that, in time, the majority of council services are likely to be provided by an arms-length mechanism, be it a WOC, a private or voluntary sector contractor or a partnership organisation. In these circumstances, there would be a cumulative increase in the number of Commissions to scrutinise the growing number of WOCs etc. The retention of the existing structure would in these circumstances be unsustainable.
- 5.10 The main advantage of the second option is that it embodies a flexibility which the first option lacks. Although it would be possible to designate, at this stage, a single Commission to cover the five WOCs which are soon to be created, it has to be said that they cover a disparate set of activities (Transport, Bereavement, Tatton Hall etc). If an authority-wide set of Commissions were to be introduced, then each WOC could be allocated to a Commission which also covered a related set of council activities not organised in this way. There would then be a much clearer focus to the activities of each Commission, resulting in a better opportunity for members to follow up their particular areas of interest.
- 5.11 What would be lost if Cheshire East were to adopt a scrutiny structure of this nature? Well if, as suggested above, the role of policy development were to be

transferred to the Commissions, there would be no need to retain the PDGs. But there is no reason why the type of work carried out by PDGs (with varying degrees of success) should not be undertaken, where appropriate, in this new environment. So long as there was a mechanism for a portfolio holder to commission a piece of policy development work from the relevant Commission (which was intended to be the main way in which PDGs would operate) then this important facility would be retained. What might be needed would be a ‘fall-back’ position for the portfolio holder, if the Commission concerned chose not to agree to the proposal (which, as an independent piece of organisational machinery, would be within its rights).

5.12 If the council wished to retain a discrete policy development role on a more formal basis, it would be perfectly viable to establish a single policy development group (or panel) specifically to undertake commissions of this nature from cabinet members. It would be beneficial if it carried out all such commissions on a ‘task and finish’ basis (or, where appropriate, by means of a ‘spotlight review’ – see below). The panel should have the power to co-opt any member of the council to participate in a commission, depending on members’ particular policy interests.

5.13 There are a range of different possibilities regarding the number and subject matter of the proposed Commission. We consider that five such Commissions would provide an adequate opportunity for topic specialism, without proving an over-elaborate piece of organisational machinery. One option would be Commissions with responsibility for:

- ✓ Health and Adult Social Care
- ✓ Children and Families
- ✓ Environment and Transport
- ✓ Community well-being (including Community Safety)
- ✓ Economic Development

But a better alternative might be to define the responsibilities of the five Commissions to reflect the council’s five strategic priorities (see Section 6 below).

5.14 If a model such as the above is adopted, there would be less need for a Corporate Scrutiny Committee per se. In our view it would be preferable to reinstate an overarching piece of machinery called a Cheshire East Policy and Performance

Commission (or some such title). The argument for such a device is rehearsed in a recent Centre for Public Scrutiny publication.\*

‘There is value in a situation where the key overview and scrutiny players operate in a collective fashion (whilst leaving a good deal of choice for individual committees or panels). A mechanism for this nature provides a degree of parity with the executive, which of course meets regularly on a collective basis. It strengthens the ability of overview and scrutiny chairs to negotiate with the executive over work programme items’.

- 5.15 A list of suggested responsibilities for the Scrutiny Co-ordination Committee is set out in Section 6 below. But there is no reason why, in addition, it cannot undertake any aspects of overview and scrutiny which transcend the briefs individual Commissions (e.g. budget review) or which do not fit logically into the work programmes of any of the Commissions.
- 5.16 One of the main sources of tension in the operation of overview and scrutiny has always been the intrusion of party politics, either as a source of disruption in scrutiny committees engendered by opportunistic points-scoring on the part of the opposition, or alternatively by a sense on the part of opposition groups that they have been excluded or marginalised because there has been no (or very little) sharing of chairs and/or vice-chairs.
- 5.17 Cheshire East has been dominated by one party ever since its inception, and currently 50 of its 82 members (or 61%) belong to the Conservative Party. The Conservatives have been prepared to allocate some vice-chairs of PDGs and Scrutiny Committees (pre-and post-2012) to opposition members, but not, as yet, any chairs. The sharing of chairs amongst all represented groups is widely regarded as ‘good practice’ and conducive to effective scrutiny. Ultimately it is a matter of political judgement as to how far along this route (if at all) it is appropriate to go, given the political culture and tradition of the authority.

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\* Party Politics and Scrutiny in Local Government; Clearing the Hurdles. Steve Leach CfPS, 2009

- 5.18 At the very least, the practice of having an opposition vice-chair of all Scrutiny Committees or Commissions should be continued. The vice-chair of the Scrutiny Co-ordinating Committee should ideally be a high profile member of the main opposition party. Over the next two or three years, if the majority group were prepared to allocate the chair of one or two of the Commissions to an opposition member, then that would certainly strengthen the perceived inclusiveness of the arrangements. Such a move should be accompanied by an agreed behavioural protocol, this would hopefully minimise the chances of disruptive politically-motivated behaviour. If such behaviour did occur, the majority party could of course reverse its decision.

## **Changes in process**

### **Call-in**

- 5.19 Changes in process are just as important as changes in structure in contributing to effective scrutiny: probably more so set out below are a number of changes in process which in our view would be likely to improve the effectiveness of overview and scrutiny in Cheshire East.
- 5.20 The conditions for call-in in Cheshire East are relatively open (any eight members) which is healthy in democratic terms (in some authorities it is impossible for opposition groups to invoke a call-in without the support of majority party members), five or six members would be a more typical requisite number. However call-in in Cheshire East would benefit from a requirement that reasons should be given for requesting a call-in. The following criteria are typically seen as ‘good practice’:
- ✓ decision is outside the policy/budgetary framework
  - ✓ inadequate consultation relating to the decision
  - ✓ relevant information not considered
  - ✓ viable alternatives not considered
  - ✓ justification for the decision open to challenge on the basis of the evidence considered

- 5.21 It is suggested that the council's monitoring officer should assess whether a call-in is justified on any of these grounds, with the 'benefit of doubt' being given to those submitting the request.
- 5.22 Whilst call-in would continue to be relevant to cabinet decisions as such, it could not be used in relation to decisions made by one of the WOCs, or indeed any of the ASDVs. A more informal opportunity for discussion would have to be deployed in these circumstances.

### Mode of operation

- 5.23 One of the advantages of overview and scrutiny machinery, however labelled, is the flexibility in relation to modes of operation. Although in formal session such committees are required to be politically-balanced, and to meet in public, they have the option of establishing task-and-finish groups to undertake particular policy development or review projects, which can legitimately meet in private, and are not required to be politically-balanced. Some of the PDGs, and the pre-2012 Scrutiny Committees have already taken advantage of this opportunity, with some beneficial results. Alternatively, intensive one-day or half-day spotlight reviews can be undertaken, to establish whether or not an issue giving cause for concern merits a full-scale scrutiny review (a practice well-established in Nottingham). Scrutiny can also operate in 'select committee' mode, replicating the practice of the House of Commons Select Committees (an approach which has become well-established in the Community Safety Scrutiny Committee. It is also possible to co-opt representatives of private and voluntary sector organisations, community groups, and individual members of the public (e.g. those with a relevant expertise) on to scrutiny committees.
- 5.24. With some notable exceptions (see above) Cheshire East has rarely taken advantage of this flexibility in mode of operation. The PDGs and Scrutiny Committees we observed operated in a formal way, very similar to the experience of the pre-2000 committees, with little scope for productive interactive discussion (including 'blue-sky thinking'). The introduction, where appropriate, of the different alternatives set out in 5.22 above would enhance the effectiveness of overview and scrutiny in Cheshire East, and provide a more fulfilling experience for the members involved.

### Public Involvement

- 5.25. There are currently no co-optees on the Scrutiny Committees in Cheshire East, and indeed very little public involvement of any kind in their work. The council cannot be said to have implemented two of the key principles of ‘good scrutiny’, namely ‘to reflect the voice and concerns of the public and its’ communities’ and ‘to take the lead and own the scrutiny process on behalf of the public’ (see 5.1 above). For a council which prides itself on a ‘residents first’ approach, this is a missed opportunity. Because of its’ flexibility, overview and scrutiny provides scope for public involvement of various kinds in council affairs, which is rarely feasible in more formal settings (e.g. council meeting, cabinet or regulatory committee) There would thus be great advantage in opening-up the overview and scrutiny process to the public in the following ways, as appropriate to the task in hand.
- Recommendation (15) sets out some possible ways forward.

### Widening the support for Scrutiny

- 5.26. To be effective, overview and scrutiny has to be evidence-based. One of the functions of a Scrutiny Support Unit is to provide relevant evidence to facilitate the work of the committees it serves, and to ensure that their recommendations are supported by the evidence set out. Cheshire East’s Scrutiny Support Unit was well-regarded by those we interviewed (and in a less austere financial climate an argument could be made for its enhancement). However support units cannot reasonably be expected to meet all the information needs involved by themselves. Some authorities have established funds to buy in expert advice when it is needed, but in the current financial climate that is probably not justifiable. But what is possible and desirable is to establish a series of ‘scrutiny link officers’ in each of the directorates (and indeed the WOCs, once these are established), part of whose job description would involve the requirement to provide the Scrutiny Support Unit with any information or professional/technical advice it needed to enable it to build up a proper evidence-based argument in any project which involved that particular directorate.

### Conclusion.

- 5.27. Many of the requisite attitudinal conditions for making overview and scrutiny more effective are present in Cheshire East. The leadership emphasised to us its’

commitment to openness and transparency in the way the council makes decisions and sets policy. It recognises the benefits in involving as many members as possible in both scrutiny and policy development. It is comfortable with its ability to deal with robust challenge in public settings, as an integral part of being ‘held to account’ There is an understandable concern about the potential dangers of openness (and the sharing of scrutiny chairs) being inappropriately exploited for political points –scoring. But these dangers exist in most authorities, and can be dealt with through a council agreed protocol (and/or by the agreement of appropriate guidelines within all party groups) which seeks to regulate opportunistic behaviour of this nature. With these safeguards, overview and scrutiny could and should develop in Cheshire East in a way which results in a sense of shared ownership of the process amongst all parties, underpinned by a recognition of the need for all parties to behave responsibly, if this sense of shared ownership is to prevail.

## **6 Summary of Recommendations**

- (1) The current structure of Scrutiny Committees and PDGs should be replaced by a cohort of five Policy and Performance Commissions, which combine the roles of policy development and review, performance monitoring, and ‘holding to account’ across the range of services within their purview.
- (2) That Cheshire East’s five strategic priorities should form the basis for the definition of the responsibilities of the five Commissions, viz:
  - ✓ Strong and Supportive LOCAL COMMUNITIES.
  - ✓ Strong and Resilient LOCAL ECONOMY
  - ✓ LIFE SKILLS AND EDUCATION that people need to thrive.
  - ✓ A GREEN AND SUSTAINABLE Cheshire East.
  - ✓ GOOD HEALTH AND LONGEVITY.

Note These would not necessarily be the titles given to the Commissions; that can be left to Cheshire East. We are rather indicating the subject matter which we think is appropriate.



- (3) The responsibility for overseeing the work of the WOCs, ASDVs, and other external service- providers should be allocated to the Commission in which they best fit, and that the various overview and scrutiny tasks require for these agencies should form part of the work programme of each Commission. (As the number and range of ASDVs increases, so the Commissions' work programmes will become increasingly dominated by overseeing their performance).
- (4) In relation to the WOCs, the Commissions should report to Cheshire East Residents First Ltd. In other cases the reporting link should be to the cabinet or the relevant external body.
- (5) As Cheshire East introduces further ASDVs, there are four stages at which the Commissions should become involved: policy development: choice of delivery vehicle; specification of outputs required from contract; and performance monitoring.
- (6) For existing WOCs and other ASDVs, policy development and performance monitoring would be the main priorities, plus output specification if the contract is being re-considered.
- (7) The five Commissions should be identified as the council's overview and scrutiny arrangements, to comply with the Local Government Act 2000, and would hence need to be politically-balanced. But they should operate in the distinctive and wide-ranging ways set out above.
- (8) The policy development work previously undertaken by the PDGs should now become one of the responsibilities of the five Commissions. Task-and-finish groups, meeting in private, should normally be used to carry out such work. Their reports should be presented at public meetings of the relevant Commissions.
- (9) If the cabinet wished to retain a policy development facility to ensure that work of this nature that it wished to have done by a small group of interested members could be carried out, then there would be no problem about establishing a single PDG for

this purpose. It would operate solely on the basis of cabinet-commissioned projects, and would normally operate on a task-and-finish basis.

- (10) There should also be established an overarching Cheshire East Corporate Policy and Performance Commission. This body should include the chair and vice-chair of each of the five thematic Commissions, plus additional members needed to secure political balance. Its main functions should be as follows:
- ✓ Scrutinising the Council's corporate core
  - ✓ Ensuring that the five Commissions operated in a coherent and integrated manner (but leaving as much choice as possible to the individual Commissions)
  - ✓ Acting as an informal discussion forum with the cabinet regarding the Commissions' work programmes and priorities.
  - ✓ Undertaking (typically using the task-and-finish model) pieces of work which did not fall within the remit of any of the five thematic Commissions, but which the Cheshire East Commission felt it important to undertake.
- (11) The responsibilities of the existing Community Safety Scrutiny Committee and the Health and Well-being Scrutiny Committee should be included in the remits of the Commissions dealing with Communities and Health respectively. Those responsibilities of the existing Corporate Scrutiny Committee should be allocated to the five thematic Commissions, and to the Cheshire East Policy and Performance Commission as appropriate.
- (12) The chair and vice-chair of each Commission should be held by councillors from different political parties. In the medium-term, it would be advantageous if the Council were to move to a position where there was some sharing of Commission chairs with opposition parties, provided an appropriate behavioural protocol could be agreed.
- (13) The number of members required to call in a cabinet decision should be reduced to six. However the call-in process in Cheshire East must benefit from a requirement that a valid reason should be given for invoking the call-in procedure (see 5.19 above for a suggested list of criteria). The monitoring officer should be the arbiter if

the justification for the call-in is disputed.(The call-in procedure cannot be used in relation to decisions made by WOCs or other ASDVs).

- (14) The Commissions should make full use of the range of modes of operation available to them: ‘select committee’ procedures: task-and finish groups: spotlight reviews; public hearings etc. Formal committee settings should be used only when appropriate to the task, and ‘items for information’ should only be included when there is a demonstrable case for doing so. The Member Training and Development Programme will need to reflect the new styles of working.
- (15) Options for extending the opportunities for public involvement in the work of the Commissions should be evaluated and, where appropriate, introduced. Possibilities include the use of co-optees, expert witnesses, and the taking of evidence from user groups and members of the public as part of a policy review.
- (16) The existing criteria used in deciding whether a particular topic justifies an in-depth review (as set out in the Scrutiny Tool-kit) should be retained and applied systematically, when developing work programmes for the proposed Commissions.
- (17) The work of the Scrutiny Support Unit should be supported and strengthened by the introduction of a system of ‘scrutiny link officers’ in each council service area (and, when established, each WOC), part of whose job description would be to provide the Scrutiny Support Unit with any information or professional advice needed as part of a properly-constituted review.

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## Appendix B

### **POLICY AND PERFORMANCE COMMISSIONS**

#### **Terms of Reference**

Six Policy and Performance Commissions have been appointed which, between them, relate to the Cabinet and specifically as appropriate to the ten individual Portfolios:

- Cheshire East Policy and Performance
- Health
- Environment
- Life Skills
- Economy
- Communities

#### **1 General Responsibilities of all Policy and Performance Commissions**

Any of the Commissions may be invited to provide advice and recommendations on the development and updating of the policies of the Council, Wholly Owned Companies (WOCs), Alternative Service Delivery Vehicles (ASDVs) and other bodies.

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

The Commissions may specifically:

- discharge the Council's functions under Section 21 of the Local Government Act 2000 (Scrutiny Committees);
- oversee the Council's overall scrutiny function including the preparation, implementation, monitoring and review of an annual work programme for scrutiny and arrangements for the scrutiny of other public bodies particularly where required to do so by law;
- establish such task and finish groups, appointing the Chairman with such membership as it sees fit, to undertake scrutiny on a task and finish basis;
- ensure that officers, WOCs and ASDV's discharge their responsibilities effectively and efficiently in relation to the scrutiny function;

- scrutinise decisions of the Cabinet, and offer advice or make recommendations on the matter under scrutiny once the Commission has considered the issues;
- refer to the Council or appropriate Committee/Sub-Committee any matter which, following scrutiny, the Commission determines should be brought to the attention of the Council or the Commission or Sub-Committee;
- if requested, offer any views or advice to the Cabinet in relation to any matter referred to the Commission for consideration;
- undertake general policy reviews with a cross-service and multi-organisational approach wherever possible and make recommendations to the Council or the Cabinet, WOCs and ASDV's to assist in the development of future policies and strategies;
- in performing its role, the Commission may consult and involve the local community and other local public, private and voluntary bodies or organisations;
- review the Council's response to its obligations in respect of the overall performance management regime and where appropriate advise the Cabinet and the Council of its findings;
- scrutinise decisions after implementation to examine their effect and outcomes;
- review and make recommendations in relation to matters which are not the direct responsibility of the Council but which affect the social, economic and environmental well-being of an area, or the Council's area as a whole, or under any statutory requirement or Council contract, procedure or practice;
- develop, maintain and monitor policies and procedures for handling complaints made against the Council and monitor on a regular basis the level and nature of complaints received and ensure that advice is formulated regarding action to be taken to address areas of concern;
- monitor the level and nature of Ombudsman complaints and advise the Cabinet, Committees, Sub-Committees and officers on remedial action as appropriate;
- ensure in conjunction with the Audit and Governance Committee Constitution Committee that the Council has in place appropriate mechanisms to protect organisational Integrity including the development of appropriate policies and guidance;

- deal with any overview and scrutiny matter which is the subject of a call-in, a Councillor Call for Action or a Local Petition (a Councillor Call for Action Protocol is included in Part 5 of this Constitution);
- provide a regular programme of training and development for all Members and Co-opted Members involved in the work of the Committee.
- undertake pre-decision scrutiny work

## **2. Specific Responsibilities of Policy and Performance Commissions**

### **Cheshire East Policy and Performance Commission**

The Cheshire East Performance Commission will include the chair and vice-chair of each of the five thematic Commissions, plus additional members needed to secure political balance. Its main functions are to:

- Scrutinise the Council's corporate core;
- Ensure that the five other Commissions operate in a coherent and integrated manner;
- Act as an informal discussion forum with the Cabinet regarding the Commissions' work programmes and priorities;
- Undertake (typically using the task-and-finish model) pieces of work which do not fall within the remit of any of the five thematic Commissions;
- Decide which thematic commission will take the lead on cross cutting issues, or undertake the task itself;
- Drive forward the Council's Overview and Scrutiny function;
- Act as a sounding board for matters of common interest across all commissions, including new legislation and best practice;
- Monitor progress of the five thematic Commissions with work programmes and where necessary review the workloads of the Commissions;
- Co-ordinate the formal consultation response to the draft budget proposals on behalf of the thematic commissions.

### **Communities Policy and Performance Commission**

The Local Communities Policy and Performance Commission will fulfil the functions of an Overview and Scrutiny Committee as they relate to performance management, policy development and review, and in particular (but not restricted

to): Community Strategies, Localism, communities and regulatory services, (trading standards, licensing, environmental health, health and safety and Gypsy and Travellers), visitor economy, Tatton Park Enterprises and Crime and Disorder matters as provided by Sections 19 and 20 of the Police and Justice Act 2006.

### **Economy Policy and Performance Commission**

The Economy Policy and Performance Commission will fulfil the functions of an Overview and Scrutiny Committee as they relate to performance management, policy development and review, and in particular (but not restricted to): assets, investment, economic growth and Engine of the North.

### **Environment Policy and Performance Commission**

The Environment Policy and Performance Commission will fulfil the functions of an Overview and Scrutiny Committee as they relate to performance management, policy development and review, and in particular (but not restricted to): environmental matters, housing, planning, economic development, regeneration, rural affairs, ANSA and ORBITAS.

The Commission will also have specific responsibility for the scrutiny of Flood Risk Management.

### **Health Policy and Performance Commission**

The Health Policy and Performance Commission will fulfil the functions of an Overview and Scrutiny Committee as they relate to: Health Scrutiny duties falling on the Authority by virtue of the relevant Health acts and subsequent relevant legislation and Government Guidance; adult social care services; and leisure services, including the Everybody Sport and Recreation Trust.

### **Life Skills Policy and Performance Commission**

The Life Skills Policy and Performance Commission will fulfil the functions of an Overview and Scrutiny Committee as they relate to performance management, policy development and review, and in particular (but not restricted to): education, Children's Social Care, Early Years Provision, Looked After Children and Youth Services.

The four statutory co-optees in respect of the Council's Education function will also sit on this Committee. Paragraph 3 of the Scrutiny Rules of Procedure refers.



## CHESHIRE EAST COUNCIL

### Staffing Committee

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<b>Date of Meeting:</b>	24th April 2014
<b>Report of:</b>	Julie Davies, Head of People and OD
<b>Subject/Title:</b>	Staffing Committee Terms of Reference Review
<b>Portfolio Holder:</b>	Cllr Moran

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#### 1.0 Report Summary

- 1.1 To update the Committee on progress with the review of Staffing Committee Terms of Reference, following work that is being progressed by the Council's Constitution Committee in consultation with the Chairman of Staffing Committee.

#### 2.0 Recommendations

- 2.1 To note the report and
- 2.2 To provide feedback to be submitted to the next Constitution Committee on the suggested terms of reference as attached at Appendix 1 to this report.

#### 3.1 Reasons for Recommendations

- 3.1 To ensure Members have the opportunity to feedback to the Chairman of the Committee any comments and views regarding the proposed terms of reference.

#### 4.0 Wards Affected

- 4.1 No specific wards affected.

#### 5.0 Local Ward Members

- 5.1 Not applicable.

#### 6.0 Policy Implications

- 6.1 None directly relating to this report however, a number of HR Policies and Procedures will need to be updated once the revised Terms of Reference are approved by Council.

**7.0 Financial Implications 2014/15 and beyond (Authorised by the Chief Operating Officer)**

7.1 No direct implications arising from this report.

**8.0 Legal Implications (Authorised by the Head of Legal Services and Monitoring Officer)**

8.1 The Staffing Committee itself does not have the delegated powers to amend the Terms of Reference. The Council's Constitution Committee has established a working group to review the Terms of Reference, in consultation with the chairman of Staffing committee.

**9.0 Risk Management**

9.1 In reviewing any terms of reference, care would have to be taken to ensure that these terms do not conflict or overlap with existing terms of reference of other committees or portfolio holders or contravene constitutional or statutory requirements in relation to them. In particular, under Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Amendment Regulations 2001, power to appoint and dismiss staff is not a function of the executive and therefore can be delegated to Staffing Committee.

9.2 Other HR policies and procedures, and matters such as corporate culture, management structure, employee relations and communications are not necessarily concerned with appointment and dismissal of staff and not within Schedule 1 accordingly, these remain an executive function.

**10.0 Background**

10.1 A Motion proposed at Council on the 18th July 2013 requested a 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 appointments, disciplinary matters and management structures

This motion was passed to the Council's Constitution Committee for consideration and a report was presented to the Committee on the 21st November 2013 outlining the current remit of the Staffing Committee, taking into account the Terms of Reference as detailed in the Council's Constitution, and the practice of the committee since its inception in 2009. It also considered practice in other authorities.

10.2 Following this report, a Constitution Member Working Group was established, in consultation with the Chairman of Staffing Committee, to progress the review of the terms of reference. The first of these meetings took place in December and supplementary information was requested. A

further meeting was held on the 3rd March to explore some proposed terms of reference and these are detailed in Appendix 1.

### **10.3 The Current Terms of Reference**

10.4 Cheshire East Borough Council Staffing Committee, which must consist of 7 members, has the following Terms of Reference:

- *i) undertaking the selection process for the appointment and formulating recommendations to the Council re the appointment and dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer.*
- *ii) the designation of an officer to act as Monitoring Officer and Chief Finance Officer In accordance with the legislation and the appropriate procedures set out in the Staff Employment Procedure Rules.*
- *iii) undertaking the selection, appointment and dismissal procedures for any staff where so required by law ( It should be noted that the Chief executive has powers to appoint all other staff ).*
- *iv) hearing and determining appeals by staff under the relevant HR Policies and procedures, including through any appointed subcommittee.*
- *v) hearing and dealing with disputes registered with the Council by recognised Trade Unions.*

10.5 The Committee Rules state that in discharging the functions, powers and duties under Responsibility for Functions, the Committee has full delegated powers to take these decisions (subject to any special restrictions).

10.6 In addition to the Terms of Reference, the Staff Employment Procedure Rules (SEPR) apply. These detail the requirements relating to the Head of Paid Service and other Statutory, Chief and Deputy Officers which the Staffing Committee must follow and provide that the Staffing Committee is responsible for the suspension of sick pay and matters relating to fixed term contract.

### **10.7 Comparisons with other organisations**

10.8 Comparisons with other organisations are useful in providing a context, although it is noted that where there is a will to identify a more appropriate model of working for our organisation, there is no constraint imposed to follow suit. Comparisons with 12 other Local Authorities illustrate a variety of arrangements in place. In general, although there are many variations on the name of this Committee, the terms of reference for Staffing Committee in Cheshire East are in keeping with others and appear to be very 'typical'. A small number have additional elements of responsibility, including agreeing the pay policy and other issues relating to the determination of pay. In some authorities, the Trade Unions are only

invited to Part 1 (Open) of their Staffing Committee and only attend if there is a relevant report on the agenda. *See Appendix 1 for further information.*

## **10.9 Proposed Terms of Reference**

10.10 The Constitution Committee has recommended the adoption of the CIPFA template for all Terms of Reference in order to ensure consistency and best practice across Committees. As such, the proposed terms of reference for Staffing Committee follow this style.

10.11 At a recent constitution Working Group discussion, Constitution Committee Members discussed a range of items for consideration for the terms of reference for Staffing Committee. Those recommended by the group for further consideration are included in the draft TOR at Appendix 1. Staffing Committee Members are asked to consider these Terms of Reference.

## **11.0 Summary**

11.1 It is recommended that Members determine those matters that they wish to include so as to provide clarity and a constitutional basis for the review of Staffing Committee Terms of Reference. These views can then be fed back to the Constitution Committee working group via the Chairman of Staffing Committee.

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## **DRAFT TERMS OF REFERENCE FOR STAFFING COMMITTEE**

### **Statement of Purpose**

- 1 The Staffing Committee is a key component of Cheshire East's corporate governance. It provides an independent and high level focus on the Human Resources, Organisational Development and Health & Safety matters affecting Council.
- 2 The purpose of the Staffing Committee is to provide independent assurance to the members of the adequacy of the HR service and staffing related matters.

### **Functions of the Committee**

#### **Recruitment and Selection**

- 3 To undertake the recruitment and selection for the appointment of all members of the Corporate Leadership Board and formulating recommendations to the Council regarding the appointment and dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer.
- 4 To approve the designation of an officer to act as Monitoring Officer and Chief Finance Officer, in accordance with legislation and the appropriate procedures set out in the Staff Employment Procedure Rules.

#### **HR Policies**

- 5 To have the opportunity to review the Council's HR Policies and Procedures as required and to make recommendations to the Portfolio Holder. It is noted that the authority to approve HR Policies remains with the Executive

#### **Appeals**

- 6 For a Staffing Appeals Sub Committee to consider appeals from Staff in the following circumstances:
  - Appeals against dismissal
  - Appeals against grievance
  - Appeals against policy (but only the first appeal where the appeals are based on the same issues/circumstances)
  - Group appeals covering more than one Department
  - Appeals which have initially been heard by the Chief Executive, e.g. appeals raised by members of the Senior Management Team
  - Exceptionally where both sides agree referral to Members is appropriate

### **Corporate Leadership Board Appraisal Board**

- 7 To establish and oversee an Appraisal Board for all members of the Corporate Leadership Board.

### **HR Performance**

- 8 To receive HR and Health & Safety performance measures, as detailed below, on a quarterly basis in order to assess the effectiveness of current HR and Health & Safety arrangements.

- Headcount Data
- Sickness Absence
- Turnover
- HR Casework (including disciplinary, grievance and capability)
- Health and Safety Accidents Records
- Health and Safety Training

## Appendix D

**Draft Terms of Reference for Audit Committee****Statement of Purpose**

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

**Functions****Governance, Risk and Control**

- 6 To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
- 7 To review and approve the Annual Governance Statement and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
- 8 To consider the Council's arrangements to secure value for money and to review and scrutinise assurances and assessments on the effectiveness of these arrangements.
- 9 To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.
- 10 To monitor the effective development and operation of risk management in the council.
- 11 To monitor progress in addressing risk related issues reported to the committee.

- 12 To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions, including calling managers to explain lack of progress.
- 13 To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
- 14 To make recommendations to the Executive on the Council's arrangements for deterring, preventing, detecting and investigating fraud.
- 15 To monitor the counter fraud strategy, actions and resources.
- 16 To advise the Executive on responses to audit management letters, reports and investigations and reviewing whether agreed external audit or inspection recommendations have been implemented as timetabled.
- 17 To review and monitor the Council's treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.

#### **Internal audit**

- 18 To approve the internal audit charter.
- 19 To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- 20 To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- 21 To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- 22 To make appropriate enquiries of both management and the head of internal
- 23 To consider reports from the head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
  - a) Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work.
  - b) Regular reports on the results of the Quality Assurance and Improvement Programme.
  - c) Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement.



24 To consider the head of internal audit's annual report:

- a) The statement of the level of conformance with the Public Sector Internal Audit Standards and Local Government Application Note and the results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit.
- b) The opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the Annual Governance Statement.

25 To consider summaries of specific internal audit reports as requested.

26 To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.

27 To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.

28 To consider a report on the effectiveness of internal audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit Regulations.

29 To support the development of effective communication with the head of internal audit.

30 To review and make recommendations to the Executive regarding the effectiveness of internal audit to include ensuring the internal audit function is adequately resourced, to review its strategy, receive, challenge and approve its annual plan and monitor its delivery and to review significant audit findings and monitor progress by managers in implementing agreed recommendations.

### **External Audit**

31 To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.

32 To consider specific reports as agreed with the external auditor.

33 To comment on the scope and depth of external audit work and to ensure it gives value for money.

34 To commission work from internal and external audit.

- 35 To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

### **Financial Reporting**

- 36 To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- 37 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### **Accountability Arrangements**

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

### **Related functions**

- 39 To report to full Council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
- 40 To approve and monitor Council policies relating to "whistleblowing" and anti fraud and corruption.
- 41 To seek assurance that customer complaint arrangements are robust.

### **Standards Arrangements**

Current terms as follows but under review by the Council's MO.

1. To promote high standards of ethical behaviour by developing, maintaining and monitoring Codes of Conduct for Members of the Council (including co-opted Members and other persons acting in a similar capacity).
2. Ensuring that Members receive advice and as appropriate on the Members Code of Conduct
3. Granting dispensations under the provisions of the Localism Act 2011 to enable a member or co-opted Member to participate in a meeting of the Authority

The Committee has appointed three ad-hoc sub-committees/panels as follows:

#### Initial Assessment Panel

3 Members plus Independent Person. The panel is responsible for:

- Receiving and determining whether to refer for investigation or other appropriate action, any written complaints regarding alleged mis-conduct and breach of the Code of Conduct by any Borough Councillor or Town or Parish Councillor within Cheshire East.

#### Local Resolution Panel

3 Members plus Independent Person. The panel is responsible for:

- The hearing and determination of complaints referred to it by the Initial Assessment Panel that there has been a breach of the Code of Conduct by any Borough Councillor or any Town or Parish Councillor within Cheshire East. The panel will act in consultation with the Independent Person.
- Matters may be referred for external investigation should the panel consider it appropriate due to the complexity of the matter or if serious issues emerge.

#### Hearing Sub-Committee

3 Members plus Independent Person. The sub-committee is responsible for:

- Consideration of the written report of the external investigator in relation to a complaint that a Borough Councillor or Town or Parish Council Member has broken the Code of Conduct and the determination of any appropriate action in consultation with the Independent Person. NB sanctions for Parish Councillors will be referred to the Parish Council.

The memberships of the panels and sub-committee are drawn from a pool of 15 members constituted on a politically proportionate basis, which includes the members of the Audit and Governance Committee.

An Independent Person appointed by Council will be present at any Panel meetings or a meeting of the hearing Sub Committee

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## Appendix E

### Cheshire East Statutory Health and Wellbeing Board

#### Terms of Reference:



#### 1. Context

- 1.1 The full name shall be the Cheshire East Health and Wellbeing Board.
- 1.2 The Board assumes statutory responsibility from April 2013.
- 1.3 The Health and Social Care Act 2012 and subsequent regulations provide the statutory framework for Health and Wellbeing Boards (HWB).
- 1.4 For the avoidance of doubt, except where specifically disapplied by these Terms of Reference, the Council Procedure Rules (as set out in its Constitution) will apply.

#### 2. Purpose

- To prepare Joint Strategic Needs Assessments (JSNAs) and Joint Health and Wellbeing Strategies (JHWSs), which is a duty of local authorities and clinical commissioning groups (CCGs).
- To lead integrated working between health's and social care commissioners, including providing advice, assistance or other support to encourage arrangements under section 75 of the National Health Service Act 2006 (i.e. lead commissioning, pooled budgets and/or integrated provision) in connection with the provision of health and social care services.
- To lead close working between commissioners of health-related services and the board itself.
- To lead close working between commissioners of health-related services (such as housing and many other local government services) and commissioners of health and social care services
- Any other functions that may be delegated by the council under section 196(2) of the Health and Social Care Act 2012. Such delegated functions need not be confined to public health and social care.
- To provide advice assistance and support for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 in connection with the provision of such services.

### **3. Roles and Responsibilities**

- 3.1 To work together effectively to ensure the delivery of the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy.
- 3.2 To work within the Board to build a collaborative partnership to key decision making that embeds health and wellbeing challenge, issue resolution and provides strategic system leadership.
- 3.3 To participate in Board discussions to reflect the views of their partner organisations, being sufficiently briefed to be able to make recommendations about future policy developments and service delivery.
- 3.4 To champion the work of the Board in their wider work and networks and in all individual community engagement activities.
- 3.5 To ensure that there are communication mechanisms in place within partner organisation[s] to enable information about the Health and Wellbeing Boards priorities and recommendations to be effectively disseminated.
- 3.6 To share any, changes to strategy, policy, and the system consequences of such on budgets and service delivery within their own partner organisations with the Board to consider the wider system implications.

### **4. Accountability**

- 4.1 The Board carries no formal delegated authority from any of the individual statutory bodies.
- 4.2 Core Members of the board have responsibility and accountability to their individual duties and to their role on the Board.
- 4.3 The Board will discharge its responsibilities by means of recommendations to the relevant partner organisations, which will act in accordance with their respective powers and duties.
- 4.4 The Council's Core Members will ensure that they keep Cabinet and wider Council advised of the work of the Board.
- 4.5 The Board will report to Full Council and to both NHS Clinical Commissioning Groups (CCG's) Governing Bodies by ensuring access to meeting minutes and presenting papers as required.
- 4.6 The Board will not exercise scrutiny duties around health or adult social care services directly. This will remain the role of the Cheshire East Health and Wellbeing Scrutiny Committee. Decisions taken and work progressed by the Board will be subject to scrutiny by this committee.

- 4.7 The Board will provide information to the public through publications, local media, and wider public activities by publishing the minutes of its meetings on the Council's website. The Board is supported by an Engagement and Communications Network across Board organisation to ensure this function can operate successfully.

## **5. Membership**

- 5.1 The core membership of the Board will comprise the following:

- Portfolio Holder – Health & Adult Social Care [Board Chairman],
- Portfolio Holder – Children & Families,
- Major Opposition Group Member
- The Director of Public Health,
- The Director of Children's Services,
- The Director of Adult Social Care and Independent Living
- The Chief Executive of the Council (Associate Non Voting Member)
- The Executive Director of Strategic Commissioning (Associate Non Voting Member)
- Accountable Officer of the South Cheshire Clinical Commissioning Group
- Chair. GP Lead of the South Cheshire Clinical Commissioning Group
- Accountable Officer of the Eastern Cheshire Clinical Commissioning Group
- Chair. GP Lead of the Eastern Cheshire Clinical Commissioning Group
- A designated representative from Local Health Watch
- Member of NHS England Local Area Team (Associate Non Voting Member)

- 5.2 The Core Members will keep under review the Membership of the Board and if appropriate will make recommendations to Council on any changes to the Core Membership.

- 5.3 The above Core Members <sup>1</sup> through a majority vote have the authority to appoint individuals as Non Voting Associate Members of the Board. (Committee Procedure Rule 20.1 refers). The length of their membership will be for up to one year and will be subject to re-selection at the next Annual General Meeting "AGM". Associate Members will assist the board in achieving the priorities agreed within the Joint Health and Wellbeing Strategy and may indeed be chairs of sub structure forums where they are not actual Core Members of the Board.

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<sup>1</sup> Regulation 5(1) removes this restriction in relation to health and wellbeing boards by disapplying section 104(1) of the 1972 Act to enable the local authority directors specified in the 2012 Act to become members of health and wellbeing boards

5.4 The above Core Members <sup>2</sup> through a majority vote have the authority to recommend to Council that individuals be appointed as Voting Associate Members of the Board. The length of their membership will be for up to one year and will be subject to re-selection at the next Annual General Meeting “AGM”.

5.5 Each Core Member has the power to nominate a single named substitute. If a Substitute Member be required, advance notice of not less than 2 working days should be given to the Council whenever practicable. The Substitute Members shall have the same powers and responsibilities as the Core Members.

## **6. Frequency of Meetings**

6.1 There will be no fewer than six public meetings per year (including an AGM), usually once every two months as a formal Board.

6.2 Additional meetings of the Board may be convened with agreement of the Board’s Chairman.

## **7. Agenda and Notice of Meetings**

7.1 Any agenda items or reports to be tabled at the meeting should be submitted to the Council’s Democratic Services no later than seven working days in advance of the next meeting. No business will be conducted that is not on the agenda.

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

## **8. Annual General Meeting**

8.1 The Board shall elect the Chairman and Vice Chairman at each AGM, the appointment will be by majority vote of all Core Members present at the meeting.

8.2 The Board will approve the representative nominations by the partner organisations as Core Members.

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<sup>2</sup> Regulation 5(1) removes this restriction in relation to health and wellbeing boards by disapplying section 104(1) of the 1972 Act to enable the local authority directors specified in the 2012 Act to become members of health and wellbeing boards



## **9. Quorum**

- 9.1 Any full meeting of the Board shall be quorate if the following are represented Eastern CCG, South CCG, Local Health Watch, a Portfolio Holder, and an Officer of Cheshire East Council.
- 9.2 Failure to achieve a quorum within thirty minutes of the scheduled start of the meeting, or should the meeting become inquorate after it has started, shall render the meeting adjourned until the next scheduled meeting of the Board. This will also be the case when attending development or informal Board meetings.

## **10. Procedure at Meetings**

- 10.1 General meetings of the Board are open to the public and in accordance with the Council's Committee Procedure Rules will include a Public Question Time Session. Papers, agendas and minutes will be published on the Cheshire East Health and Wellbeing website.
- 10.2 The Council's Committee Procedure Rules will apply in respect of formal meetings subject to the following: -
- 10.3 The Board will also hold development/informal sessions throughout the year where all members are expected to attend and partake as the agenda suggests.
- 10.34 Core Members are entitled to speak through the Chairman. Associate Members are entitled to speak at the invitation of the Chairman.
- 10.5 With the agreement of the Board, subgroups can be set up to consider distinct areas of work. The subgroup will be responsible for arranging the frequency and venue of their meetings. The Board will approve the membership of the subgroups.
- 10.6 Any recommendations of the subgroup will be made to the Board who will consider them in accordance with these terms of reference and their relevance to the priorities within the Joint Health and Wellbeing Strategy and its delivery plan.
- 10.7 Whenever possible decisions will be reached by consensus or failing that a simple majority vote.

## **11. Expenses**

- 11.1 The partnership organisations are responsible for meeting the expenses of their own representatives.
- 11.2 A modest Board Budget will be agreed annually to support Engagement and Communication and the Business of the Board.

## **12. Conflict of Interest**

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

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

- 13.1 Board members will agree to adhere to the seven principles outlined in the Board Code of Conduct when carrying out their duties as a Board member [Appendix 1].

## **14. Review**

- 14.1 The above terms of reference will be reviewed annually at the Health and Wellbeing Board AGM.
- 14.2 Any amendments shall only be included by consensus or a simple majority vote, prior to referral to the Constitution Committee and thereafter Council.

**March 2014**

## **Definition**

### **Exempt Information**

*Which is information falling within any of the descriptions set out in Part I of Schedule 12A to the Local Government Act 1972 subject to the qualifications set out in Part II and the interpretation provisions set out in Part III of the said Schedule in each case read as if references therein to "the authority" were references to "Board" or any of the partner organisations.*

### **Confidential Information**

*Information furnished to, partner organisations or the Board by a government department upon terms (however expressed), which forbid the disclosure of the information to the public; and information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court are to be discussed.*

### **Conflict of Interest**

*You have a Conflict of interest if the issue being discussed in the meeting affects you, your family or your close associates in the following ways;*

- *The issue affects their well being more than most other people who live in the area.*

- *The issue affect their finances or any regulatory functions and*
- *A reasonable member of the public with knowledge of the facts would believe it likely to harm or impair your ability to judge the public interest.*

**Associate Members**

*Associate Member status is appropriate for those who are requested to chair sub groups of the board.*

**Health Services**

*Means services that are provided as part of the health service.*

**Health-Related Services** *means services that may have an effect on the health of individuals but are not health services or social care services.*

**Social Care Services**

*Means services that are provided in pursuance of the social services functions of local authorities (within the meaning of the Local Authority Social Services Act 1970*

## Appendix 1

# Cheshire East Shadow Health and Wellbeing Board Member Code of Conduct

## 1. Selflessness

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Members of the Cheshire East Health and Wellbeing Board should act solely in terms of the interest of and benefit to the public/patients of Cheshire East. They should not do so in order to gain financial or other benefits for themselves, their family or their friends

## 2. Integrity

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Members of the Cheshire East Health and Wellbeing Board should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their duties and responsibilities as a Board member

## 3. Objectivity

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In carrying out their duties and responsibilities members of the Cheshire East Health and Wellbeing Board should make choices based on merit and informed by a sound evidence base

## 4. Accountability

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Members of the Cheshire East Health and Wellbeing Board are accountable for their decisions and actions to the public/patients of Cheshire East and must submit themselves to whatever scrutiny is appropriate

## 5. Openness

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Members of the Cheshire East Health and Wellbeing Board should be as transparent as possible about all the decisions and actions that they take as part of or on behalf of the Board. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands

## 6. Honesty

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Members of the Cheshire East Health and Wellbeing Board have a duty to declare any private interests relating to their responsibilities and duties as Board members and to take steps to resolve any conflicts arising in a way that protects the public interest and integrity of the Cheshire East Health and Wellbeing Board

## 7. Leadership

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Members of the Cheshire East Health and Wellbeing Board should promote and support these principles by leadership and example

## Appendix F

### PROPOSED DEPUTY CABINET MEMBER JOB DESCRIPTION

1. The purpose of the Deputy Cabinet Member role is to support the work of the designated Cabinet principal, particularly in those areas of Special Responsibility assigned by the Leader of the Council.
2. Deputy Cabinet Member appointments shall be at the discretion of the Leader and may be varied by him at any time.
3. Deputy Cabinet Members shall not be members of the Cabinet and may not exercise any executive powers, which shall be reserved to their Cabinet principals, either collectively or individually. Deputy Cabinet Members may, however, be invited to speak at Cabinet or other Council meetings on matters where they have assisted their Cabinet principal, but may not vote.
4. Deputy Cabinet Members shall not sit on any Policy and Performance Commissions (or their Task Groups or Working Parties) which are established to consider any matter on which they have undertaken any work for the Cabinet.
5. Deputy Cabinet Members may assist in the design and development of strategic priorities of the Council, as these relate to their allocated Portfolio area or in such other areas as the Leader of the Council may decide.
6. Deputy Cabinet Members may assist in the monitoring of performance in areas designated by the Leader of the Council or in such other areas as he shall decide.
7. Deputy Cabinet Members may, where appropriate under the Council's Constitution, represent their designated Cabinet principal at meetings or visits, both within the Borough and beyond.
8. Deputy Cabinet Members shall provide guidance to their Cabinet principal on budget and service development/improvement priorities within their area of responsibility.
9. Deputy Cabinet Members shall work constructively and in an open and transparent way with Backbench and Opposition Members, and with Council officers, to ensure that the process of Overview and Scrutiny is appropriate, effective, and proportionate.
10. Deputy Cabinet Members shall support their Cabinet principal in driving forward the process of transformation, continuous improvement, and the responsiveness in Council services within their area of Special Responsibility.

11. Deputy Cabinet Members shall ensure that activities within their area of responsibility take proper account of the Council's vision, core values, agreed standards, and outcomes for local people.

# CHESHIRE EAST COUNCIL

## Report to Council

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**Date of Meeting:** 14 May 2014

**Report of:** Head of Governance and Democratic Services

**Title:** Political Representation on the Council's Committees

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### 1.0 Purpose of Report

- 1.1 To determine the political representation on the Council's Committees.

### 2.0 Decision Required

- 2.1 That the political group representation, as set out in Appendix 1 to this report (to follow) and the methods, calculations and conventions used in determining this, as outlined in the report be adopted.

### 3.0 Legal Implications

- 3.1 The Local Government (Committees and Political Groups) Regulations 1990, made pursuant to the Local Government and Housing Act 1989, makes provisions in respect of the political group representation on a local authority's committees in relation to the overall political composition of the Council. The legislation applies to overview and scrutiny committees and the decision-making committees and sub committees of the Council.
- 3.2 The legislation requires that, where proportionality applies, and seats are allocated to different political groups, the authority must abide by the following principles, so far as is reasonably practicable:
- 3.2.1 Not all of the seats can be allocated to the same political group. (i.e. there are no single group committees.)
  - 3.2.2 The majority of seats on a body are to be allocated to a political Group with a majority membership of the authority.
  - 3.2.3 The total number of seats on all ordinary committees and sub committees allocated to each Political Group bears the same proportion to the proportion on the full Council.
  - 3.2.4 The number of seats on each ordinary committee allocated to each Political Group bears the same proportion to the proportion on full Council.

- 3.3 The proposals contained in this report meet the requirements of the legislation.
- 3.4 The 1990 Regulations require Political Group Leaders to notify the Proper Officer of the Group's nominations to the bodies in question.

#### **4.0 Risk Assessment**

- 4.1 Failure to comply with the Act and Regulations when appointing its committee memberships would leave the Council open to legal challenge.

#### **5.0 Local Government (Committee and Political Groups) Regulations 1990.**

- 5.1 Appendix 1 to this report, which will be circulated separately, will set out the proposed political representation on ordinary committees and sub committees, based on the political structure of the Council as a whole and taking into account changes that have occurred during the Municipal Year including the decision to increase the number of overview and scrutiny committees. The following is the basis of the approach adopted:

Conservatives	50	60.98
Labour	15	18.29
Independent Group	11	13.41
Liberal Democrat	4	4.88
UKIP	1	1.22
Other	1	1.22
TOTAL	82	100%

- 5.2 The proportionalities in Appendix 1 will have been arrived at by the following methods and conventions:

- § applying the relevant percentage to each body;
- § rounding up from 0.5 and above and rounding down below 0.5

- 5.3 The Act provides that where this results in a Group having a total of more or fewer actual seats than its proportional entitlement, any surplus seats are re-allocated to ensure that the final actual allocation to each Group equals the proportional entitlement. Appendix 1 will show the proposed allocation of seats taking into account the actual allocation agreed by Council following the recommendations made by the Group Whips.
- 5.4 The proportionality rules do not apply to the Cabinet or to the Appeals Sub Committee, Licensing Sub Committees or the Macclesfield Local Service Delivery Committee. These bodies are therefore excluded from the proportionality calculation in Appendix 1. However, Council is asked to confirm the size and



composition of the Appeals Sub Committee, Licensing Sub Committee Panel and the Macclesfield Local Service Delivery Committee.

**6. Reasons for Recommendations**

- 6.1 To determine political representation on the Council's committees and to receive the Groups nominations to the different bodies referred to in the report.

***For further information:***

*Officer: Brian Reed Head of Governance and Democratic Services*

*Tel No: 01270 686670*

*Email: [brian.reed@cheshireeast.gov.uk](mailto:brian.reed@cheshireeast.gov.uk)*

***Background Documents: None***

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## CHESHIRE EAST COUNCIL

### COUNCIL

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<b>Date of Meeting:</b>	14 May 2014
<b>Report of:</b>	Head of Governance and Democratic Services
<b>Subject/Title:</b>	Appointments of Members to Committees

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#### **1.0 Report Summary**

- 1.1 To review the memberships of the Council's decision-making bodies.

#### **2.0 Recommendations**

- 2.1 That the nominations made by the Group Leaders to the bodies listed in Appendix A of the previous agenda item be noted.
- 2.2 That the Committees set out in Appendix 1, to be tabled at the meeting, be approved.

#### **3.0 Reason for Recommendations**

- 3.1 To review the memberships of the Council's decision-making and other bodies and their appointment.

#### **4.0 Legal Implications**

- 4.1 The previous report on the agenda dealt with the requirements of the Local Government (Committees and Political Groups) Regulations 1990, in respect of the political group representation on the Authority's committees.
- 4.2 The Annual Meeting of Council is responsible for approving the Council's decision-making structures and the number of seats to be allocated on each body.
- 4.3 The 1990 Regulations require political Group Leaders to notify the Proper Officer of the Group's nominations to the bodies in question.

#### **5.0 Risk Assessment**

- 5.1 Failure to comply with the Act and Regulations would leave the Council open to legal challenge.

**6.0 Appointments to Committees under the Council's Political Structure for the Municipal Year 2014/15**

- 6.1 The Annual Meeting of Council is responsible for approving the Council's decision-making structures and the number of seats to be allocated on each body.
- 6.2 The 1990 Regulations require political Group Leaders to notify the Proper Officer of the Group's nominations or any changes to their nominations to the bodies in question. The Political Groups have therefore been invited to review their nominations. If possible a schedule of the proposed memberships will be published before the meeting or alternatively the nominations will be circulated at the meeting.

**7.0 Access to Information**

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

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## CHESHIRE EAST COUNCIL

### COUNCIL

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<b>Date of Meeting:</b>	14 May 2014
<b>Report of:</b>	Head of Governance and Democratic Services
<b>Subject/Title:</b>	Appointment of Chairmen and Vice Chairmen

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#### **1.0 Report Summary**

- 1.1 To appoint Chairmen and Vice Chairmen of the Council's decision-making bodies.

#### **2.0 Recommendation**

- 2.1 That a Chairman and Vice Chairman be appointed for each of the Council's decision-making bodies listed in the previous agenda item and as indicated on the circulated schedule.

#### **3.0 Reason for Recommendation**

- 3.1 To appoint the Chairmen and Vice Chairmen of the Council's decision making bodies.

#### **4.0 Legal Implications**

- 4.1 The Annual Meeting of the Council appoints the Council's decision-making bodies. It also determines the Chairmen and Chairmen of these bodies.

#### **5.0 Risk Assessment**

- 5.1 Failure to comply with the requirements of the Constitution would leave the Council open to legal challenge,

#### **6.0 Appointment of Chairman and Vice Chairmen under the Council's Political Structure for the Municipal Year 2014/15**

- 6.1 Council, at its Annual Meeting, is required to appoint its decision-making and other bodies. Council will receive notice of the Political Groups nominations to the memberships of each of the bodies in question. Council is required to appoint the Chairman and Vice Chairman for each of these bodies.
- 6.2 Nominations have been invited and a schedule of proposed Chairmen and Vice Chairmen will be published before the meeting or alternatively the proposals will be circulated at the meeting. This schedule will indicate "C" for Chairman and "VC" for Vice Chairman.

## **7.0 Access to Information**

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

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## CHESHIRE EAST COUNCIL

### COUNCIL

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<b>Date of Meeting:</b>	14 May 2014
<b>Report of:</b>	Head of Governance and Democratic Services
<b>Subject/Title:</b>	Appointments to Adoption Panel and Fostering Panel

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#### **1.0 Report Summary**

- 1.1 The report invites Council to approve a number of appointments to Statutory Panels which do not fall within the definition of “a Committee”.

#### **2.0 Recommendations**

- 2.1 Council is asked to appoint –
- (a) one Councillor to the Adoption Panel; and
  - (b) one Councillor to the Fostering Panel.

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

- 3.1 These bodies carry out statutory functions and appointments are needed to ensure that the Council meets its obligations.

#### **4.0 Background and Options**

- 4.1 As there are some organisations which do not fall within the category of being “outside organisations”, the members of which being appointed by other means, it is appropriate for the Council to make such appointments as part of the annual Committee appointment process. The organisations are Statutory Panels which do not fall within the definition of “a Committee”:-

- Adoption Panel
- Fostering Panel

#### **4.2 Adoption Panel**

The Adoption Panel considers in detail all aspects of a plan for a “Cared For” child to be adopted and makes a recommendation as to whether or not the child should be adopted. In addition, the Panel considers the suitability of any families who apply to become adopters, and whether or not to recommend that they are suitable to adopt; and also considers the placement of any child with a particular adopter. The elected Member is a full member of the Panel. Under the performance objectives of the Panel, each member is asked to attend 75% of the meetings, which are held

monthly, and in addition is asked to attend any training events and induction events that are held at least annually, and undergo an annual appraisal.

The role of the Adoption Panel and the appointment of elected Members are governed by the Adoption Agency Regulations 2005, Adoption and Children Act 2002.

The Adoption Panel comprises of the following:-

- Chair
- Medical Advisor
- Agency Members
- Social Workers (2)
- Elected Members (1)
- Independent Members (3)
- Additional Members (2)

Councillor A Harewood served on the Adoption Panel during 2013/14 year.

#### 4.3 Fostering Panel

The Panel considers and advises on the suitability of persons who apply to be foster carers for children who are “looked after” by the local authority. It states what its recommendations are in respect of a particular child or children and clarifies whether the prospective carers are to be approved for certain ages or categories of children.

It considers the continuing approval of foster carers following their annual carer’s review or other significant changes in their circumstances and advises on any other matters relating to the fostering service.

The Panel holds monthly meetings which are held in private. One nomination is required.

Councillor P Hoyland served on the Fostering Panel during 2013/14 year.

#### 4.4 As with the Adoption Panel, the Fostering Panel is administered by Cheshire East Children’s Services, and as such, is not an outside organisation.



## **5.0 Access to Information**

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

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## CHESHIRE EAST COUNCIL

### COUNCIL

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<b>Date of Meeting:</b>	14 May 2014
<b>Report of:</b>	Head of Governance and Democratic Services
<b>Subject/Title:</b>	Appointments to Cheshire Fire Authority and the Cheshire Police and Crime Panel

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#### **1.0 Report Summary**

- 1.1 The report invites Council to make Appointments to Cheshire Fire Authority and the Cheshire Police and Crime Panel.

#### **2.0 Recommendations**

- 2.1 Council is asked to appoint –
- (a) three Councillors to the Cheshire Police and Crime Panel, and
  - (b) eight Councillors to Cheshire Fire Authority

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

- 3.1 These bodies carry out statutory functions and appointments are needed to ensure that the Council meets its obligations.

#### **4.0 Background and Options**

##### **Cheshire Police and Crime Panel**

- 4.1 In accordance with the Police Reform and Social Responsibility Act 2011 arrangements were made for the election of a Police Commissioner to replace the Cheshire Police Authority in November 2012
- 4.2 Section 28 required each Police area to establish a Police and Crime Panel (PCP). The Local Government Association had produced guidance on the formation of Police and Crime Panels and suggested that their main responsibilities would be to:
- To review and make a report or recommendation on the draft police and crime plan, or draft variation, given to the panel by the Police and Crime Commissioner.
  - To review, put questions to the Police and Crime Commissioner at a public meeting, and make a report or recommendation (as necessary) on the annual report.

- To hold a confirmation hearing and review, make a report, and recommendation (as necessary) in respect of proposed senior appointments made by the Police and Crime Commissioner.
- To review and make a report on the proposed appointment of the Chief Constable.
- To review and make a report and recommendation (as necessary) on the proposed precept.
- To review or scrutinise decisions made, or other action taken, by the Police and Crime Commissioner in connection with the discharge of the commissioner's functions.
- To make reports or recommendations to the Police and Crime Commissioner with respect to the discharge of the commissioner's functions.
- To support the effective exercise of the functions of the Police and Crime Commissioner.
- To fulfil functions in relation to complaints about conduct matters, in accordance with the responsibilities accorded to the panel by the Police Reform and Social Responsibility Act 2011.
- To appoint an Acting Police and Crime Commissioner if necessary.
- To suspend the Police and Crime Commissioner if it appears to the panel that the Commissioner has been charged in the United Kingdom or Isle of Man with an offence which carries a maximum term of imprisonment exceeding two years.

4.3 The Cheshire Police and Crime Panel comprises 10 Councillors appointed by the constituent Councils and the allocation of seats to Cheshire Cheshire East is 3.

4.4 The Council's current representatives are Councillors J P Findlow, W Fitzgerald, and H Murray. The nominated substitute is Councillor L Brown.

### **Cheshire Fire Authority**

4.5 The Fire Authority was the Combined Fire Authority for Cheshire, Halton and Warrington in accordance with the Cheshire Fire Services (Combination Scheme) Order 1997. The constitution of the Cheshire Fire Authority required the appointment of 14 representatives.

4.6 As a consequence of local government restructuring in Cheshire, the Authority was changed to the Combined Fire Authority of Cheshire West and Chester, Cheshire East, Halton and Warrington and its membership was increased to 23 places. The allocation of seats is:-

Halton - 3 Members

Warrington - 4 Members

Cheshire West and Chester - 8 Members

Cheshire East - 8 Members

- 4.7 The current members are Councillors M Simon, J Weatherill, W Livesley, D Topping, G Merry, C Thorley, D Flude and D Brickhill.

## **5.0 Access to Information**

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

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**COUNCIL MEETING – 14<sup>TH</sup> MAY 2014****Extract from the Minutes of the Constitution Committee Meeting on  
1<sup>st</sup> May 2014****41 CHESHIRE/WIRRAL/MERSEYSIDE - JOINT SCRUTINY ARRANGEMENTS**

The Committee considered the adoption of a protocol for setting up joint scrutiny arrangements across Cheshire, Wirral and Merseyside to consider proposed substantial developments or variations in health services.

The Health and Social Care Act 2012 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations had introduced new arrangements to require a joint scrutiny committee to be established for the purposes of considering consultations by a relevant NHS body or provider of NHS funded Services where such proposals impacted on more than one local authority area and where more than one authority agreed that the proposal was a substantial development or variation in service (SDV).

Knowsley Borough Council, as lead authority on behalf of the Merseyside authorities, had developed a draft protocol, attached as an Appendix to the report, which proposed a framework for the operation of joint scrutiny across Cheshire, Merseyside and Wirral. The protocol would put in place arrangements to convene a joint health overview and scrutiny committee to be made up of each of the constituent local authorities that deemed a proposal to be an SDV. Cheshire, and Merseyside authorities had been invited to consider and adopt the protocol in order for it to be in place in time for the formal consultation process regarding changes to the provision of cancer services at the Clatterbridge Centre in Wirral.

**RESOLVED**

That it be recommended to Council that

1. the draft joint scrutiny protocol as appended to the report be adopted; and
2. nominations to any joint scrutiny committees established in accordance with the protocol be made by the Chairman of the Health and Wellbeing Scrutiny Committee (or successor body) in compliance with the proportionality requirements set out in the protocol.

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# CHESHIRE EAST COUNCIL

## Constitution Committee

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<b>Date of Meeting:</b>	1 <sup>st</sup> May 2014
<b>Report of:</b>	Head of Governance and Democratic Services
<b>Subject/Title:</b>	Cheshire/Wirral/Merseyside – Joint Scrutiny Arrangements

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### **1.0 Report Summary**

- 1.1 The purpose of this report is to seek a recommendation from the Constitution Committee to Council to adopt a protocol for the setting up of joint scrutiny arrangements across Cheshire, Wirral and Merseyside authorities to deal with formal consultations regarding Substantial Developments or Variations (SDVs) that affect more than one local authority.

### **2.0 Recommendations**

- 2.1 That it be recommended to Council that
1. the draft joint scrutiny protocol be adopted; and
  2. nominations to any Joint Scrutiny Committees established in accordance with the protocol be made by the Health and Wellbeing Scrutiny Committee (or successor body) in compliance with the proportionality requirements set out in the protocol.

### **3.0 Reasons for Recommendations**

- 3.1 The Constitution Committee is responsible for recommending changes to the Constitution to Council.

### **4.0 Wards Affected**

- 4.1 All.

### **5.0 Local Ward Members**

- 5.1 Not applicable.

### **6.0 Policy Implications**

- 6.1 Not applicable at this stage.

## **7.0 Financial Implications**

- 7.1 None for the local authority.

## **8.0 Legal Implications**

- 8.1 The Health and Social Care Act 2012 introduced new arrangements requiring joint scrutiny committees to be established whenever proposals made by relevant NHS bodies are deemed to be a substantial development or variation in service (SDV) by more than one local authority.

## **9.0 Risk Management**

- 9.1 There are no identifiable risks

## **10.0 Background**

- 10.1 The Health and Social Care Act 2012 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations introduced new arrangements to require a joint scrutiny committee to be established for the purposes of considering consultations by a relevant NHS body or provider of NHS funded Services where such proposals impact on more than one local authority area and where more than one authority agrees that the proposal is an SDV.
- 10.2 In anticipation of substantial changes in the provision of cancer services at the Clatterbridge Centre in Wirral, Knowsley Borough Council, as lead authority on behalf of the Merseyside authorities, has developed a draft protocol (attached) which proposes a framework for the operation of joint scrutiny across Cheshire/Merseyside/Wirral. The protocol will initially be utilised for the purposes of setting up a joint committee in relation to the anticipated Clatterbridge consultation and also for any subsequent consultations regarding SDVs.
- 10.3 Cheshire, and Merseyside authorities have been invited to consider and adopt the protocol in order for it to be in place ahead of the formal consultation process regarding the Clatterbridge centre which is expected to begin later in the summer of 2014. As part of the formal Clatterbridge consultation, the Health and Wellbeing Scrutiny committee being the Council's statutory scrutiny body in this respect will be formally invited to consider whether the proposals are considered to be an SDV insofar as Cheshire East is concerned.
- 10.4 The protocol puts in place arrangements to formally convene a joint health overview and scrutiny committee to be made up of each of the constituent local authorities that deem a proposal to be an SDV. In dealing with substantial development/variations, the joint health overview and scrutiny committee can:
- make comments on the subject proposal

- require relevant NHS bodies and health service providers to provide information to and attend before meetings of the committee to answer questions
- make reports and recommendations to relevant NHS bodies/local health providers
- require relevant NHS bodies/local health service providers to respond within a fixed timescale to reports or recommendations
- report to the Secretary of State in writing where it:
  - is not satisfied that consultation with the relevant health scrutiny arrangements on any proposal has been adequate
  - is not satisfied that reasons for an 'emergency' decision that removes the need for formal consultation with health scrutiny are adequate
  - does not consider that the proposal would be in the interests of the health service in its area

- 10.5 In practical terms, when a consultation is received by a local authority, each local Health Scrutiny Committee will need to determine whether the proposal is considered to be an SDV in its own area, (this Council has a separate protocol which provides guidance on SDVs). If a local authority considers the matter to be an SDV and at least one other authority also does, then a joint committee has to be established. If the authority does not consider it to be an SDV, then the authority will not be involved in the formal consultation. Once a joint committee has been established, only the joint committee may formally respond to the consultation.
- 10.6 The membership of the joint committee is not fixed and will be determined on each occasion depending on the number of participating authorities. So for instance, if 4 or more authorities are taking part, then each participating authority will be invited to nominate 2 members and if there are 3 or less authorities, each participating authority will be invited to nominate 3 members. Each authority will be required to submit nominations in accordance with its own political balance.
- 10.7 The existence of joint health overview and scrutiny committee is time-limited to the course of the specified consultation and it may not otherwise carry out any other activity.
- 10.8 The draft protocol also sets out a framework for the operation of joint scrutiny activity which may be carried out on a discretionary basis into then planning, provision and operation of the health service.
- 10.9 In terms of political balance, the protocol proposes that the joint committee is made up of Councillors to reflect the political balance of each of the constituent local authorities.

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

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

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## **PROTOCOL FOR ESTABLISHMENT OF JOINT HEALTH SCRUTINY ARRANGEMENTS FOR CHESHIRE AND MERSEYSIDE**

### **1. INTRODUCTION**

- 1.1 This protocol has been developed as a framework for the operation of joint health scrutiny arrangements across the local authorities of Cheshire and Merseyside. It allows for:
- scrutiny of substantial developments and variations of the health service; and,
  - discretionary scrutiny of local health services
- 1.2 The protocol provides a framework for health scrutiny arrangements which operate on a joint basis only. Each constituent local authority should have its own local arrangements in place for carrying out health scrutiny activity individually.

### **2. BACKGROUND**

- 2.1 The Health and Social Care Act 2012 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 came into effect on 1 April 2013 revising existing legislation regarding health scrutiny.
- 2.2 In summary, the revised statutory framework authorises local authorities to:
- review and scrutinise any matter relating to the planning, provision and operation of the health service; and,
  - consider consultations by a relevant NHS body or provider of NHS-funded services on any proposal for a substantial development or variation to the health service in the local authority's area.
- 2.3 Ultimately the regulations place a requirement on relevant scrutiny arrangements to reach a view on whether they are satisfied that any proposal that is deemed to be a substantial development or variation is in the interests of the health service in that area, or instead, that the proposal should be referred to the Secretary of State for Health. In instances where a proposal impacts on the residents of one local authority area exclusively, this responsibility lays with that authority's health scrutiny arrangements alone.
- 2.4 Where such proposals impact on more than one local authority area, each authority's health scrutiny arrangements must consider whether the proposals constitute a substantial development or variation or not. The regulations place a requirement on those local authorities that agree that a proposal is substantial to establish, in each instance, a joint overview and scrutiny committee for the purposes of considering it. This protocol deals with the proposed operation of such arrangements for the local authorities of Cheshire and Merseyside.

### **3. PURPOSE OF THE PROTOCOL**

3.1 This protocol sets out the framework for the operation of joint scrutiny arrangements where:

- a) an NHS body or health service provider consults with more than one local authority on any proposal it has under consideration, for a substantial development/variation of the health service;
- b) joint scrutiny activity is being carried out on a discretionary basis into the planning, provision and operation of the health service

3.2 The protocol covers the local authorities of Cheshire and Merseyside including:

- Cheshire East Council
- Cheshire West and Chester Council
- Halton Borough Council
- Knowsley Council
- Liverpool City Council
- St. Helens Metropolitan Borough Council
- Sefton Council
- Warrington Borough Council
- Wirral Borough Council

3.3 Whilst this protocol deals with arrangements within the boundaries of Cheshire and Merseyside, it is recognised that there may be occasions when consultations/discretionary activity may affect adjoining regions/ areas. Arrangements to deal with such circumstances would have to be determined and agreed separately, as and when appropriate.

### **4. PRINCIPLES FOR JOINT HEALTH SCRUTINY**

4.1 The fundamental principle underpinning joint health scrutiny will be co-operation and partnership with a mutual understanding of the following aims:

- To improve the health of local people and to tackle health inequalities;
- To represent the views of local people and ensure that these views are identified and integrated into local health service plans, services and commissioning;
- To scrutinise whether all parts of the community are able to access health services and whether the outcomes of health services are equally good for all sections of the community; and,

- To work with NHS bodies and local health providers to ensure that their health services are planned and provided in the best interests of the communities they serve.

## **5. SUBSTANTIAL DEVELOPMENT/VARIATION TO SERVICES**

### **5.1 Requirements to consult**

- 5.1.1 All relevant NHS bodies and providers of NHS-funded services<sup>1</sup> are required to consult local authorities when they have a proposal for a substantial development or substantial variation to the health service.
- 5.1.2 A substantial development or variation is not defined in legislation. Guidance has suggested that the key feature is that it should involve a major impact on the services experienced by patients and/or future patients.
- 5.1.3 Where a substantial development or variation impacts on the residents within one local authority area boundary, only the relevant local authority health scrutiny function shall be consulted on the proposal.
- 5.1.4 Where a proposal impacts on residents across more than one local authority boundary, the NHS body/health service provider is obliged to consult all those authorities whose residents are affected by the proposals in order to determine whether the proposal represents a substantial development or variation.
- 5.1.5 Those authorities that agree that any such proposal does constitute a substantial development or variation are obliged to form a joint health overview and scrutiny committee for the purpose of formal consultation by the proposer of the development or variation.
- 5.1.6 Whilst each local authority must decide individually whether a proposal represents a substantial development/variation, it is only the statutory joint health scrutiny committee which can formally comment on the proposals if more than one authority agrees that the proposed change is “substantial”.
- 5.1.7 Determining that a proposal is not a substantial development/variation removes the ability of an individual local authority to comment formally on the proposal and exercise other powers, such as the power to refer to the Secretary of State. Once such decisions are made, the ongoing obligation on the proposer to consult formally on a proposal relates only to those authorities that have deemed the proposed change to be “substantial” and this must be done through the vehicle of the joint committee. Furthermore the proposer will not be obliged to provide updates or report back on proposals to individual authorities that have not deemed them to be “substantial”.

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<sup>1</sup> This includes the NHS England, any Clinical Commissioning Group providing services to the residents of Cheshire and Merseyside, an NHS Trust, an NHS Foundation Trust and any other relevant provider of NHS funded services which provides health services to those residents, including public health.

## 5.2 Process for considering proposals for a substantial development/variation

5.2.1 In consulting with the local authority in the first instance to determine whether the change is considered substantial, the NHS body/ provider of NHS-funded service is required to:

- Provide the proposed date by which it requires comments on the proposals
- Provide the proposed date by which it intends to make a final decision as to whether to implement the proposal
- Publish the dates specified above
- Inform the local authority if the dates change<sup>2</sup>

5.2.3 NHS bodies and local health service providers are not required to consult with local authorities where certain 'emergency' decisions have been taken. All exemptions to consult are set out within regulations.<sup>3</sup>

5.2.4 In considering whether a proposal is substantial, all local authorities are encouraged to consider the following criteria:

- *Changes in accessibility of services:* any proposal which involves the withdrawal or change of patient or diagnostic facilities for one or more speciality from the same location.
- *Impact on the wider community and other services:* This could include economic impact, transport, regeneration issues.
- *Patients affected:* changes may affect the whole population, or a small group. If changes affect a small group, the proposal may still be regarded as substantial, particularly if patients need to continue accessing that service for many years.
- *Methods of service delivery:* altering the way a service is delivered may be a substantial change, for example moving a particular service into community settings rather than being entirely hospital based.
- *Potential level of public interest:* proposals that are likely to generate a significant level of public interest in view of their likely impact.

5.2.5. This criteria will assist in ensuring that there is a consistent approach applied by each authority in making their respective decisions on whether a proposal is "substantial" or not. In making the decision, each authority will focus on how the proposals impacts on its own area/ residents.

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<sup>2</sup> Section 23 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013

<sup>3</sup> Section 24 *ibid*



## **6. OPERATION OF A STATUTORY JOINT HEALTH OVERVIEW AND SCRUTINY COMMITTEE**

### **6.1 General**

6.1.1 A joint health overview and scrutiny committee will be made up of each of the constituent local authorities that deem a proposal to be a substantial development or variation. This joint committee will be formally consulted on the proposal and have the opportunity to comment. It will also be able to refer to the Secretary of State for Health if any such proposal is not considered to be in the interests of the health service.

6.1.2 A decision as to whether the proposal is deemed substantial shall be taken within a reasonable timeframe and in accordance with any deadline set by the lead local authority, following consultation with the other participating authorities.

### **6.2 Powers**

6.2.1 In dealing with substantial development/variations, any statutory joint health overview and scrutiny committee that is established can:

- require relevant NHS bodies and health service providers to provide information to and attend before meetings of the committee to answer questions
- make comments on the subject proposal by a date provided by the NHS body/local health service provider
- make reports and recommendations to relevant NHS bodies/local health providers
- require relevant NHS bodies/local health service providers to respond within a fixed timescale to reports or recommendations
- carry out further negotiations with the relevant NHS body where it is proposing not to agree to a substantial variation proposal; and
- where agreement cannot be reached, to notify the NHS body of the date by which it intends to make the formal referral to the Secretary of State

6.2.2 A joint health overview and scrutiny committee has the power to refer a proposal to the Secretary of State if:

- the committee is not satisfied that consultation with the relevant health scrutiny arrangements on any proposal has been adequate
- it is not satisfied that reasons for an 'emergency' decision that removes the need for formal consultation with health scrutiny are adequate
- it does not consider that the proposal would be in the interests of the health service in its area

6.2.3 Where a committee has made a recommendation to a NHS body/local health service provider regarding a proposal and the NHS body/provider disagrees with the recommendation, the local health service provider/NHS body is

required to inform the joint committee and attempt to enter into negotiation to try and reach an agreement. In this circumstance, a joint committee has the power to report to the Secretary of State if:

- relevant steps have been taken to try to reach agreement in relation to the subject of the recommendation, but agreement has not been reached within a reasonable period of time; or,
- There has been no attempt to reach agreement within a reasonable timeframe.

6.2.4 Where a committee disagrees with a substantial variation and has either made comments (without recommendations) or chosen not to provide any comments, it can report to the Secretary of State only if it has:

- Informed the NHS body/local health service provider of its decision to disagree with the substantial variation and report to the Secretary of State; or,
- Provided indication to the NHS body/local health service provider of the date by which it intends to make a referral.

6.2.5 In any circumstance where a committee disagrees with a proposal for a substantial variation, there will be an expectation that negotiations will be entered into with the NHS body/local health service provider in order to attempt to reach agreement.

6.2.6 Where local authorities have agreed that the proposals represent substantial developments or variations to services and agreed to enter into joint arrangements, it is only the joint health overview and scrutiny committee which may exercise these powers.

6.2.7 A statutory joint health overview and scrutiny committee established under the terms of this protocol may only exercise the powers set out in 6.2.1 to 6.2.3 above in relation to the statutory consultation for which it was originally established. Its existence is time-limited to the course of the specified consultation and it may not otherwise carry out any other activity.

### **6.3 Membership**

6.3.1 Each participating local authority should ensure that those Councillors it nominates to a joint health overview and scrutiny committee reflect its own political balance.<sup>4</sup> However, overall political balance requirements may be waived with the agreement of all participating local authorities.

6.3.2 A joint committee will be composed of Councillors from each of the participating authorities within Cheshire and Merseyside in the following ways:

- where 4 or more local authorities deem the proposed change to be substantial, each authority will nominate 2 elected members

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<sup>4</sup> Localism Act 2011, Schedule 2 9FA, 6 (b)

- where 3 or less local authorities deem the proposed change to be substantial, then each participating authority will nominate 3 elected members.

(Note: In making their nominations, each participating authority will be asked to ensure that their representatives have the experience and expertise to contribute effectively to a health scrutiny process)

<b>Local authorities who consider change to be 'substantial'</b>	<b>No' of elected members to be nominated from each authority</b>
4 or more	2 members
3 or less	3 members

6.3.3 Each local authority will be obliged to nominate elected members through their own relevant internal processes and provide notification of those members to the lead local administrative authority at the earliest opportunity.

6.3.4 To avoid inordinate delays in the establishment of a relevant joint committee, it is suggested that constituent authorities arrange for delegated decision making arrangements to be put in place to deal with such nominations at the earliest opportunity.

## **6.5 Quorum**

6.5.1 The quorum of the meetings of a joint committee shall be one quarter of the full membership of any Joint Committee, subject to the quorum being, in each instance, no less than 3.

6.5.2 There will be an expectation for there to be representation from each authority at a meeting of any joint committee established. The lead local authority will attempt to ensure that this representation is achieved.

## **6.6 Identifying a lead local authority**

6.6.1 A lead local authority should be identified from one of the participating authorities to take the lead in terms of administering and organising a joint committee in relation to a specific proposal.

6.6.2 Selection of a lead authority should, where possible, be chosen by mutual agreement by the participating authorities and take into account both capacity to service a joint health scrutiny committee and available resources. The application of the following criteria should also guide determination of the lead authority:

- The local authority within whose area the service being changed is based;  
or
- The local authority within whose area the lead commissioner or provider leading the consultation is based.

6.6.3 Lead local authority support should include a specific contact point for communication regarding the administration of the joint committee. There will be an obligation on the key lead authority officer to liaise appropriately with officers from each participating authority to ensure the smooth running of the joint committee.

6.6.4 Each participating local authority will have the discretion to provide whatever support it may deem appropriate to their own representative(s) to allow them to make a full contribution to the work of a joint committee.

## **6.7 Nomination of Chair/ Vice-Chair**

The chair/ vice-chair of the joint health overview and scrutiny committee will be nominated and agreed at the committee's first meeting. It might be expected that consideration would be given to the chair being nominated from the representative(s) from the lead authority.

## **6.8 Meetings of a Joint Committee**

6.8.1 At the first meeting of any joint committee established to consider a proposal for a substantial development or variation, the committee will also consider and agree:

- The joint committee's terms of reference;
- The procedural rules for the operation of the joint committee;
- The process/ timeline for dealing formally with the consultation, including:
  - the number of sessions required to consider the proposal; and,
  - the date by which the joint committee will make a decision as to whether to refer the proposal to the Secretary of State for Health – which should be in advance of the proposed date by which the NHS body/service provider intends to make the decision.

6.8.2 All other meetings of the joint committee will be determined in line with the proposed approach for dealing with the consultation. Different approaches may be taken for each consultation and could include gathering evidence from:

- NHS bodies and local service providers;
- patients and the public;
- voluntary sector and community organisations; and
- NHS regulatory bodies.

## **6.9 Reports of a Joint Committee**

6.9.1 A joint committee is entitled to produce a written report which may include recommendations. As a minimum, the report will include:

- An explanation of why the matter was reviewed or scrutinised

- A summary of the evidence considered
- A list of the participants involved in the review
- An explanation of any recommendations on the matter reviewed or scrutinised

The lead authority will be responsible for the drafting of a report for consideration by the joint committee.

6.9.2 Reports shall be agreed by the majority of members of a joint committee and submitted to the relevant NHS body/health service provider or the Secretary of State as applicable.

6.9.3 Where a member of a joint health scrutiny committee does not agree with the content of the committee's report, they may produce a report setting out their findings and recommendations which will be attached as an appendix to the joint health scrutiny committee's main report.

## **7. DISCRETIONARY HEALTH SCRUTINY**

- 7.1 More generally, the Health and Social Care Act 2012 and the 2013 Health Scrutiny Regulations provide for local authority health scrutiny arrangements to scrutinise the planning, provision and operation of health services.
- 7.2 In this respect, two or more local authorities may appoint a joint committee for the purposes of scrutinising the planning, provision and operation of health services which impact on a wider footprint than that of an individual authority's area.
- 7.3 Any such committee will have the power to:
- require relevant NHS bodies and health service providers to provide information to and attend before meetings of the committee to answer questions
  - make reports and recommendations to relevant NHS bodies/local health providers
  - require relevant NHS bodies/local health service providers to respond within a fixed timescale to reports or recommendations
- 7.4 A discretionary joint committee will not have the power to refer an issue to the Secretary of State for Health.
- 7.5 In establishing a joint committee for the purposes of discretionary joint scrutiny activity, the constituent local authorities should determine the committee's role and remit. This should include consideration as to whether the committee operates as a standing arrangement for the purposes of considering all of the planning, provision and operation of health services within a particular area or whether it is being established for the purposes of considering the operation of one particular health service with a view to making recommendations for its improvement. In the case of the latter, the committee must disband once its specific scrutiny activity is complete.
- 7.6 In administering any such committee, the proposed approach identified in sections 6.3 – 6.9 (disregarding any power to refer to the Secretary of State) of this protocol should be followed, as appropriate.

## **8. CONCLUSION**

- 8.1 The local authorities of Cheshire and Merseyside have adopted this protocol as a means of governing the operation of joint health scrutiny arrangements both mandatory and discretionary. The protocol is intended to support effective consultation with NHS bodies or local health service providers on any proposal for a substantial development of or variation in health services. The protocol also supports the establishment of a joint health overview and scrutiny committee where discretionary health scrutiny activity is deemed appropriate.
- 8.2 The protocol will be reviewed regularly, and at least on an annual basis to ensure that it complies with all current legislation and any guidance published by the Department of Health.

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**COUNCIL MEETING – 14<sup>TH</sup> MAY 2014****Extract from the Minutes of the Constitution Committee Meeting on  
1<sup>st</sup> May 2014****40 REVIEW OF POLLING DISTRICTS AND POLLING PLACES**

The Committee considered arrangements to undertake a review of polling districts and polling places.

The Electoral Administration Act 2006 had introduced a statutory duty for local authorities to carry out a review of their parliamentary Polling Districts and Polling Places by 31<sup>st</sup> December 2007; and at least every four years thereafter. In accordance with this legislation, the Council had conducted its last Review in 2011 and a Polling Arrangements Review Sub-Committee had been appointed for this purpose.

The Electoral Registration and Administration Act 2013 had introduced a change to the timing of compulsory reviews of UK Parliamentary Polling Districts and Polling Places. The next compulsory review must now be completed by 31<sup>st</sup> January 2015. Subsequent compulsory reviews must then be completed every five years thereafter.

**RESOLVED**

That

1. authority be given for the publication of the notice of the Polling Districts and Polling Places Review;
2. the Polling Arrangements Review Sub-Committee be convened to undertake the Review of Polling Districts and Polling Places as required by the Electoral Administration Act 2013; and
3. it be recommended to Council that the final decision concerning the outcome of the Polling Districts and Polling Places Review be delegated to the Constitution Committee at its meeting on 27<sup>th</sup> November 2014.

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# CHESHIRE EAST COUNCIL

## Constitution Committee

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**Date of Meeting:** 1<sup>st</sup> May 2014  
**Report of:** Head of Governance and Democratic Services  
**Subject/Title:** Review of Polling Districts and Polling Places

---

### **1.0 Report Summary**

- 1.1 Local authorities have always been required to divide their area into Polling Districts for the purposes of elections, to designate Polling Places for these Polling Districts, and to keep these under review.
- 1.2 The Electoral Administration Act 2006 introduced a statutory duty for local authorities to carry out a review of their parliamentary Polling Districts and Polling Places by 31 December 2007; and at least every four years thereafter. In accordance with this legislation the Council conducted its last Review in 2011 and a Polling Arrangements Review Sub-Committee (with delegated powers to undertake the review) was appointed for this purpose.
- 1.3 The Electoral Registration and Administration Act 2013 introduced a change to the timing of compulsory reviews of UK Parliamentary Polling Districts and Polling Places. The next compulsory review must now be completed by 31 January 2015. Subsequent compulsory reviews must then be completed every five years thereafter.

### **2.0 Recommendations**

- 2.1 To authorise the publication of the notice of the Polling Districts and Polling Places Review;
- 2.2 To convene the Polling Arrangements Review Sub-Committee to undertake the Review of Polling Districts and Polling Places as required by the Electoral Administration Act 2013; and
- 2.3 To recommend to Council that the final decision concerning the outcome of the Polling Districts and Polling Places Review be delegated to the Constitution Committee at its meeting on 27 November 2014.

### **3.0 Wards Affected**

- 3.1 All wards are affected.

#### **4.0 Local Ward Members**

4.1 As above.

#### **5.0 Policy Implications**

5.1 None.

#### **6.0 Financial Implications**

6.1 Costs incurred will be met from existing budgets.

#### **7.0 Legal Implications**

7.1 None.

#### **8.0 Risk Management**

8.1 Undertaking this Review is a statutory duty. Delegating the power to conduct the Review to the Sub Committee of the Constitution Committee is considered the most effective way for the Review to be conducted, and will ensure that representations received can be fully considered. This approach will also ensure sufficient flexibility to ensure that the process is completed by the statutory deadline of 31 January 2015.

#### **9.0 Background**

9.1 A **Polling District** is the area created by the division of a constituency, ward or division into smaller parts within which a Polling Place can be determined which is convenient to electors.

9.2 A **Polling Place** is the building or area in which Polling Stations will be selected by the Returning Officer.

9.3 The **Polling Station** is the room or building where the poll takes place which is chosen by the Returning Officer for the election.

9.4 The Review has four stages:

##### Stage 1 – Notification of the review

The first stage of the process involves giving notice of the Review. It is intended that this will be published at the end of June 2014. At the same time, all interested parties, including elected members and disability groups, will be notified of the review.

##### Stage 2 – Consultation

The consultation stage is for representations and comments to be made on the existing and proposed arrangements for Polling Districts and Places. There are two parts to this:

- A compulsory submission from the (Acting) Returning Officer of the Parliamentary Constituencies; and
- Submissions from electors and other interested persons and bodies.

#### Stage 3 – Concluding the Review

Following the consultation stage, the Authority must make its final decisions on the most appropriate polling districts and polling places, which are approved by the Council. The Electoral Registration Officer must then make any necessary alterations to the electoral register and publish a notice stating that the alterations have been made.

#### Stage 4 – Publishing the conclusions of the Review

Once the Council has agreed the proposals, details of the new polling districts and polling places must be made available to the public. These should be made available at the local authority offices, in at least one conspicuous place in the constituencies and on the Council's website together with the reasons for choosing each particular polling district and polling place.

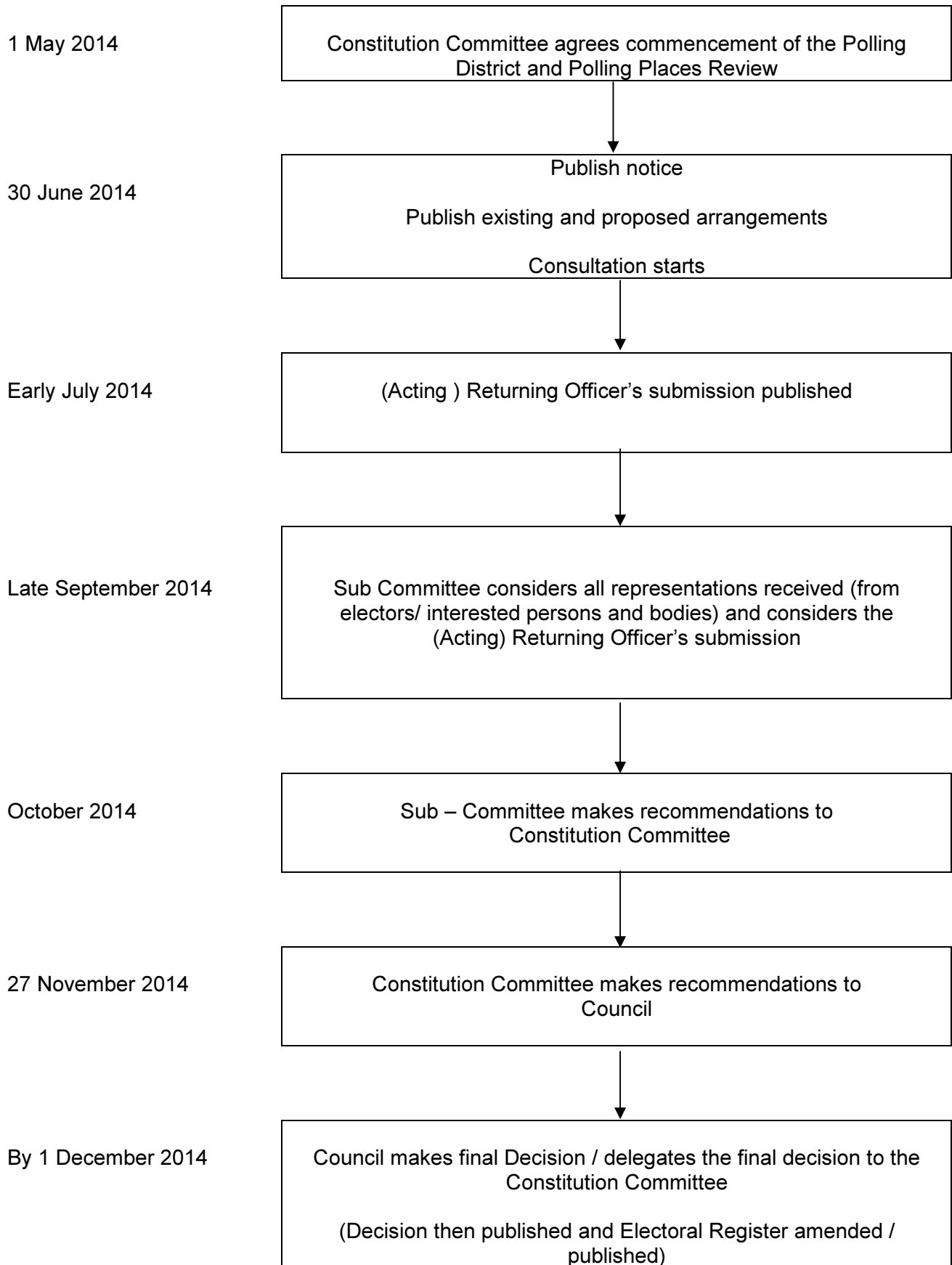
- 9.5 In between the compulsory Polling District and Polling Places reviews, Polling Stations are reviewed at election times by the Returning Officer. If any changes are deemed necessary, the usual practice is for Ward Members to be informally consulted and any changes made.
- 9.6 The Polling Arrangements Review Sub Committee is still constituted and comprises of Councillors R Domleo, B Livesley, A Martin, P Whiteley, R Fletcher and B Silvester. The Sub Committee has delegated powers to conduct the Review and to comply with the statutory timescale its recommendations would normally be agreed by Council, for final decision.
- 9.7 The proposed timetable is set out in Appendix A; and the proposed public notice is attached as Appendix B.
- 9.8 It would be expedient for the final decision to be made prior to 1 December 2014, which is the statutory publication date for annual register of electors. As the scheduled Council meeting on 11 December 2014 would be too late for this purpose, it is proposed that Council be recommended to delegate the final decision to the Constitution Committee meeting on 27 November 2014. This would prevent the need for a Special Council meeting to be convened for this purpose. The same course of action was agreed for the last Polling Districts and Polling Places review which took place in 2011.
- 9.9 Examples of the types of issues which could be raised as part of the review include existing polling places no longer being accessible or suitable for polling purposes, or perhaps a more suitable location/ building having recently been identified. In terms of polling districts, the Council must ensure that all electors in the area have such reasonable facilities for voting as are practical in the circumstances. The Council must designate a polling place for every polling district (which should usually be within the boundary of the polling district). As a

full and thorough review was undertaken in 2011, it is envisaged that relatively few changes to existing arrangements should be required at the current time.

#### **10.0 Access to Information**

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

Name: Mrs Lindsey Parton  
Designation: Elections and Registration Team Manager  
Tel No: 01270 686477  
Email: [lindsey.parton@cheshireeast.gov.uk](mailto:lindsey.parton@cheshireeast.gov.uk)

**POLLING DISTRICT AND POLLING PLACES REVIEW**

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## NOTICE OF POLLING DISTRICT, POLLING PLACES AND POLLING STATIONS REVIEW

The Electoral Administration Act 2006 introduced a duty for all relevant authorities to conduct a review of the designated polling districts and polling places for Parliamentary constituencies.

Cheshire East Council is hereby giving notice that a review of all polling districts, polling places and polling stations in the borough will take place during the next few weeks.

We are looking for feedback on any aspect of our proposed polling districts and polling places, and we invite representation and comments from all interested persons, local political parties and councillors. Any persons or bodies making representations should, if possible, give alternative places that may be used as polling places.

As part of the review, the (Acting) Returning Officer will be consulted on any proposed polling arrangements. Any comments made by the (Acting) Returning Officer will be published during the review process.

The Council invites views on the Council's proposals, the (Acting) Returning Officer's representations or any other matter from any electors, particularly disabled residents, within the Parliamentary constituencies of Macclesfield, Congleton, Tatton, Crewe and Nantwich, and Eddisbury. The authority would welcome comments from any person or body with expertise in access for persons with any type of disability.

**The deadline for representations is Tuesday 16<sup>th</sup> September 2014.**

Details of the existing and proposed arrangements and polling stations are available at Westfields, Middlewich Road, Sandbach, Cheshire, CW11 1HZ, and online at [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk).

Representations and views can be made in writing to Cheshire East Council, Electoral Services, Ground Floor (Westfields), C/O Municipal Buildings, Earle Street, Crewe, CW1 2BJ; or via email at [pollingstationreview@cheshireeast.gov.uk](mailto:pollingstationreview@cheshireeast.gov.uk).

If you require any further information regarding this review please contact Diane Todd, Electoral Services Manager, on 01270 686478.

**Published: 30 June 2014**

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**COUNCIL MEETING – 14<sup>TH</sup> MAY 2014****Extract from the Minutes of the Constitution Committee Meeting on  
1<sup>st</sup> May 2014****42 REVISIONS TO SCHEME OF DELEGATION TO OFFICERS**

The Committee considered a revised scheme of delegation to officers.

The revisions were required because of the revised Council Chief Officer Management Structure following the review of management roles and responsibilities, and the Council's decision to become a Strategic Commissioning Council with the creation of Alternative Service Delivery Vehicles for the provision of Council Services.

The main revisions reflected the Chief Officer Management changes, in particular the span of functions for which the Executive Director of Strategic Commissioning was now responsible. A number of additional amendments were reported and circulated at the meeting.

A rolling programme would be required in order to keep the Scheme of Delegation up to date and ensure that Directors established, operated and kept under review Local Schemes of Delegation within their departments. The Scheme of Delegation would also require appropriate revision as further Alternative Service Delivery Vehicles were developed.

**RESOLVED**

That Council be recommended to

1. approve the revised Scheme of Delegation to Officers as appended to the report subject to the additional amendments reported at the meeting;
2. authorise the Head of Legal Services and Monitoring Officer to update the Council's Constitution accordingly by inclusion of the revised Scheme of Delegation;
3. authorise the Head of Legal Services and Monitoring Officer to undertake consequential drafting amendments to the remaining parts of the Council's Constitution to ensure consistency with the revised Scheme of Delegation; and
4. authorise a rolling programme approach to keep the Scheme of Delegation up to date.

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Note: the Scheme of Delegation appended to the report has been amended to incorporate the changes agreed by the Constitution Committee.

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# CHESHIRE EAST COUNCIL

## Constitution Committee

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**Date of Meeting:** 1<sup>st</sup> May 2014  
**Report of:** Head of Legal Services and Monitoring Officer  
**Subject/Title:** Council Constitution – Revisions to Scheme of Delegation to Officers

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### 1.0 Report Summary

- 1.1 This report requests Members' consideration of a newly-drafted section of the Constitution which sets out a revised Scheme of Delegation to Officers. The revisions are required because of the revised Council Chief Officer Management Structure following the review of management roles and responsibilities and the Council's decision to become a Strategic Commissioning Council and the creation of Alternative Service Delivery Vehicles for the provision of Council Services. The Officer Scheme of Delegation contains the powers delegated by the full Council to Officers so that they can take decisions and action them accordingly. In the main the Scheme of Delegation enables Officers to deal with the Council's day to day business in consultation with the relevant Portfolio Holder.

### 2.0 Recommendations

- 2.1 To recommend that Council
1. approve the Scheme of Delegation to Officers;
  2. authorise the Head of Legal Services and Monitoring Officer to update the Council's Constitution accordingly by inclusion of the revised Scheme of Delegation;
  3. authorise the Head of Legal Services and Monitoring Officer to undertake consequential drafting amendments to the remaining parts of the Council's Constitution to ensure consistency with the revised Scheme of Delegation; and
  4. authorise a rolling programme approach to keep the Scheme of Delegation up to date.

### 3.0 Reasons for Recommendations

- 3.1 Following the revisions to the Council's Chief Officer Management Structure a revised Scheme of Delegation is required.

#### **4.0 Wards Affected**

- 4.1 All

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

- 5.1 All

#### **6.0 Policy Implications**

- 6.1 The Scheme of Delegation relates to day to day decision making including operational matters undertaken by Council Officers. The Scheme of Delegation is explicit law decisions taken and need to be in accordance with Council Policy and as applicable, Officers will liaise with Cabinet Portfolio Members and record decisions taken.

#### **7.0 Financial Implications**

- 7.1 It is a requirement of the Scheme of Delegation that Officers taking delegated decisions are required to comply with finance and contract procedure rules contained in the Constitution and in accordance with existing budgetary provisions.

#### **8.0 Legal Implications**

- 8.1 The Local Government Act 2000 and guidance issued thereunder requires the Council to keep its constitution up to date and regularly review it. The Scheme of Delegation is designed to provide clarity with regard to Officer level decision making whilst reducing the risk of any challenge that a particular decision taken at Officer level has not been made with the correct authority.
- 8.2 In accordance with the Council's current Constitution any changes to the Constitution are required to be agreed by full Council following recommendation from the Constitution Committee.

#### **9.0 Risk Management**

- 9.1 Legal and financial implications are recorded above.
- 9.2 Reviewing the Scheme of Delegation to reflect the new Chief Officer Management Structure provides the necessary clarity to the Officers concerned with regard to the authority they have to take decisions.

#### **10. Background and Options**

- 10.1 This report is brought to the Committee as the Scheme of Delegation needs revision arising from the changes that have now been made to the Council's Chief Officer Management Structure.

- 10.2 The starting point has been the current Council Constitution as most recently revised when it was considered by this Committee at its 9 October 2013 meeting.
- 10.3 Now that the Council's new Chief Officer Management Structure and Departmental Structure is bedding down and the Council moves at pace to set up alternative Service Delivery Vehicles, it is imperative that the Scheme of Delegation is updated. The timescale for consultation with Chief Officers and Directorates and Departments has been tight. As necessary a supplementary written/oral report covering any further required changes will be tabled at the meeting. Appendix 1 contains the proposed Scheme of Delegation. In order to make this document easier to read, we have removed tracked changes. If Members would like to see the tracked documents, they are available upon request.
- 10.4 I wish to reassure members that as I hope can be seen from the revised draft the need for Officers to be aware of the requirement to consult with members such as Portfolio holders remains. The main revisions reflect the Chief Officer Management changes in particular; the span of functions the Executive Director of Strategic Commissioning now has responsibility for. In particular, the statutory Officer posts of the Director of Children and the Director of Adult Social Services are within these responsibilities as is the Chief Education Officer. Although these statutory posts report to the Executive Director in accordance with applicable guidance the posts do have direct access as required to the Chief Executive.
- 10.5 The changes that are agreed by this Committee will then go to full Council for its approval, in accordance with the Constitution, will require further work to be done to the Constitution to ensure consistency. I will update the Committee as to the timescale I envisage this will require.
- 10.6 Members will note that as is usual when there is a Constitutional change I am also seeking delegated authority to make any minor drafting amendments elsewhere in the Constitution that arise as a result of the revised Scheme of Delegation coming into operation.
- 10.7 A rolling programme will be required in order to keep the Scheme of Delegation up to date and ensure that Directors establish, operate and keep under review Local Schemes of Delegation within their departments. The Scheme of Delegation will also require appropriate revision as further Alternative Service Delivery Vehicles are developed.
- 10.8 Assuming full Council approval of the revisions as finally approved by this Committee, I will ensure that the updated arrangements are incorporated into the Council's Constitution and cascaded as a matter of urgency.

## **11.0 Access to Information**

- 11.1 The Council's current Constitution is available for viewing on the Council's website: [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)

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Tel No: 01270 685850  
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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 Authority's Chief Officers (statutory and non-statutory) are listed under Part 2, Chapter 12 . The following Chief Officers comprise the Authority's Corporate Leadership Board (CLB). The Chief Executive, Executive Director of Strategic Commissioning, Chief Operating Officer, Director of Economic Growth and Prosperity, Director of Public Health, Director of Adult Services, Director of Children's Services, Head of Legal Services and Monitoring Officer and Head of HR and Organisational Development. Other Officers will attend CLB as necessary.
- 1.4 Each Chief Officer 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 Chief Officers who will establish, operate and keep under review Local Schemes of Delegation (including Local Schemes of Financial Delegation) to cascade powers and responsibilities to Heads of Service and other officers. Local Schemes of Financial Delegation shall only be put in place after consultation with the Chief Operating Officer and shall comply with the Finance and Contract Procedure Rules and the Staff Employment Procedure Rules
- 1.7 This Scheme of Delegation to Chief Officers includes both Non-executive and Executive functions. The delegations are granted subject to decisions being taken in accordance with:
  - Best interests of residents

- 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
- Regular briefings between senior management and Portfolio Holder(s) responsible for the area under their purview
- 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
- The terms applicable to Officers holding politically restricted posts.

**Note:** Chief 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 delegated decisions, all 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, including consultation with Portfolio Holders. 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 1.7 above. For the avoidance of doubt Chief Officers may take decisions relating to matters of everyday operational business.

- 1.10 In some circumstances the officer to whom a power has been delegated may consider a matter to be of such importance or sensitivity that their delegated authority should not be exercised. In these circumstances he or she may refer the matter back to the delegator for determination.
- 1.11 Any power delegated or cascaded under this Scheme can be exercised by the Chief Officer and in all cases by the Chief Executive personally. The Chief Executive may take powers of Chief Officer 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 Chief Officers 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 (unless the decision is the subject of the Call-In outlined in Part 4), without further reference to the Council or Cabinet to ensure effective and efficient implementation of these decisions, subject to the control measures highlighted in 1.7 above.
- 1.14 Actions taken under the above paragraph may include:
- Chief Officers, with the agreement of the relevant Portfolio Holder, to undertake and consider the outcome of statutory and non statutory consultations on service provision.
  - Chief Officers 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).

- 1.15 Officers taking delegated decisions under this Scheme of Delegation must keep appropriate records and registers of decisions and as necessary report to the Council, Executive or Council Committee if required, in accordance with the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012.
- 1.16 Chief Officers, in consultation with the relevant Portfolio Holder, shall determine the level of fees or charges payable in respect of any chargeable goods or services supplied, work undertaken or the loan or use of plant, equipment or machinery whether authorised by specific statutory provision or pursuant to this Scheme of Delegation.

### **CONFLICTS OF INTEREST**

- 1.17 The reference to officer (Chief or otherwise) in this Scheme is not confined to direct employees of the Council. From time to time, in order to meet identified Service or other needs, the Council will need to appoint temporary/interim staff to senior positions. This may be through an agency or consultancy appointment. Such managers are likely to be required to exercise delegated powers as if they were a directly employed Council Officer. The Chief Executive in such circumstances, may specifically delegate powers to such managers to act as a Chief Officer (statutory and non-statutory), Head of Service. Such delegation must be made in writing and identify which elements of this Scheme of Delegation apply. A delegation under this paragraph will be limited to a maximum of one year
- 1.18 Every Officer taking a decision under this Scheme is responsible for identifying whether s/he has any conflict of interest in any matter which is under consideration, (actual or perceived) within the Authority and as necessary notifying the Chief Executive (including under S117 of the Local Government Act 1972) in accordance with the Officer Code of Conduct in Part 5
- 1.19 Where any Officer has a conflict of interest in any matter s/he shall not participate in that matter in his/her capacity as an Officer except with the prior approval of the Chief Executive or Head of Legal Services and Monitoring Officer.

### **FINANCIAL AND CONTRACT APPROVAL LIMITS**

- 1.20 Chief Officers 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 to voluntary and community organisations 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.

- 1.21 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.

## STAFFING

- 1.22 Chief Officers 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
- conducting appeals on the outcome of grievance hearings

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

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

- Involves the 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

- 1.24 Chief Officers are authorised to enter into reciprocal arrangements for the authorisation and appointment of Officers to facilitate cross-border co-operation in the discharge of delegated functions with any other local authority and to transfer enforcement functions to another enforcement authority, subject to approval by Cabinet.

## **MANAGEMENT OF LAND PREMISES VEHICLES AND EQUIPMENT**

1.25 In order to facilitate operational requirements:

- Chief Officers 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

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

## **LEGAL AUTHORISATIONS AND COMPLIANCE**

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

1.28 Chief Officers 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 Chief Officers 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
- To instruct the Head of Legal Services and Monitoring Officer to consider whether or not legal proceedings to enforce the requirements of legislation are appropriate.

- 1.29 With the approval of the Head of Legal Services and Monitoring Officer, Chief Officers 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
- 1.30 Chief Officers are authorised to make application for planning permission and any other necessary applications for other consents required for the development of land, subject to notification to the appropriate Portfolio Holder and Ward Members. No development shall take place before planning permission is obtained.
- 1.31 Chief Officers 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.
- 1.32 The Chief Executive, Executive Director of Strategic Commissioning, Chief Operating Officer, Director of Economic Growth and Prosperity, Director of Adult Social Care and Independent Living, Director of Children's Services, and Director of Public Health are authorised to exercise the role of authorising officer and designated person under the Regulation of Investigatory Powers Act 2000.
- 1.33 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**

- 1.34 Chief Officers shall ensure that arrangements are in place to discharge the responsibilities of the Authority within their functional responsibilities in respect of the need to safeguard and promote the welfare of children and of vulnerable adults.

Note: Where the Council approves any restructure of Services, whereby a Service is moved to be the responsibility of another Director,

the delegated authorities in respect of that Service will move to the officer taking on the new responsibility

## **THEME OF SCHEME**

- 1.35 This Scheme of Delegation is set out as far as possible in terms of broad functional areas of responsibility rather than in terms of specific statutory powers.
- 1.36 This Scheme of Delegation is structured as follows:
- Chief Executive
  - Executive Director of Strategic Commissioning and Chief Officers reporting to this post
  - Chief Operating Officer and Chief Officers reporting to this post

## **2.0 CHIEF EXECUTIVE**

- 2.1 The Council's Chief Executive is the Council's Head of Paid Service appointed by Council. Under Section 4 of the Local Government and Housing Act 1989 the responsibility of the Head of Paid Service is to make proposals to the Authority in the manner in which the discharge of the Authority's functions are co-ordinated and the numbers, grades and organisation of staff required and the proper management of those staff. In respect of the Chief Executive role the responsibility is to develop for Member approval a strategic vision and to provide strategic leadership for the Council.
- 2.2 Within the following areas the Chief Executive is empowered to operate the Services of the Authority 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:
- 2.3 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 office by person elected (Section 84)
  - Keeping the role of Freemen (Section 248 (2))
  - Convening Council meeting to fill casual vacancy in office of chairman (Section 88(2))



- Signature of summons to Council meetings and receipt of notices to which summons to meeting is to be sent (Schedule 12 para 4)
  - Receipt of notice of casual vacancy of Councillor (Section 80 (1) (b) of the Local Government Act
  - 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 Representation of the People 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
  - Compile list of Politically Restricted Posts under Section 2 of the Local Government and Housing Act 1989
  - Receipt of Notices relating to political groups (Section 15 – 17 of the Local Government and Housing Act 1989)
- 2.4 To be the Authority's principal officer representative and to promote its good image and reputation
- 2.5 To undertake the communications, marketing and media functions of the authority and promote good public relations
- 2.6 To exercise the powers and responsibilities of any Chief Officer in his or her absence
- 2.7 To lead and direct the strategic management of the Authority
- 2.8 To ensure the effective pursuit and achievement of the Authority's objectives
- 2.9 To ensure the Authority's activities are carried out with maximum effectiveness and efficiency
- 2.10 To discharge emergency planning and civil protection functions
- 2.11 To take such steps (including the incurring of expenditure where necessary) as may be required in the event of any national or local emergency requiring immediate action by the Authority
- 2.12 To sign settlement agreements for employees/ex-employees, in consultation with the Leader of the Council and Chairman of the Staffing Committee

### **3.0 EXECUTIVE DIRECTOR OF STRATEGIC COMMISSIONING**

- 3.1 To be responsible for commissioning services for and making a decision for the operational effectiveness of the following functions: Adult Social Care and Independent Living, Children's Services, building control, cemeteries and crematoria, environmental health, highways, housing, licensing, planning and development management, strategic partnerships, strategic planning, regeneration, public health.
- 3.2 To have overall management responsibility for Director of Children's Services, Director of Adult Social Care and Independent Living, Director of Economic Growth and Prosperity, Built Environment, Communities and commissioning responsibilities for Director of Public Health.
- 3.3 In commissioning the functions listed at para 3.1 the Executive Director will, pursuant to the Authority's decision to become a strategic commissioning Council, use the following Alternative Service Delivery Vehicles(ASDV) for example, ANSA, CoSocius, East Cheshire Engine of the North, Everybody Sport and Recreation, Orbitas, Tatton Park Enterprises and other agencies, as appropriate.

#### **Environmental Protection and Enhancement (*including Highways*)**

- Highways/Transport Strategy
  - Car Parking Policy
  - Highway Maintenance
  - Grounds Maintenance
  - Streetscape
  - Street Cleansing
  - Waste Collection and Disposal
  - Recycling
  - Green Energy and Carbon Reduction
  - Public Rights of Way
  - Fleet Management
  - Farms
  - Gardens
  - Greenspace/Countryside
- 3.4 To discharge the operational day to day functions of the Authority in respect of the maintenance and improvement of highways and street management including but not limited to the following in this Highways and Transport section
  - 3.5 To grant consents and impose requirements in connection with works in highways or adjacent premises.
  - 3.6 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 officers are minded to refuse, must be determined by the Portfolio Holder.

- 3.7 To construct carriageway crossings over footways and verges, erect fences, boundary posts, cattle grids and carry out works for the drainage of highways.
- 3.8 To exercise the Authority's responsibilities under the New Road and Street Works Act 1991 and, where appropriate, waive charges
- 3.9 To authorise urgent repair of private streets under Section 230 of the Highways Act 1980, pass exemption resolutions and give exemption notices on behalf of the Street Works Authority under Section 219 of the Highways Act 1980.
- 3.10 To authorise minor improvements to roads including grass verges, street furniture etc. not exceeding £30,000 for which provision has been made in the budget and capital programme.
- 3.11 To set charges for work and maintenance carried out by the Authority for which the costs are to be met by third parties.
- 3.12 To authorise the installation of sound insulation.
- 3.13 To appoint safety supervisors.
- 3.14 To make observations on planning application consultations.
- 3.15 To take traffic censuses.
- 3.16 On the advice of the Assets Manager or District Valuer, to settle claims for borehole damage up to £1,500.
- 3.17 In consultation with the Portfolio Holder and subject also to notification to Ward members, to authorise all steps: (a) relating to permanent traffic regulation orders (including in respect of public rights of way), experimental orders, parking (except imposing or varying of any charges for car parking), alley-gating, stopping up and diversion of highway; and school and controlled crossings; under the Road Traffic Regulation Act 1984 and Highways Act 1980
- 3.18 To authorise all steps relating to temporary road traffic regulation orders under the Road Traffic Regulation Act 1984 and all orders under section 21 of the Town Police Clauses Act 1847.
- 3.20 To determine the manner in which the requirements of Schedule 14 to the Highways Act 1980 shall be carried out.
- 3.21 To grant licences under Sections 142, 176, 177 and 181 of the Highways Act 1980.

- 3.22 To exercise powers and duties under Part VIIA of the Highways Act 1980
- 3.23 To exercise powers and duties under the Traffic Management Act 2004
- 3.24 To accept land for road improvements by dedication subject to the total consideration not exceeding £30,000.
- 3.25 To enter into agreements for the construction and adoption of estate roads.
- 3.26 To manage the Highways Services Contract
- 3.27 To take emergency measures to protect persons and property from escapes of water from reservoirs.
- 3.28 In consultation with the relevant Portfolio Holder, to take all decisions and actions in respect of nameplates and of street naming/renaming and numbering/renumbering provided it is within policy
- 3.29 To take action to make safe or remove dangerous trees overhanging or adjoining the highway or to ensure such trees are made safe or removed and to reclaim the costs
- 3.30 To manage the strategic needs of the highways network in consultation with the appropriate Portfolio Holder, with regard to securing sustainable growth and regional connectivity
- 3.31 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 Authority's policy on school transport.
  - issuing of minibus permits under the Public Passenger Vehicles Act 1981.
  - administration of Car Contract Hire Schemes.

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

## **Markets**

3.39 To manage the Authority'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.

## **Sports and leisure Facilities**

3.40 As part of the Authority's client commissioning function through ESAR, to ensure satisfactory contractual provisions covering all Authority sports and leisure facilities for public use, including caravan parks and allotments including

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

## **Car Parking services**

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

## **Streets and Open Spaces**

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

## **Waste management**

3.43 To discharge the functions of the authority relating to waste, waste collection and waste disposal and to generally manage the refuse collection, disposal and recycling system of the authority including but not limited to:-

- Taking any action including enforcement action under the Refuse Collection (Amenity) Act 1978; the Removal and

Disposal of Vehicle Regulations 1986; the Environmental Protection Act 1990 and the Controlled Waste (England and Wales) Regulations 2012

- Functions relating to the provision of litter/dustbins and wheeled bins including functions relating to the recovery of charges, expenses and fines

### **Resilient Local Communities**

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

3.45 To exercise functions in relation to the general management and operation of the Authority's burial grounds, cemeteries and crematoria including but not limited to:-

- The grant of exclusive rights of burial under Section 2 of the Parish Councils and Burial Authorities (Miscellaneous Provisions) Act 1970.
- Determine licence conditions and operating licensing arrangements of memorial stonemasons.

3.46 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

#### **4.0 DIRECTOR OF ECONOMIC GROWTH AND PROSPERITY**

4.1 The Director of Economic Growth and Prosperity has overall responsibility for the operational management and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to exercise the functions for which the Service is responsible. It comprises the following main functions:-

- Economic Intelligence and investment planning
- Skills for Work
- 14+Education, Apprenticeships and NEETS
- Adult Education and Lifelong Learning
- Learner Information, Advice and Guidance Services
- Tourism, Visitor Economy, Culture, Arts and Heritage (including Tatton Vision)
- Business Engagement and Support
- Land and Property Acquisition, Disposal and Management
- Strategic infrastructure projects
- Employment Sites
- Housing Strategy and Development
- Strategic/Spatial planning
- Rural Economy/Access
- Sustainable Towns
- Inward Investment and Funding
- Local Enterprise Partnership
- Enterprise
- Development Control (major applications)
- Corporate landlord
- Development Management and Building Control
- Commons

4.2 Within the following areas, the Director of Economic Growth and Prosperity is empowered to operate the Service 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:

- 4.3 To act as Proper Officer in respect of the Ordnance Survey under Section 191 of the Local Government Act 1972
- 4.4 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 Management and Building Control**

- 4.5 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 under the Town and County Planning Act 1990, 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

- 4.6 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
- 4.7 To vary the Standard Fee Scales of the Local Government Association Model Scheme by up to plus or minus 10%
- 4.8 To exercise all powers and duties relating to Local Land Charges
- 4.9 To take all action to ensure dangerous trees are removed or made safe or to ensure that they are made safe or removed and to reclaim the costs under the Local Government (Miscellaneous Provisions) Act 1976

## **Land and Property Acquisition Disposal and Management**

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

This delegation is subject to:

- Prior notification to ward Councillors in respect of all management decisions which affect the external appearance of land or property or which involve a change of use and where there is objection from Ward Members(s), the approval of the Portfolio Holder must be obtained.
  - the requirement in the Contract Procedure Rules that the approval of the Chief Operating Officer must be obtained for all agreements which may involve a leasing charge
- 4.13 Subject to prior notification to the Chief Operating Officer (in respect of sales) and prior approval of the Chief Operating Officer (in respect of leases), to accept any offer or tender and agree the disposal of any interest in land or property, provided the Director of Economic Growth and Prosperity is of the opinion that it is the best consideration that can reasonably be obtained:
- In consultation with the Chief Operating Officer and after having notified the Portfolio Holder where the offer or tender does not exceed £200,000
  - With the approval of the Portfolio Holder and in consultation with the Chief Operating Officer where the offer or tender is between £200,000 and £500,000

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

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

- 4.14 To authorise the acquisition of an interest in any land or property (including under the Land Compensation Act 1973)
  - Where the consideration or compensation does not exceed £200,000, in consultation with the Chief Operating Officer and after having notified the Portfolio Holder
  - With the approval of the Portfolio Holder and in consultation with the Chief Operating Officer where the consideration or compensation is between £200,000 and £500,000
- 4.15 To take all actions under the Land Compensation Act 1973 including the payment of necessary compensation for claims
- 4.16 To publish notices under s123 Local Government Act 1972
- 4.17 To manage assets of community value scheme under the Localism Act 2011
- 4.18 To establish and maintain a corporate database of the Authority's land and buildings and to perform any responsibilities placed on the Authority under the Local Government Planning and Land Act 1980, and to ensure the publication of details of the Authority's interests in land.
- 4.19 To take action with regard to Authority property rating issues, including the conduct of appeals.
- 4.20 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 Authority
- 4.21 With the agreement of the Portfolio Holder to approve or refuse each application for release from restrictive covenants, to negotiate compensation payable to the Authority and complete approved releases
- 4.22 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
- 4.23 To authorise and complete the transfer of freehold land at nil value for education purposes, where it is a statutory requirement to do so.
- 4.24 To authorise deeds of rectification with Housing Associations
- 4.25 To manage the Farms estate, serve all statutory notices, to negotiate and approve all matters and grant all consents required in order to do so provided that investment in improvements to farms will not exceed £20,000

### **Tatton Park**

4.26 Through contractual arrangements with Tatton Enterprises Limited 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

### **Commons**

4.27 To maintain the Register of Commons

### **Housing**

4.28 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

4.29 To administer all housing strategies and policies.

4.30 To advise on housing and energy conservation matters, including administering a Housing Advice Service

4.31 To maintain the Housing Waiting List and to make nominations to Registered Providers of Social Housing in accordance with the Authority's Allocations Policy

4.32 To work with other housing providers to meet the housing needs of the Borough

4.33 To deal with all matters in respect of the Borough's Registered Providers of social housing

4.34 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

4.35 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

The decision to institute legal proceedings with regard to non-compliance with Notices served lies with the Head of Legal Services and Monitoring Officer.

## **5.0 DIRECTOR OF ADULT SOCIAL CARE AND INDEPENDENT LIVING**

5.1 The Director of Adult Social Care and Independent Living is the Council's Statutory Chief Officer for Adult Social Services as required by Section 6 of the Local Authority Social Services Act 1970.

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

- Provision of Adult Social Care
- People with Disabilities
- Housing Options and Homelessness
- Private Sector Landlords
- Supported Housing Strategy
- Respite Provision
- Reablement
- Intermediate Care
- Adult Day Care Provision
- Community Support Networks
- Supported Living Networks
- Supported Employment and occupational opportunities
- Telecare/Assistive Technology
- Occupational Therapy
- Community Equipment
- Home Improvement Agency Assessment and Care Management Services (including Adult Safeguarding)
- Hospital Discharge
- Equipment Aids and Adaptations (including DFG allocation)
- Carers support

5.3 Within the following areas, the Director of Adult Social Care and Independent Living is empowered to operate the Service and, except where powers, duties and functions are delegated elsewhere by the Council, to exercise all powers, duties and functions, including, but not limited to the following in this section:

5.4 To provide a professional focus and lead for adult and social care services, ensuring that the social care needs of the local community are met. The Director has seven key roles in this regard:

- Professional leadership, including workforce planning;
  - Safeguarding and welfare of vulnerable adults
  - Leading the implementation of standards;
  - Managing cultural change
  - Promoting local access and ownership and driving partnership working;
  - Delivering an integrated whole systems approach to supporting communities; and
  - Promoting social inclusion and wellbeing.
- 5.5 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).
- 5.6 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.
- 5.7 To 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.
- 5.8 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.
- 5.9 On terms approved by the Chief Operating Officer and the Head of Legal Services and Monitoring Officer, to authorise adaptations to property and the provision of assistance and aids in accordance with the Chronically Sick and Disabled Persons' Act 1970
- 5.10 To act as trustee or appointee for the assets of service users for whom the Authority has a statutory responsibility.
- 5.11 To exercise the powers and duties of the Social Services Authority under the legislative provisions relating to mental health, including those relating to Guardianship and the institution of Court proceedings.
- 5.12 To award and pay adaptation grants and loans pursuant to the Housing Grants Construction and Regeneration Act 1996 and within the Authority's policies

- 5.13 To administer the Authority's responsibilities for the homeless including the commissioning of hostels and accommodation.
- 5.14 To discharge the Authority's functions with regard to the assessment of need for and provision of Community Care Services in accordance with Part iii of the National Health Service and Community Care Act 1990 and Regulations thereunder.
- 5.15 To accept guardianship applications under the Mental Health Act 1983 and subsequent renewals, such action to be reported to the appropriate Cabinet Portfolio Member and to determine subsequent applications for discharge by the Authority.
- 5.16 To fulfil the responsibilities of nearest relative as determined by the Courts under the Mental Health Act 1983.
- 5.17 To accept responsibility as the Court Appointed Deputy under the Mental Capacity Act 2005.
- 5.18 For the purposes of S114 of the Mental Health Act 1983 to issue approvals and authorisations on behalf of the Authority in respect of Approved Mental Health Professionals.
- 5.19 In consultation with the Head of Legal Services and Monitoring Officer, to take decisions, serve notices, requirements or orders, make applications, exercise powers of entry, provide reports and institute or defend any proceedings before any Court or other tribunal on behalf of the Authority in discharge of the Authority's Adult Social Care functions arising under any Act.
- 5.20 Following consultation with the relevant Portfolio Holder, where possible, to sign off and return responses to formal and informal consult proposals from government departments on matters of professional judgment and/or policy.
- 5.21 To approve expenditure on the following matters:
  - a) In consultation with the relevant Portfolio Holder, contributions to the funds of voluntary organisations providing services for the elderly and/all the disabled in accordance with the approved policy, including initial grants to newly formed clubs and centres, annual grants and contributions towards running costs;

- b) Contributions towards the running costs of new meals-on-wheels schemes and luncheon clubs and variations in costs of existing schemes.
- c) To approve expenditure incurred under S48 of the National Assistance Act 1948 in the protection of moveable property of persons and to recover such expenditure where applicable.
- d) In consultation with the relevant Portfolio Holder, to write off debt or waive future charges in respect of care provision where it is felt that an individual would be at risk if the debt were pursued or they chose to withdraw from care on financial grounds. This is subject to the requirement that a written record of a write off decision setting out the reasons for the write off and/or waiving of charges shall be kept by the Director and a copy provided for the Chief Operating Officer. Any waiving of future charges will only be for the minimum period that any risk previously referred to exists.
- e) To approve the disposal of assets belonging to deceased residents residing within the Authority's boundary to persons entitled to them after payment of proper claims on account of funeral expenses or sums due to the Authority.
- f) In consultation with the Head of Corporate Resources and Stewardship and the Head of Legal Services and Monitoring Officer to extend, renegotiate or enter into agreements with the NHS in relation to any funding streams allocated to the NHS or successor body, with the specific purpose of being transferred to the Authority under a S25 arrangement.
- g) All Adult Social Care functions exercisable by the Authority in its capacity as a Local Authority.
- h) To approve, amend or terminate contracts with providers whose services are commissioned by the Authority or jointly with other partners as part of a Health and Adult Social Care Joint Integrated Commissioning, after consultation with the Head of Legal Services and Monitoring Officer, Chief Operating Officer and Cabinet Portfolio Member.
- i) To fulfil statutory duties and functions as determined by any subsequent changes to legislative framework governing Adult Social Care and Health Services.

## **6.0 DIRECTOR OF CHILDREN'S SERVICES**

- 6.1 The Director of Children's Services is the Authority's Statutory Director of Children's Services required by Section 18 of the Children Act 2004. The Director is also the Authority's Chief Education Officer as required by Section 532 of the Education Act 1996.



6.2 The Director of Children's Services will 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.

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

#### **1. Children's Services**

- Education Services, including improvements and standards, school funding, school admissions and school transport
- Provision for children outside mainstream education
- Children's Social Care
- Engagement of young people
- Children's Health Services
- Inter-Agency Co-operation
- Corporate parent for looked after (known as 'cared for') children
- Services for children with disabilities and special educational needs
- SEN Assessment, Educational Psychology, Sensory Support, Autism
- Virtual School
- Leaving Care
- Domestic Violence
- Non-attendance at school

#### **2. Early intervention and prevention**

- Assessment and Care management of Vulnerable children
- Child Protection
- Children in Need
- Adoption and Fostering

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

6.4 Within the following areas, the Director of Children's Services is empowered to operate the Service 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:

- 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.
- 6.5 To be responsible for all other functions conferred on Children Services Authorities under the Children Act 2004 and by any subsequent legislation or Regulations.
- 6.6 To observe all policy decisions taken by the Authority 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).
- 6.7 Licensing the Employment of Children
- 6.8 To 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's services
  - In consultation with the Head of Legal Services and Monitoring Officer, 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.

## **7.0 DIRECTOR OF PUBLIC HEALTH**

- 7.1 The Director of Public Health ('DPH') will have four key roles:
- Health Improvement
  - Health Protection
  - Health Care, Commissioning and Service Planning
  - Reduction of Health Inequalities
- 7.2 In addition, the DPH has been given responsibility for the following within this Authority:
- Public Protection and Enforcement
- 7.3 The DPH is the Authority's Statutory Chief Officer for Public Health and therefore a Holder of politically restricted posts, by section 2(6)(zb) of the Local Government and Housing Act 1989, inserted by Schedule 5 of the Health and Social Care Act 2012.
- 7.4 Pursuant to the Health and Social Care Act 2012 (the 2012 Act) the Director is responsible for:
- all of the Authority's duties to take steps to improve public health (the exercise by the Authority of its functions under section 2B, 111 or 249 of, or Schedule 1 to, the National Health Service Act 2006)
  - any of the Secretary of State's public health protection or health improvement functions that s/he delegates to local authorities, either by arrangement or under regulations – these include services mandated by regulations made under section 6C of the 2006 Act, inserted by section 18 of the 2012 Act
  - the Secretary of State's public health functions exercised by local authorities in pursuance of arrangements under section 7A of the 2006 Act
  - exercising the Authority's functions that relate to planning for, or responding to, emergencies that present a risk to public health
  - the Authority's duty to co-operate with the prison service with a view to improving the exercise of functions in relation to securing and maintaining the health of prisoners (the functions of the Authority under section 325 of the Criminal Justice Act 2003)
  - such other public health functions as the Secretary of State may prescribe.
  - the duty to write the annual report on the health of the local population:

- Subject to the publication of Regulations, the Authority's public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications (a function given to local authorities by sections 5(3), 13(4), 69(4) and 172B(4) of the Licensing Act, as amended by Schedule 5 of the 2012 Act)
- if the Authority provides or commissions a maternity or child health clinic, then regulations made under section 73A(1) will also give the DPH responsibility for providing Healthy Start vitamins (a function conferred on local authorities by the Healthy Start and Welfare Food Regulations 2005 as amended)

#### 7.5 The Director of Public Health will also:

- be the person who elected members and senior officers look to for leadership, expertise and advice on a range of issues, from outbreaks of disease and emergency preparedness through to improving local people's health and concerns around access to health services
- know how to improve the population's health by understanding the factors that determine health and ill health, how to change behaviour, and promote both health and wellbeing in ways that reduce inequalities in health
- provide the public with expert, objective advice on health matters
- be able to promote action across the life course, working together with local authority colleagues such as the Strategic Director of Children, Families and Adults services, and with NHS colleagues
- work through local resilience fora to ensure effective and tested plans are in place for the wider health sector to protect the local population from risks to public health
- work with local criminal justice partners and police and crime commissioners to promote safer communities
- work with wider civil society to engage local partners in fostering improved health and wellbeing
- be an active member of the Health and Wellbeing Board, advising on and contributing to the development of the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy, and commission appropriate services accordingly

- take responsibility for the management of their authority's public health services, with professional responsibility and accountability for their effectiveness, availability and value for money
- play a full part in their authority's action to meet the needs of vulnerable children, for example by linking effectively with the Local Safeguarding Children's Board
- contribute to and influence the work of NHS commissioners, ensuring a whole system approach across the public sector.
- will receive information on all local health protection incidents and outbreaks and take any necessary action, working in concert with Public Health England and the NHS.

7.6 Pursuant to Section 6C(1) and (3) of the NHS Act 2006 as amended by the 2012 Act, the Director of Public Health is responsible for:

- steps to be taken to protect the health of the local population
- ensuring NHS commissioners receive the public health advice they need
- appropriate access to sexual health services
- the National Child Measurement Programme
- NHS Health Check assessments.

7.7 The Director of Public Health will also lead the non-mandated public health commissioning responsibilities of the Authority, which include:

- tobacco control and smoking cessation services
- alcohol and drug misuse services
- public health services for children and young people aged 5-19 (including the Healthy Child Programme 5-19) (and in the longer term all public health services for children and young people)
- interventions to tackle obesity such as community lifestyle and weight management services
- locally-led nutrition initiatives
- increasing levels of physical activity in the local population
- public mental health services

- dental public health services
- accidental injury prevention
- population level interventions to reduce and prevent birth defects
- behavioural and lifestyle campaigns to prevent cancer and long-term conditions
- local initiatives on workplace health
- supporting, reviewing and challenging delivery of key public health funded and NHS delivered services such as immunisation and screening programmes
- local initiatives to reduce excess deaths as a result of seasonal mortality
- public health aspects of promotion of community safety, violence prevention and response
- public health aspects of local initiatives to tackle social exclusion
- local initiatives that reduce public health impacts of environmental risks.

7.8 The Director of Public Health will take day-to-day management over the ring-fenced public health grant is provided to local authority to discharge its new public health responsibilities

7.9 The Director of Public Health will carry overall responsibility for all services and issues concerning public health, and for professional advice to the Cabinet, Corporate Leadership Board and Council as the designated statutory Director of Public Health (including exercising the duties and functions set out in statutory guidance). The Director of Public Health may sub delegate any of these responsibilities to appropriate qualified Officers.

**In addition to the statutory role outlined above, the DPH has been given responsibility for Regulatory Services and Health**

7.10 Subject to notification of Ward members to licence

- the use of land as a caravan site and the use of moveable dwellings and camping sites
- Pleasure boats and pleasure vessels
- Premises for the breeding of dogs

- Pet shops and animal boarding establishments
- Zoos and dangerous wild animals

7.11 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, micro pigmentation and electrolysis

7.12 To grant consent for the operation of a loudspeaker

7.13 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

7.14 To undertake all functions under the Scrap Metal Dealers Act 2013 (as amended) and to take all enforcement action under the Act

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

7.16 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)

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

7.18 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
- 7.19 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)
- 7.20 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.
- 7.21 To issue street trading consents where no representations have been received or those that have been received have been withdrawn
- 7.22 To licence performances of hypnotism
- 7.23 To exercise licensing functions under the Licensing Act 2003 ('the 2003 Act') and the Gambling Act 2005 ('the 2005 Act') 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 dis-applying section 279 or 282(1) of the 2005 Act where representations have been made by the licensee
- The decision to revoke a personal licence where convictions come to light after grant or renewal under section 124 of the 2003 Act
- The decision to set fees under the 2005 or the 2003 Act

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

- 7.24 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.
- 7.25 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.
- 7.26 To refer to the Head of Legal Services and Monitoring Officer all suspected offences under the legislation covered by these functions.
- 7.27 To amend the functions listed in the Appendix (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).

## **8.0 CHIEF OPERATING OFFICER**

- 8.1 The Chief Operating Officer is the Authority's "Section 151 Officer", appointed by Council and is the financial adviser to the Council, the Cabinet and Officers. The post has overall responsibility for operational management of the Commissioning Support functions and for bringing forward such strategic plans and policies, and implementing all necessary decisions including the allocation of

resources within approved estimates, as are necessary to exercise the functions for which the Service is responsible. It comprises the following main functions:-

### **1. Commercial Strategy, Business Innovation and Performance**

- Corporate Policy and Business Strategy
- Business Support Services
- Business intelligence and performance
- Business Improvement and Innovation
- Commercial Strategy
- Internal Audit
- Risk management
- Complaints
- ICT infrastructure
- Procurement
- Data Protection and Freedom of Information

### **2. Finance**

- Pensions
- Insurances
- Accountancy

### **3. HR and Organisational Development**

- HR Delivery/Operations
- Workforce Development (Staff training and Development)
- Organisational Development
- HR Strategy and Policy
- Industrial Relations
- Occupational health

### **4. Governance and Democratic Services**

- Local Governance Arrangements
- Member Training and Development
- Registration of births, marriages and deaths
- Election Services
- Community Governance and Boundary Reviews
- Committee Servicing
- Scrutiny Provision
- Member attendance on External Bodies
- Mayoral Support and Civic Functions
- Executive Office Support
- Support to the Lord Lieutenant
- Support for Sub-Regional Committees/Boards
- Administrative Support for School exclusion and other appeals
- Cross party Liaison support
- Corporate Health and Safety
- Provision of Coronial Service

## **5. Legal Services**

### **ROLE OF SECTION 151 OFFICER**

8.2 The Chief Operating Officer is:-

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

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

- Opening accounts to inspection under Section 228(3) of the Local Government Act 1972
- Officer responsible as regard reports under Section 114 of the Local Government Finance Act 1988
- Receipt of money due from officers (Section 115(2) of the Local Government Act 1972
- Declarations and Certificates with regard to securities under Section 146 of the Local Government Act 1972
- The Authority's Money Laundering Reporting Officer (Section A21 and 22 of the Finance Procedure Rules

### **Commercial Strategy Business Innovation and Performance**

8.4 To be responsible for benchmarking and monitoring the performance of the Authority, for promoting the performance management framework and reporting performance issues to relevant committees and Cabinet/Council

8.5 To promote effective working through business improvement initiatives as relevant including recommendations on targets, service standards, performance indicators and consultation

8.6 To be responsible for the authority's risk management approach

- 8.7 To be responsible for the research and consultation function including the census and corporate public feedback mechanisms
- 8.8 To be responsible for the corporate customer services function and promote a culture of customer service and equality in service delivery, access and design.
- 8.9 To develop corporate policy for Council/Cabinet approval and to ensure implementation
- 8.10 To develop and implement the authority's approach to local area working with partners to ensure co-ordinated delivery of services to the community
- 8.11 To act as lead officer on behalf of the authority in relation to the Data Protection, Freedom of Information and Environmental Information legislation, with an overall presumption of openness and transparency and that publication is the norm

## **Finance**

- 8.12 The Chief Operating Officer, in accordance with the Finance Procedure Rules, will:-
  - Carry out the functions and responsibilities which are detailed in the Finance Procedure Rules
  - Secure effective treasury management, including taking all action necessary in relation to all debts, payment of accounts, loans (including guarantees and indemnities), grants, advances, investments, financing and banking generally
  - Take all action necessary to ensure the safeguarding of assets by maintaining and administering appropriate insurance and approving requests to postpone legal charges
  - To take all necessary action in respect of the Authority's role in relation to the administration and operation of the Cheshire Pension Fund.
  - To make recommendations to the Council on Council Tax requirements, on the Council tax base and to administer and manage generally all matters relating to Council Tax, Non Domestic Rates, Community Charge and General Rates including the awarding of discounts, relief, and exemptions and the levying, collection, recovery, and disbursement of all sums due to the Authority in respect of the same in accordance with all governing Regulations.

- To negotiate, enter into arrangements and act generally on behalf of the Authority in respect of continuing financial matters arising from arrangements and obligations existing between the former Cheshire County and six District Councils.

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

## **Procurement**

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

## **Organisational Development HR and Staffing**

- 8.14 Monitoring and reviewing the Authority's management and general sufficiency of staffing arrangements and reporting quarterly to the Staffing Committee on the effectiveness of the arrangements
- 8.15 To recommend to Council the development of policies on the full range of Human Resources and Organisational Development issues, after appropriate consultation with Members
- 8.16 To submit Officer Code of Conduct in support of Human Resources, to the Constitution Committee for approval
- 8.17 To undertake the effective implementation and maintenance of Equal Opportunities in Employment Policy
- 8.18 To submit the Management Structure of each Service 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.
- 8.19 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
- 8.20 In consultation with the Portfolio Holder and Corporate Leadership Board, to determine annually the recruitment requirements for trainee positions at a level that can be met within budgetary provisions

- 8.21 To approve Job Descriptions/Person Specifications for all employees other than members of Corporate Leadership Board (Corporate Leadership Board job descriptions and Person Specifications shall be approved by the Staffing Committee)
- 8.22 The Chief Operating Officer to apply the approved early retirement /redundancy scheme in certain circumstance EXCEPT that (a) decisions relating to redundancy must not be delegated to the Head of HR and OD under a local scheme of delegation and (b) decisions relating to redundancy of a senior manager post (or equivalent) on spot salary of £48,000 or above shall be with the agreement of the relevant Portfolio Holder.
- 8.23 To determine honoraria in accordance with the NJC Scheme, reporting to Staffing Committee at the next available meeting
- 8.24 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
- 8.25 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 Chief Officers shall be the responsibility of Staffing Committee (this latter exception does not apply to dismissal, disciplinary or capability)

### **Head of Governance and Democratic Services**

- 8.26 The Head of Governance and Democratic Services is the Authority's Proper Officer and 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

- 8.27 To perform all other functions of the Authority as set out in the Schedule to the Local Government (Committees and Political Groups) Regulations 1990.
- 8.28 To exercise the Authority's duties in respect of the provision of a Coroners Service.
- 8.29 The Head of Governance and Democratic Services is the Authority's Deputy Proper Officer, as follows:
- Deputy Electoral Registration Officer for the registration of electors under Section 8 of the Representation of the People Act 1983
  - Deputy Returning Officer for the election of Councillors for the District and Parishes within the District under Section 35 of the Representation of the People Act 1983
  - Deputy Returning Officer at UK Parliamentary elections; Deputy Local Returning Officer at European Parliamentary Elections and Deputy for the Police and Crime Commissioner Elections.

## **9.0 HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

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

### **Monitoring Officer Role**

- 9.2 The Head of Legal Services and Monitoring Officer 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
- 9.3 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.
- 9.4 The Monitoring Officer shall, where necessary, and in consultation with the Head of Paid Service and the Chief Operating Officer, report any proposal, decision or omission considered to be unlawful or to amount to maladministration to the Council or the Executive, as appropriate in accordance with Section 5 of the Local Government and Housing Act



1989 Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

9.5 The Head of Legal Services and Monitoring Officer will act as the Authority's Proper Officer under the following provisions of the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000 unless otherwise stated:

- 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)
- Certification of resolutions (Schedule 14 para 25(7))
- Receipt of notice of disclosable pecuniary interests under the Localism Act 2011

### **Legal Services**

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

- authorise settlement of up to £5000 (which after settlement shall be reported to Cabinet)
- Authorise settlement above £5000 and below £50,000 in consultation with the Portfolio Holder and the Chief Operating Officer, (which after settlement shall be reported to Cabinet)

- Claims in excess of £50,000 require Cabinet approval

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

- To prosecute, defend, make application, serve any notice or appear on behalf of the Authority in any Court, Tribunal or hearing on any criminal, civil or other matter (including appeals).
- Institute legal proceedings for any offences under any local Byelaws or Orders in force within the Authority's area
- Lodge objections to any proposal affecting the Authority's 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 Authority's approved policy to monitor the integrity of the operation of the Regulation of Investigatory Powers Act 2000 as 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 attest the affixing of the Council's seal to all documents approved for sealing.

- To authorise appropriate Officers to administer formal cautions in respect of criminal offences.
  - To determine whether a particular claim for payment under the Members Allowances Scheme is appropriate
- 9.8 The Head of Legal Services and Monitoring Officer is empowered to authorise appropriately qualified employees or persons acting on behalf of the Council:
- To appear in, and conduct legal proceedings in, any Court or Tribunal on behalf of the Authority;
  - To prove debts owed to the Authority in bankruptcy and liquidation proceedings.
- 9.9 The Head of Legal Services and Monitoring Officer is authorised to:
- Make minor and consequential amendments to the constitution on account of drafting anomalies and authorised revisions, correcting any errors or omissions or otherwise giving effect to the intentions of the Council and shall subsequently notify the Chairman of the Constitution Committee.

#### **Proper Officer**

- 9.10 The Head of Legal Services and Monitoring Officer shall be the Proper Officer of the Council for the purposes of the Local Government Act 1972, the Local Government Act 2000 and for all other statutory purposes unless such designation is given by the Council to any other Officer.

**APPENDIX**

<b>In respect of public rights of way (paragraph 3.32)</b>
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
<b>In respect of regulatory functions (trading standards and environmental health) (paragraph 7.25)</b>
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
Cattle Identification Regulations 2007
Cheques Act 1992
Child Resistant Packaging (Safety)(Amendments) Regulations 1993
Children and Young Persons Act 1933
Children and Young Persons (Protection from Tobacco) Act 1991
Marriages and Civil Partnerships (Approved Premises) Regulations 2005
Classification, Packaging and Labelling of Dangerous Substances Regulations 1984
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
Crystal Glass (Descriptions) Regulations 1973
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
Eggs (Marketing Standards) Regulations 1985
Electro Magnetic Compatibility Regulations 1992
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 Permitting (England and Wales) Regs 2010
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
Food Safety and Hygiene (England) Regulations 2013
Forgery and Counterfeiting Act 1981
Fraud Act 2006
Gambling Act 2005
General Food Regulations 2004
Guard Dogs Act 1975
Home Safety Act 1961
Hallmarking Act 1973

Health Act 2006
Health and Safety at Work Act 1974
Health Protection (Part 2A Orders) Regulations 2010
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
Live Music Act 2012
Local Government (Miscellaneous Provisions) Act 1976 and 1982
Local Government Acts 1972 and 1987
Local Government and Housing Act 1989
Malicious Communications Act 1988
Manufacture and Storage of Explosives Regulations 2005
Marriage Act 1968
Medicines Act 1968
Misrepresentation Act 1967
Mobile Homes Act 2013
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
Official Feed and Food Controls (England) Regulations 2009
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
Pigs (Records, Identification and Movement) Order 1995
Poisons Act 1933 and 1972
Pollution Prevention and Control Act 1999
Police Reform and Social Responsibility Act 2011
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 and 2002
Property Misdemeanors 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
Schedule Prices Act 1974
Scrap Metal Dealers Act 2013
Solicitors Act 1974
Sunbeds (Regulation) Act 2010
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 in Animals and Related Products Regulations 2011
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



## CHESHIRE EAST COUNCIL

### COUNCIL

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<b>Date of Meeting:</b>	14 May 2014
<b>Report of:</b>	Head of Governance and Democratic Services
<b>Subject/Title:</b>	Reaffirmation of Council's Constitution

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#### **1.0 Report Summary**

- 1.1 To reaffirm the Council's Constitution.

#### **2.0 Recommendation**

- 2.1 Council is requested to reaffirm the provisions of the Council's Constitution published on 13 September 2013, and amended by Council on 17 October 2013 and 14 May 2014.

#### **3.0 Financial Implications**

- 3.1 None.

#### **4.0 Legal Implications**

- 4.1 The Council is regularly required during legal proceedings to provide evidence that the Council has reaffirmed its Constitution in order to demonstrate that officers are empowered to take enforcement and other action in the delivery of local services.

#### **5.0 Background and Options**

- 5.1 It is recognised best practice for the Council to reaffirm its Constitution, in order for there to be appropriate evidence prior to legal proceedings and that evidence is available to show that officers are suitable empowered.

#### **6.0 Access to Information**

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

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