

Council Agenda

Date: Thursday, 17th July, 2014
Time: 2.00 pm
Venue: Grand Hall, Congleton Town Hall, High Street, Congleton
CW12 1BN

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

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

1. **Prayers**

2. **Apologies for Absence**

To receive any apologies for absence.

3. **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. **Minutes of the Annual Council Meeting** (Pages 1 - 28)

To approve the minutes of the Annual Council meeting held on 14 May 2014 as a correct record.

5. **Mayor's Announcements**

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

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

Please contact Julie North on 01270 686460
E-Mail: julie.north@cheshireeast.gov.uk with any apologies or requests for further information or to give notice of a question to be asked by a member of the public

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

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

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

7. **Notices of Motion** (Pages 29 - 32)

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

8. **Recommendations from 2013/2014 Outturn Report to Cabinet** (Pages 33 - 38)

To approve the creation of earmarked reserves as recommended by Cabinet, and as set out in Appendix 1 of the report.

9. **Recommendation from Audit and Governance Committee - Arrangements Review of Processes for Considering Complaints that Members Have Breached the Code of Conduct** (Pages 39 - 74)

To consider the recommendations from the Audit and Governance Committee

10. **Leader's Announcements**

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

11. **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.

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Council**
held on Wednesday, 14th May, 2014 at The Tenants' Hall, Tatton Park,
Knutsford

PRESENT

Councillor D Flude
Councillor W Fitzgerald

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

Apologies

Councillors Rachel Bailey, G Barton, D Bebbington, S Carter (morning only) R Cartlidge, D Druce, P Edwards, P Hayes, J Jackson, J Macrae, M Martin, S McGrory, H Murray(afternoon only), B Silvester(morning only), M Simon(morning only), S Wilkinson(morning only)

1 PRAYERS

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

2 DECLARATIONS OF INTEREST

Councillors W Fitzgerald and H Gaddum declared a non- pecuniary interest in the agenda items relating to appointment of Mayor and Deputy Mayor 2014/15, by virtue of being the persons nominated.

3 ELECTION OF MAYOR 2014/15

Council was requested to elect a Mayor for the Borough of Cheshire East for 2014/15, who would also act as Chairman of the Council for that period.

It was proposed by Councillor M Jones, seconded by Councillor D Newton, and :-

RESOLVED

That Councillor Wesley Fitzgerald be elected Mayor of the Borough of Cheshire East for the year 2014/15 and Chairman of the Council for that period.

The Mayor was invested with his chain of office and then completed his Declaration of Acceptance of Office and took the oath of loyalty.

The Mayor thanked the Council for electing him to this office and informed Members that his wife Joan, was to be his Mayoress and she was invested with the badge of office.

4 APPOINTMENT OF DEPUTY MAYOR 2014/15

Council was requested to appoint a Deputy Mayor of the Borough of Cheshire East, who would also act as Vice-Chairman of the Council for that period.

It was proposed by Councillor P Raynes, seconded by Councillor B Murphy, and

RESOLVED

That Councillor Hilda Gaddum be appointed as Deputy Mayor of the Borough of Cheshire East for the year 2014/15 and Vice-Chairman of the Council for that period.

The Deputy Mayor thanked the Council for appointing her to this office.

5 APPOINTMENT OF MAYOR'S CHAPLAIN

The Mayor announced that his Chaplain for the forthcoming Municipal Year would be the Rev Dr Paul Smith and that he looked forward to his support during his term of office.

6 VOTE OF THANKS TO THE RETIRING MAYOR

Councillor Michael Jones paid tribute to the retiring Mayor and Consort, Councillor Dorothy Flude and Mr Alexander Flude, for the dedicated work they had undertaken during their term of office.

The Mayor presented Councillor Flude with her Past Mayor's medal and the Consort with a medal.

Councillor Flude gave a speech of thanks.

7 MAYOR'S ANNOUNCEMENTS

The Mayor informed Members that the meeting would stand adjourned until 1.45pm, when the remaining items of business on the agenda would be considered.

8 DECLARATIONS OF INTEREST

There were no Declarations of Interest at this stage in the meeting. However, Cllrs S Gardiner, Rhoda Bailey and L Brown declared a pecuniary interest at item 12 of the agenda, following the proposal and seconding of an amendment relating to the payment of a Special Responsibility Allowance to Deputy Cabinet Members. In accordance with the general dispensation approved by the Audit and Governance Committee at its meeting on 27 September 2012 the Members remained in the room.

9 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting of the Council held on 10 April 2014 be approved as a correct record.

10 PUBLIC SPEAKING TIME/OPEN SESSION

Mr Alan Leonard used public speaking time to ask the Leader of the Council a question regarding the Council's decision not to remove an area of land situated at Hollin Road, Bollington from the Green Belt.

The Leader of the Council in response stated that there would be an opportunity to consider rebalancing the Green Belt around Bollington and that he considered that this should be considered at local level, through Bollington Town Council.

Mrs Charlotte Peters Rock used public speaking time to ask a question regarding the pan-Cheshire Pioneer status, as to when the meetings would be taking place, what opportunity there was for public involvement and whether the public would be able to attend meetings.

The Leader of the Council undertook to provide a written response to the question and stated that the process would take time, as it was important to get it right.

11 APPOINTMENTS TO THE CABINET/LEADER'S ANNOUNCEMENTS

The Leader of the Council, Councillor Michael Jones, presented to Council information about executive functions for the forthcoming year, including the names, addresses and electoral divisions of those Members appointed to the Cabinet and Cabinet Roles and responsibilities, as attached.

The Leader also highlighted the key points of his written speech, which had been circulated around the Chamber.

RESOLVED

That the Leader's address and the information on executive functions in respect of the forthcoming year be noted.

12 **RECOMMENDATION FROM CONSTITUTION COMMITTEE: THE COUNCIL'S DECISION MAKING AND GOVERNANCE ARRANGEMENTS**

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. Their report and recommendations had been submitted to the PDG/Scrutiny Review Working Group, which had supported the recommendations contained in the report.

The Constitution Committee, at its meeting on 1 May 2014, had considered the report's recommendations, together with a range of proposals concerning the Council's governance arrangements, including the Constitution Working Group's suggestions concerning the size of Committees, the Terms of Reference of the Staffing Committee, Audit and Governance Committee and Health and Wellbeing Board and the introduction of Cabinet Support Members and resolved to recommend to Council:-

1. The abolition of the Councils 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 to the Constitution, 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 Alternative Service Delivery Vehicle (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 of the report to the Constitution Committee, 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. That 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. That 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. That the proposed terms of reference of the Staffing Committee (as circulated at the Staffing committee meeting), of the Audit and Governance Committee and the Health and Wellbeing Board, as set out in Appendices D and E of the report 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. That the responsibilities of Deputy Cabinet Members, as contained in Appendix F of the report, 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 27th 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.

14. That 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.

The Chairman of the Constitution Committee, Cllr A Martin, formally proposed the recommendations of the Constitution Committee, with the following additions, which had been discussed between the Leader of the Council and the other Group Leaders, and this was duly seconded: -

- That the overarching overview and scrutiny committee, referred to in recommendation 3 comprise 13 Members of the Council, on a politically proportional basis.
- That a period of time after the meeting of the Council be provided for the Group Leaders to make any suggested changes to the finer details of the matters to be agreed by Council, with delegated authority being given to the Head of Legal Services and Monitoring Officer to make such consequential changes to the Constitution as she considers reasonably arise from the recommendations and the proposed representations, in consultation with the Chairman of the Constitution Committee and the Leader of the Council, in particular, relating to:-
 - The titles of the new overview and scrutiny committees, which would be changed to reflect the new titles and responsibilities of Portfolio Holders announced under Item 13 of the agenda.
 - The job description of Deputy Cabinet Member.
 - The arrangements for public involvement in the overview and scrutiny committees;
 - The responsibilities for overview and scrutiny of the work of the ASDVs.

AMENDMENT 1

The following amendment was proposed and seconded and declared carried:-

"That Council accept all of the recommendations of the Constitution Committee, as supplemented by the additions proposed by the Chairman of the Constitution Committee, but with a change to the effect that the Committee sizes on pages 9 & 10 of the agenda (and referred to in recommendation 10 on page 12) remain the same as they currently are, with the exception of the Strategic Planning Board, Northern Planning Committee and Southern Planning Committee, whose figure would be 15 each, subject to the usual requirements relating to proportionality, as discussed between the Groups and as circulated in respect of Item 15 and that there be no change in quorum figures.

The cross-party Working Group should be given a proper opportunity to consider the question of Committee sizes again, and this can take place before the autumn, following which a more fully considered report can be brought before Council.”

AMENDMENT 2

An amendment to delete recommendation 13 from the Constitution Committee, relating to the payment of a Special Responsibility Allowance to Deputy Cabinet Members, was proposed and seconded and declared lost.

Declarations of Interest.

(Following the proposal and seconding of the above amendment Cllrs S Gardiner, Rhoda Bailey and L Brown declared a pecuniary interest, by virtue of being put forward as Deputy Cabinet Members. In accordance with the general dispensation approved by the Audit and Governance Committee at its meeting on 27 September 2012 the Members remained in the room).

RESOLVED

1. That the Council's existing Scrutiny and Policy Development Group arrangements be abolished and that five overview and scrutiny committees be created, reflecting Cheshire East Council's five strategic priorities: Communities, Economy, Life Skills, Environment and Health.
2. That the terms of reference, attached as Appendix B to the report to the Constitution Committee, be adopted 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. That an overarching Cheshire East Overview and Scrutiny Committee be created, comprising 13 Members of the Council, on a politically proportional basis, 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. That the Communities Overview and Scrutiny Committee be designated 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. That the existing call-in arrangements be amended 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 of the report to the Constitution Committee, 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. That 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. That the membership of those bodies referred to in paragraph 12.2 of the report remain the same as they currently are, with the exception of the Strategic Planning Board, Northern Planning Committee and Southern Planning Committee, whose figure would be 15 each, subject to the usual requirements relating to proportionality as discussed between the Groups, and as circulated in respect of Item 15 of the agenda, and that there be no change in quorum figures. That the cross-party Working Group be given a proper opportunity to consider the question of Committee sizes again, this to take place before the autumn, following which a more fully considered report should be submitted to Council.
11. That the proposed terms of reference of the Staffing Committee, Audit and Governance Committee and the Health and Wellbeing Board, as set out in Appendices C, D and E of the report respectively, be adopted as the terms of reference of those bodies.
12. That the responsibilities of Deputy Cabinet Members, as contained in Appendix F of the report, be noted and included in the Constitution, subject to any further drafting changes which might be put forward.

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 27th 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.

14. That a period of time after the meeting of the Council be provided for the Group Leaders to make any suggested changes to the finer details of the matters to be agreed by Council today, with delegated authority being given to the Head of Legal Services and Monitoring Officer to make such consequential and other changes to the Constitution as she considers reasonably arise from these recommendations and the proposed representations, in consultation with the Chairman of the Constitution Committee and the Leader of the Council, in particular, relating to:-

- The titles of the new overview and scrutiny committees, which will be changed to reflect the new titles and responsibilities of Portfolio Holders announced under Item 13 of the agenda;
- The job description of Deputy Cabinet Member;
- The arrangements for public involvement in the overview and scrutiny committees;
- The responsibilities for overview and scrutiny of the work of the ASDVs.

13 POLITICAL REPRESENTATION ON THE COUNCIL'S COMMITTEES

Consideration was given to a report inviting the Council to determine political representation on the Council's Committees.

Appendix 1 to the report, showing the proportional distribution of seats on Committees amongst the political groups, was circulated at the meeting.

RESOLVED

That the political group representation, as set out in Appendix 1, as circulated at the meeting and attached to these minutes at minute 13 and the methods, calculations and conventions used in determining this, as outlined in the report, be adopted.

14 APPOINTMENT OF MEMBERS TO COMMITTEES

Details of the political groups' nominations of Members to Committees received to date were circulated at the meeting.

RESOLVED

That, the Committees, listed on the Appendix as circulated at the meeting be appointed. That the nominations made to the Committees by the time of the meeting be noted, with agreement that the remaining nominations

would be submitted to officers by the political groups in due course and circulated to all Members after the meeting.

15 APPOINTMENT OF CHAIRMEN AND VICE CHAIRMEN

Consideration was given to the appointment of Chairmen and Vice-chairmen of the Council's decision making and other bodies.

The Political Group Leaders' nominations of Chairmen and Vice-chairmen of the Council's decision-making and other bodies were circulated at the meeting and were as follows :-

Overview and Scrutiny Committees

Corporate Overview and Scrutiny Committee	Chairman – Cllr S Wilkinson Vice Chairman – Cllr B Murphy
Communities Overview and Scrutiny Committee	Chairman – Cllr G Baxendale Vice Chairman – Cllr M Grant
Commissioning ASDVs Overview and Scrutiny Committee	Chairman – Cllr W Livesley Vice Chairman – Cllr K Edwards
Children, Families and Adult Safeguarding Overview and Scrutiny Committee	Chairman – Cllr P Hoyland Vice Chairman – Cllr A Moran
Health and Adults in the Community Overview and Scrutiny Committee	Chairman – Cllr M Simon Vice Chairman – Cllr J Saunders
Jobs, Regeneration and Assets Overview and Scrutiny Committee	Chairman – Cllr P Groves Vice Chairman – Cllr F Keegan

Regulatory and Other Committees

Audit and Governance Committee	Chairman – Cllr J Wray Vice Chairman – Cllr L Brown
Constitution Committee	Chairman – Cllr A Martin Vice Chairman – Cllr D Marren
Strategic Planning Board	Chairman – Cllr H Davenport Vice Chairman – Cllr G Walton
Northern Planning Committee	Chairman – Cllr R West Vice Chairman – Cllr B Livesley
Southern Planning Committee	Chairman – Cllr G Merry Vice Chairman – Cllr J Weatherill
Public Rights of Way Committee	Chairman – Cllr M Hardy Vice Chairman – Cllr Rhoda Bailey
Licensing Committee	Chairman – Cllr P Whiteley Vice Chairman – Cllr S Davies
Staffing Committee	Chairman – Cllr R Domleo Vice Chairman – Cllr H Murray

LA Authority School Governor	Chairman – Cllr G Merry Vice Chairman – Cllr Rhoda Bailey
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RESOLVED

That the Chairmen and Vice-chairmen of the Council's decision-making and other bodies, as circulated at the meeting and as set out above, be appointed.

16 APPOINTMENTS TO ADOPTION PANEL AND FOSTERING PANEL

Consideration was given to appointments to the Adoption Panel and the Fostering Panel.

RESOLVED

1. That Councillor A Harewood be appointed to the Adoption Panel.
2. That Councillor G Merry be appointed to the Fostering Panel.

17 APPOINTMENTS TO CHESHIRE FIRE AUTHORITY AND THE CHESHIRE POLICE AND CRIME PANEL

Consideration was given to appointments to the Cheshire Fire Authority and the Cheshire Police and Crime Panel.

RESOLVED

- 1 That Councillors D Brickhill, D Flude, B Livesley, G Merry, M Simon, D Topping, C Thorley, J Weatherill be nominated to serve on the Cheshire Fire Authority.
- 2 That Councillors H Murray, P Findlow and L Brown be nominated to serve on the Cheshire Police and Crime Panel, with Councillor G Walton as nominated substitute.

18 RECOMMENDATION FROM CONSTITUTION COMMITTEE: CHESHIRE/WIRRAL/MERSEYSIDE - JOINT SCRUTINY ARRANGEMENTS

The Constitution Committee, at its meeting on 1 May 2014, had 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, which was 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.

Council was recommended to approve the adoption of the draft joint scrutiny protocol.

RESOLVED

1. That the draft joint scrutiny protocol as appended to the report be approved and adopted.
2. That 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.

19 RECOMMENDATION FROM CONSTITUTION COMMITTEE: REVIEW OF POLLING DISTRICTS AND POLLING PLACES

The Constitution Committee, at its meeting on 1 May 2014, had 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 31st 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 31st January 2015. Subsequent compulsory reviews must then be completed every five years thereafter.

The Committee authorised the publication of the notice of the Polling Districts and Polling Places Review and that the convening of 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 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 27th November 2014.

RESOLVED

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 27th November 2014.

20 RECOMMENDATION FROM CONSTITUTION COMMITTEE: COUNCIL CONSTITUTION - REVISION TO SCHEME OF DELEGATION TO OFFICERS

The Constitution Committee, at its meeting on 1 May 2014, had 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 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.

The Scheme of Delegation incorporating the changes agreed by the Constitution Committee was appended to the report and Council was recommended to approve the revised Scheme, as submitted.

RESOLVED

1. That the revised Scheme of Delegation to Officers as appended to the report be approved.
2. That the Head of Legal Services and Monitoring Officer be authorised to update the Council's Constitution accordingly by inclusion of the revised Scheme of Delegation.
3. That the Head of Legal Services and Monitoring Officer be authorised to undertake consequential drafting amendments to the remaining parts of the Council's Constitution to ensure consistency with the revised Scheme of Delegation.
4. That a rolling programme approach to keep the Scheme of Delegation up to date be authorised.

21 REAFFIRMATION OF THE COUNCIL'S CONSTITUTION

Council was 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.

RESOLVED

That the provisions of the Council's Constitution be reaffirmed.

22 QUESTIONS

Cllr Hardy, in respect of the recent potential takeover bid of Astra Zeneca and support for jobs in Macclesfield - Cllr Michael Jones, the Leader of the Council responded.

Cllr Jueda in respect of the appointment of Dame Jo Williams as Chairman of the Caring Together Executive Board - Cllr J Clowes, Care and Health in the Community Portfolio Holder, responded.

Cllr Newton, in respect of whether Cheshire East Council had sent a written submission in respect of the Inquiry into the National Planning Policy Framework - Cllr Michael Jones, the Leader of the Council responded.

Cllr Flude, requesting an update in respect of Mount View Care Home, in Congleton - Cllr J Clowes, Care and Health in the Community Portfolio Holder, responded.

Cllr Hoyland in respect of whether the Council intended to formalise a policy to promote cycling in the Borough - Cllr Topping, Service Commissioning Portfolio Holder responded.

Cllr Brickhill in respect of the Council's 5 year housing supply figures - Cllr Michael Jones, the Leader of the Council responded.

Cllr Fletcher, in respect of grass verge cutting in Alsager - Cllr Topping, Service Commissioning Portfolio Holder responded.

Cllr Sherratt in respect of the two week delay in the opening of Crewe Railway Station - Cllr Michael Jones, the Leader of the Council responded.

Cllr S Jones in respect of the Task and Finish group findings relating to dementia services - Cllr Michael Jones, the Leader of the Council responded.

Cllr Corcoran in respect of the Ombudsman finding regarding the changing of dates shown on the planning website relating to the planning application for White Moss Quarry- Cllr Michael Jones, the Leader of the Council responded.

Cllr A Moran, regarding the charges for CCTV in Nantwich, compared with Crewe Town – Cllr Gilbert, Localism and Enforcement Portfolio Holder, undertook to provide a written response.

The meeting commenced at 11.00 am and concluded at 4.00 pm

Councillor D Flude (Chairman)
CHAIRMAN

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Appointments to the Cabinet**Cabinet Membership and Responsibilities**

Details of the Leader's appointments to the Cabinet and the functions delegated to Cabinet Members

CABINET MEMBER	ADDRESS	WARD	PORTFOLIO
Michael Jones	Westfields Middlewich Road Sandbach CW11 1HZ	Bunbury	Leader of the Council
David Brown (Deputy Leader)	Westfields Middlewich Road Sandbach CW11 1HZ	Congleton East	Strategic Outcomes Portfolio <ul style="list-style-type: none"> • Customer Access/ Services; • Libraries and Archives; • Community Strategy; • Voluntary, Community and Faith Sector Relationships/Development; • Partnerships for Cheshire East (PACE); • Customer Complaints and Responses; • Information and Communications Technology; • Information, Intelligence and Consultation; • Corporate Risk Management; • Local Plan; • Strategic Highways and Transport; • HS2; • Energy Poverty; • Local Transport Plan; • Shared Services/ CoSocius lead.

14/05/2014

Rachel Bailey	Westfields, Middlewich Road, Sandbach, CW11 1HZ	Audlem	Safeguarding Children and Adults Portfolio <ul style="list-style-type: none"> • Lead under Children's Act 2004; • Early Years & Child Care; • Children's Centres; • Education & Schools; <ul style="list-style-type: none"> ○ School organisation and capital planning; ○ Special educational needs (SEN); ○ School development and improvement; ○ School funding/ School Forum; ○ School Catering; • Children's Social Care and Wellbeing; • Youth Support & Offending Services; • Children and Young People to 25 years old; • Lifelong Learning; • Family Support; • Health Inequalities; • Cared for Children and Care Leavers; <ul style="list-style-type: none"> ○ Fostering & Adoption ○ Residential Services • Children's Trust; • Children's Safeguarding; <ul style="list-style-type: none"> ○ Children's Board; ○ Children's Safeguarding unit; • Adult Safeguarding; <ul style="list-style-type: none"> ○ Adult Safeguarding Board; • Child Poverty Needs Assessment Unit; • Rural Affairs.
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14/05/2014

Janet Clowes	Westfields Middlewich Road Sandbach CW11 1HZ	Wybunbury	<p>Care and Health in the Community Portfolio</p> <p>Health</p> <ul style="list-style-type: none"> • Public Health; <ul style="list-style-type: none"> ○ Health Promotion; ○ Health Improvement; • Prevention and early intervention strategies; • Liaison with NHS Trusts and Clinical Commissioning Groups (CCG)- Integrated Service provision; ○ Joint working with CCGs, NHS England, NHS Trusts, NHS providers and Health Watch; ○ Strategic commissioning of integrated health and social care; ○ Development of integrated services with health partners; ○ Promoting the work of all agencies to support improved health and well being within the Borough; • Health and Well Being Board; <ul style="list-style-type: none"> ○ Joint Strategic Needs Assessment (JSNA); ○ Joint Health & Wellbeing Strategy (JHWS); • Leisure Strategy; • Leisure Services. <p>Care Services</p> <ul style="list-style-type: none"> • Mental Health Services; • Disability Services; • Sensory Impairment Services; • Domestic Violence Services; • Re-ablement; • Informal Carers; • Community Equipment; • Occupational Therapy; • Assistive Technology; • Mobile Meals; • Respite and Short Breaks; • Family Based Care; • Domiciliary Care; • Home Care;
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14/05/2014

			<ul style="list-style-type: none"> • Residential Care; • Extra care Housing; • Supported Employment; • Substance misuse services; • Equality in service access and delivery; • Welfare Rights; • Home Care; • Equality and Diversity (Service Users- Health & Social Care Act 2012); • Cheshire East Council – Care Quality Accreditation.
Paul Findlow	Westfields Middlewich Road Sandbach CW11 1HZ	Prestbury	Governance Portfolio <ul style="list-style-type: none"> • General responsibility for governance-related issues on a council-wide basis, subject to the other provisions of the constitution; • Legal Services; • Democratic Services; • Civic matters; • Electoral Services; • Member training and development; • Monitoring compliance with, and the effectiveness of, the council's decision-making processes, including; <ul style="list-style-type: none"> ○ executive and non-executive decision making/taking, ○ officer decision making/taking, ○ other delegated decision-making arrangements. • Procurement strategy and compliance, including: <ul style="list-style-type: none"> ○ participation in Regional Hubs and the Procurement Forward Plan. • Corporate contracts policy and compliance; • Contract monitoring of external providers, to include the Contracts Register; • Governance of Alternative Service Delivery Vehicles in accordance with Council policy, including via the role of Council Commissions.

14/05/2014

Les Gilbert	Westfields Middlewich Road Sandbach CW11 1HZ	Dane Valley	<p>Localism and Enforcement Portfolio</p> <ul style="list-style-type: none"> • Civil Protection/Emergency Planning; • Third Sector and community delivery; • Crime reduction including Community Safety Partnership and Police/ emergency services liaison; • Anti-social behaviour reduction including drug abuse and domestic violence; • Community Wardens including dog wardens; • CCTV; • Trading Standards; • Licensing-including fares and fees • Environmental Health; • Food Safety; • Air Pollution control and monitoring; • Gypsies and travellers; • Contaminated Land; • Pest and Vermin Control; • Overall responsibility for monitoring all enforcement activity. <p>Localism</p> <ul style="list-style-type: none"> • Local Area Partnership (LAP) and Neighbourhood working; • Neighbourhood and Community Cohesion; • Cultural Strategy; • Markets; • Public conveniences; • Operational delivery of Cultural services including: <ul style="list-style-type: none"> ○ Tourism and Visitor Economy; ○ Tatton Park; ○ Arts promotion; ○ Events programme co-ordination; • Registration Services; (births, marriages and deaths); • Community Assets.
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Barry Moran	Westfields Middlewich Road Sandbach CW11 1HZ	Sandbach Town	Performance Portfolio <ul style="list-style-type: none">• Performance Management Framework;• Project and Programme Management Framework;• Human Resources;• Organisational Development;• Workforce Development• Occupational Health;• Corporate Health and Safety;• Shared Services/ CoSocius;• Business Improvement Programme lead.
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Peter Raynes	Westfields Middlewich Road Sandbach CW11 1HZ	Knutsford	Finance Portfolio Finance <ul style="list-style-type: none"> • Finance Service; • The budget and business planning; • Capital Programme; • Capital Strategy; • Reserves Strategy; • Income and Funding Strategy; • Treasury Management; • Business Management; • Insurance; • Internal Audit Responsibilities; • External Audit Responsibilities; • Pensions; • Corporate and Business Planning; • Revenues and Exchequer Functions, including Benefits; • Shared Services/ CoSocius. Assets <ul style="list-style-type: none"> • Asset Management Plan; • Property services including farms estate; • Corporate Landlord function in respect of all Council property; • Council Property functions including; <ul style="list-style-type: none"> ○ Council land policy, usage, sales, valuations; ○ Facilities management and the allocation of office space, including; cleaning and postal services; ○ The Council's conference facilities and allied establishments; ○ Security of Council buildings; • Accessibility within Council buildings.
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14/05/2014

Don Stockton	Westfields Middlewich Road Sandbach CW11 1HZ	Wilmslow Lacey Green	Housing and Jobs Portfolio <ul style="list-style-type: none"> • Economic Development; • Employment Initiatives; • Credit Union and Co-op Development; • Regeneration; • Cheshire East Engine of the North; • Public and Private Sector Housing; • Homelessness Strategy; • Building Control; • Development Management; • Energy; • Town Centre Management; • Economic Twinning.
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14/05/2014

David Topping	Westfields Middlewich Road Sandbach CW11 1HZ	Congleton West	Service Commissioning Portfolio Responsibilities <ul style="list-style-type: none"> • Highways Operations- including Public Rights of Way & Countryside (PROW); • Car Parking; • Carbon Reduction; • Waste and Recycling (ANSA); • Environmental and Cleansing services (ANSA); • Street Scene (ANSA); • Crematoriums and Burial Services (Orbitas); • Planning Support Company (TBC); • Transport Specialist Solutions Company (TBC); • Energy Company (TBC). ASDVs <ul style="list-style-type: none"> • Budget and service delivery of ASDVs (<i>Note that the Portfolio does not include Engine of the North, CoSocius and Everybody Sport and Recreation Trust</i>); • To report to Cabinet on all ASDV matters (<i>Note that the Portfolio does not include Engine of the North, CoSocius, and the Everybody Sport and Recreation Trust</i>). • To review functions and departments of the Council which are seen as potential areas for ASDV operation; • ASDV Policy; • ASDV Communication and Marketing; • ASDV Performance.
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Updated 14 May 2014

APPENDIX ONE – 14 May 2014

CHESHIRE EAST COUNCIL - POLITICAL PROPORTIONALITIES ON ALL BODIES
(other than those to be appointed on an ad-hoc basis) C=Chair VC=Vice-Chair

Committee	Con	Lab	Independent	Lib Dem	UKIP/	Total
Cheshire East Overview and Scrutiny	8 (7.93) C	2 (2.38)	2 (1.90) VC	1 (0.63)	0 (0.16)	13
Communities Overview and Scrutiny	5 (4.88) C	2 (1.46) VC	1 (1.17)	0 (0.39)	0 (0.10)	8
Environment Overview and Scrutiny	5 (4.88) C	1 (1.46) VC	1 (1.17)	1 (0.39)	0 (0.10)	8
Life Skills Overview and Scrutiny	5 (4.88) C	2 (1.46)	1 (1.17) VC	0 (0.39)	0 (0.10)	8
Health and Adult Social Care Overview and Scrutiny	5 (4.88) C and VC	1 (1.46)	1 (1.17)	1 (0.39)	0 (0.10)	8
Economy Overview and Scrutiny	5 (4.88) C and VC	2 (1.46)	1 (1.17)	0 (0.39)	0 (0.10)	8
Audit and Governance Committee	6 (6.10)	2 (1.83)	1 (1.46)	1 (0.49)	0 (0.12)	10
Constitution	9 (8.53)	2 (2.56)	2 (2.05)	1 (0.68)	0 (0.17)	14
Strategic Planning Board	9 (9.15)	2 (2.74)	2 (2.19)	1 (0.73)	0 (0.17)	15
Northern Planning Committee	9 (9.15)	3 (2.74)	2 (2.19)	1 (0.73)	0 (0.17)	15
Southern Planning Committee	9 (9.15)	3 (2.74)	2 (2.19)	1 (0.73)	0 (0.14)	15
Public Rights	4	1	2	0	0	7

Updated 14 May 2014

of Way	(4.27)	(1.28)	(1.02)	(0.34)	(0.08)	
Licensing Committee	9 (9.15)	3 (2.74)	2 (2.19)	1 (0.73)	0 (0.17)	15
Staffing	5 (4.88)	2 (1.46)	1 (1.17)	0 (0.39)	0 (0.10)	8
Lay Members Appointments	3 (3.05)	1 (0.91)	1 (0.73)	0 (0.24)	0 (0.06)	5
Local Authority School Governor Appointments Panel	3 (3.05)	1 (0.91)	1 (0.73)	0 (0.24)	0 (0.06)	5
Civic Sub Committee	4 (4.88)	1 (1.46)	2 (1.17)	0 (0.39)	1 (0.10)	8
Community Governance Review Sub Committee	4 (3.66)	1 (1.10)	1 (0.88)	0 (0.29)	0 (0.07)	6
Polling Arrangements Review Sub Committee	4 (3.66)	1 (1.10)	0 (0.88)	0 (0.29)	1 (0.07)	6
Outside Organisations Sub Committee	4 (3.66)	1 (1.10)	1 (0.88)	0 (0.29)	0 (0.07)	6
Total Places allocated	115	34	28	9	2	188
Total places available						188
Proportional Entitlement	114.63 (115) (60.98%)	34.39 (34) (18.29%)	27.51 (28) (14.63%)	9.17 (9) (4.88%)	2.29 (2) (1.21%)	188 (100%)
Difference	0	0	0	0	0	

COUNCIL – 17 JULY 2014**NOTICES OF MOTION****Submitted to Council in Accordance with Procedure Rule 12****1 Phone Contract****Proposed by Councillor David Brickhill**

When Vodaphone's current contract(s) with this Council expire, very careful consideration should be given to any proposal to enter into new contracts with the company directly or on our behalf by Cosocius. Such consideration must include a robust assessment of the quality of the product which would be the subject of the contract.

2 Making Roads on New Estates Subject to a 20mph Speed Limit**Proposed by Councillor Rod Fletcher and seconded by Councillor David Neilson**

Most, if not all, new approved Planning Applications for large estates have a condition that the developers build the road in a way that is unsuitable for driving at speeds in excess of 20mph.

However, it appears that not all residents or visitors to these estates are aware that the roads on these new estates are usually set at different levels can damage their vehicles if they drive in excess of 20mph.

Local garages have stated that the increase in damage to cars is being caused by potholes, the poor state of Cheshire roads, and driving at excess speed over road humps.

The Council therefore calls for official 20mph speed limits to be imposed when Cheshire East Planning Department imposes a condition that roads be built to ensure that speeds are limited to 20mph maximum and that any associated legal costs and erection of signs is paid for by the developers.

3 Definition of a Sustainable Development**Proposed by Councillor Sam Corcoran**

This Council should provide a working definition of sustainable development in Cheshire that our planning officers could use and justify objectively when assessing planning applications.

4 Definition of Emergency Powers

Proposed by Councillor Arthur Moran and seconded by Councillor David Brickhill

That the Constitution Committee carefully define 'emergency' so that emergency powers are used only in a real emergency.

5 Review of Cabinet System

Proposed by Councillor Brendan Murphy and seconded by Councillor David Brickhill

That the Cabinet system be reviewed so that the next administration will have the option of a more democratic and inclusive alternative.

6 Changes to Venues for Council Meetings

Proposed by Councillor Simon McGrory and seconded by Councillor Penny Butterill

The Council expresses dissatisfaction that the Southern Planning Committee, not for the first time, was displaced from its established meeting room which had been booked a year in advance. Instead it had to use the Library with no sound system and delayed IT. This was to make way for an appeal hearing which could and should have been accommodated elsewhere.

If a Council committee is booked for a specific venue, under no circumstances should it be relocated elsewhere unless the room is made unavailable by an emergency such as a fire.

7 Members Handbook

Proposed by Councillor Penny Butterill and seconded by Councillor Andy Barratt

That the Members Handbook be published in hard copy to all Members.

8 I-Pads and Tablet Devices

Proposed by Councillor Simon McGrory and seconded by Councillor Michelle Sherratt

That I-Pads or suitable alternative tablets should be made available to Members at the earliest opportunity.

9 Planning Inspectorate Decisions

Proposed by Councillor Barry Burkhill and seconded by Councillor David Brickhill

In a time when we are trying to secure public trust and restore confidence in a system of democracy and priorities of acceptable locations, this Council deplores the planning inspectorate making decisions in the face of the wishes of our local committees and our parish councils. It therefore condemns the Government at Westminster for its policy on granting planning permission for sites not within the submitted local plan. It strongly recommends and requests that the Chief Executive and the Leader contact all local MPs to press them to urge withdrawal of the policy which causes this excess pressure on some Cheshire East communities.

10 Queen's Baton Relay

Proposed by Councillor David Brown and seconded by Councillor Janet Clowes

Cheshire East Council recognises all the hard work undertaken to make the recent visit to Congleton of the Queen's Commonwealth Baton Relay such a resounding success and congratulates all those involved in making the bid for the Relay to come to Congleton. Over ten thousand local residents enjoyed a day in Congleton Park that resulted from the fantastic working together of officers from this Council, Congleton Town Council, Team Congleton, local sports groups, Everybody Sports & Recreation Trust, local businesses, schools and volunteers who together further raised the profile of both the Town and the Borough in such a positive way.

11 £900,000 Underspend

Proposed by Councillor Peter Raynes

Council welcomes the news that there has been a £900,000 underspend against the 2014/14 budget; acknowledges that this is the result of prudent financial management; and commits to using this money to benefit the residents of Cheshire East Borough. Delegated powers should be provided to the Cabinet to prepare a public report setting out how this money will be spent

12 Dementia

Proposed by Councillor Janet Clowes

This Council will pro-actively maintain in the momentum to ensure that that Borough becomes increasingly Dementia Friendly.

The Council is proud to be leading the way nationally to ensure those living with dementia and their carers have the support they need. The new plans for dementia support are innovative and wide-ranging and will make a real difference by ensuring earlier diagnosis, support and reablement. The

Council recently held a hugely successful event at Tatton Park which brought over 100 business and community leaders together to pledge to make Cheshire East Dementia Friendly, this is a landmark that sets the course for the call to action from the Council to help those with this debilitating illness and their carers.

13 Peace Pole on Scotch Common, Sandbach

Proposed by Councillor Sam Corcoran

This Council supports the efforts of Churches Together in Sandbach, with support from Sandbach Town Council, to plant a Peace Pole on Scotch Common in Sandbach.

CHESHIRE EAST COUNCIL

REPORT TO: COUNCIL

Date of Meeting:	17th July 2014
Report of:	Chief Operating Officer (Section 151 Officer)
Subject/Title:	Recommendations from 2013/2014 Outturn Report to Cabinet
Portfolio Holder:	Cllr. Peter Raynes

1.0 Report Summary

- 1.1 On 1st July 2014, Cabinet received a report on the 2013/14 Final Outturn Review of Performance (Agenda Item 7). The report set out the Council's improved overall performance for 2013/14, and strong financial position reflecting its enhanced governance, innovative delivery arrangements and effective stewardship of public money. An underspend of £0.9m (0.35%) was reported compared to an approved revenue budget of £260m. The report also contained recommendations that Council create earmarked reserves; the approach follows processes set out in Finance Procedure Rules and the Reserves Strategy.

2.0 Recommendations

- 2.1 Council is asked to approve the creation of earmarked reserves as recommended by Cabinet, and as set out in **Appendix 1**.

3.0 Reasons for Recommendations

- 3.1 The Council's Finance Procedure Rules provide authority to Council to create earmarked reserves.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 The impact of the earmarking of reserves will be fed into the assumptions underpinning the 2015/18 medium term financial strategy.

7.0 Financial Implications (Authorised by the Chief Operating Officer)

- 7.1 As explained in this report. Full detail of the Council's 2013/214 Outturn is provided in the Cabinet Report (Agenda item 7, 1st July 2014)

8.0 Legal Implications (Authorised by the Head of Legal Services)

8.1 None.

9.0 Risk Management

9.1 Risks associated with the achievement of the 2013/14 budget - and the level of general reserves - were factored into the 2014/15 financial scenario, budget and reserves strategy that was approved by Council in February 2014.

10.0 Background

10.1 The Council's Reserves Strategy states that the Council will maintain reserves to protect against risk and support investment.

10.2 After allowing for the earmarking of reserves in this report, general reserves at 31 March 2014 will stand at £19.8m. However, in setting the 2014/15 budget, Council approved the establishment of a £5.3m earmarked reserve to support activity that will increase the longer term financial resilience of the Council, particularly in relation to growth in income from local sources. General Reserves will remain in line with the risk assessed level, as detailed in the 2014/2017 Budget Report (Council February 2014).

11.0 Access to Information

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

Name: Peter Bates
Designation: Chief Operating Officer, (Section 151 Officer)
Tel No: 01270 686013
Email: peter.bates@cheshireeast.gov.uk

Appendix 1 – Requests for Establishment of Earmarked Reserves

The table below includes all earmarked reserves, with highlighted items requiring approval.

Name of Reserve	Opening Balances 1 April 2013 £000	Movement in 2013/14 £000	Balance at 31 March 2014 £000	Purpose
Children & Families				
Long Term Sickness	150	63	213	LTS Insurance Scheme, surplus premiums paid by schools ~ operated as a trading account
Education All Risks (EARS)	160	101	261	Carried forward surplus of insurance premiums paid by schools ~ operated as a trading account
Children's Social Care	0	650	650	To support implementation of Children's social care bill
Adult Social Care and Independent Living				
Extra Care Housing PFI	1,128	338	1,466	Surplus grant set aside to meet future payments on existing PFI contract which commenced in January 2009
Individual Commissioning	0	580	580	To provide capacity to perform Deprivation of Liberties and Best Interest reviews of care customers following recent case law
NHS Section 256	0	1,784	1,784	To support adult social care which also has a health benefit, as agreed with Eastern Cheshire and South Cheshire Clinical Commissioning Groups and governed by Cheshire East Health and Wellbeing Board.
Public Health	0	1,620	1,620	Ring-fenced underspend to be invested in areas to improve performance against key targets. Including the creation of an innovation fund to support partners to deliver initiatives that tackle key health issues.

Name of Reserve	Opening Balances 1 April 2013 £000	Movement in 2013/14 £000	Balance at 31 March 2014 £000	Purpose
Environmental & Leisure				
Crematoria	367	0	367	Mercury abatement income set aside to fund potential replacement cremators as per the capital programme.
Winter Weather	0	120	120	To provide for future adverse winter weather expenditure
Economic Growth & Prosperity				
Building Control	181	0	181	Ring-fenced surplus (could be used to offset service deficit, if applicable)
Tatton Park	238	3	241	Ring-fenced surplus on Tatton Park trading account
Economic Development	223	-82	141	Support for town centres and economic development initiatives
Communities				
Communities Investment <small>Note 1</small>	457	2,311	2,768	This represents an amalgamation of promoting local delivery, grant support; new initiatives and additional funding from the outturn. It will be used to support investment in community hubs, partnerships, grants and general community activities that benefit residents
Emergency Assistance	0	400	400	Underspend on Benefits to be used to extend the life of the Emergency Assistance scheme to provide funding to the most vulnerable beyond 2014/15 when the funding ceases
Chief Operating Officer				
Invest to Save	255	-255	0	Central reserve to support invest-to-save projects. This has been fully spent in 2013 /14.
Elections	0	486	486	To provide funds for Election costs every 4 years

Name of Reserve	Opening Balances 1 April 2013 £000	Movement in 2013/14 £000	Balance at 31 March 2014 £000	Purpose
Insurance & Risk Climate Change	3,712 67	-936 0	2,776 67	To settle insurance claims and manage excess costs. Renewable Energy project
Investment (Sustainability) <small>Note 2</small>	0	2,050	2,050	To support investment that can increase longer term financial independence and stability of the Council. This is additional to the £5.3m previously approved for 2014/15, creating a reserve of £7.4m.
Pension Contributions	0	150	150	To meet impact of reduced workforce on fixed contribution to Past Service Pensions deficit
Business Rates Retention Scheme	0	5,071	5,071	To manage cash flow implications following changes from the 2012/13 NNDR system
Service Manager carry fwd	1,623	2,862	4,485	See Table 13 in Annex 1 of the 2013/14 Final Outturn Review of Performance report.
TOTAL <small>Note 3</small>	8,561	17,316	25,877	

Notes:

- Existing communities reserves now amalgamated under Communities Investment
- Additional to Investment reserve of £5.300m approved to be established from 1 April
- Figures exclude:
 - Schools balances £8.810m
 - Grants Reserves £0.467m
- Proposed earmarked reserves to be created at March 2014 are highlighted

COUNCIL MEETING – 17 JULY 2014

**Extract from the Minutes of the Audit and Governance Meeting on
26 June 2014**

6 ARRANGEMENTS REVIEW FOR BREACHES OF MEMBERS CODE OF CONDUCT

Revised arrangements for dealing with standards allegations under the Localism Act 2011 were considered by the Committee. This followed a review of the procedure that had been adopted by the Council in July 2012; an Appendix to the report set out the proposed new arrangements in detail.

The review of arrangements for assessing and investigating member complaints had shown that the main criticisms of both subject members and complainants were of delay and complexity. The report set out the proposed changes under which the initial assessment of complaints would be undertaken by the Monitoring Officer, in consultation with an Independent Person, with the emphasis being on the Monitoring Officer dealing with complaints in a timely manner. The assessment criteria had been amended to state that the Council will not normally investigate or pursue other action if the events occurred more than 6 months prior to the complaint being submitted (except in exceptional circumstances), this had been reduced from 12 months. It detailed changes to the informal resolution process, which would not include a public hearing, and for public local hearings which were to follow a full investigation. It was not intended there would be an appeal process at any stage, the emphasis being on running a fair process in which members could be confident.

The Head of Legal Services and Monitoring Officer informed the Committee that the scheme proposed, whilst adopted for the needs of Cheshire East Council, was similar to many across the country. In response to a question concerning the sanctions that could be imposed by the Hearing Sub-Committee it was agreed that “if relevant to the subject matter of the complaint” be added to the wording regarding withdrawal of facilities and exclusion from premises.

The Committee welcomed the proposed revisions and requested that a review of the scheme be carried out 12 months after implementation.

RESOLVED

1. That Council be recommended to approve the revised arrangements for dealing with standards allegations under the Localism Act 2011, as detailed in Appendix 1 of the report.
2. That the revised arrangements be reviewed 12 months after implementation, and reported to the next Audit and Governance Committee, including the views of the Independent Persons who have assisted in the process.

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CHESHIRE EAST COUNCIL

Audit and Governance Committee

Date of Meeting: 26th June 2014
Report of: Head of Legal Services and Monitoring Officer
Subject/Title: Arrangements review of processes for considering complaints that members have breached the Code of Conduct

1.0 Report Summary

- 1.1 This report proposes amended arrangements for considering complaints that members may have breached the Code of Conduct.

2.0 Recommendations

That members recommend to Council:

- 2.1 the revised arrangements for dealing with standards allegations under the Localism Act 2011 at Appendix 1 of the report.

3.0 Reasons for Recommendations

- 3.1 The procedure the Council adopted for dealing with complaints against members and investigations on 19th July 2012 has been in operation since that date. A review has been undertaken by a working group of the Audit and Governance Committee to assess how the arrangements were working and to consider any improvements in line with best practice.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 Strong Ethical Governance, including clear policies and protocols supporting and underpinning the Code of Conduct, are critical for the ethical governance of the Council and for public confidence in the Council's decision making processes.

7.0 Financial Implications (Authorised by the Chief Operating Officer)

- 7.1 Costs in relation to any investigations, particularly external investigations, and hearings are dependent upon the number of complaints received, however it is anticipated that these costs will be met from existing resources.

8.0 Legal Implications (Authorised by the Head of Legal Services)

- 8.1 The Localism Act 2011 is being implemented over a phased period of time. The provisions in relation to the replacement of the current Standards regime were brought into effect from 1st July 2012. The Act required that the Council adopted a Code of Conduct and had in place effective procedures to enable the investigation of any complaints or allegations that a Member had breached of the Code of Conduct. The Borough Council remains responsible for investigating any allegations that a Town or Parish Councillor is in breach of their adopted Code of Conduct. The proposed arrangements comply with the statutory requirements.

9.0 Risk Management

- 9.1 The Council must have robust processes in place both from a reputational management viewpoint and to safeguard the integrity of the Council's Corporate Governance and Decision making processes as a whole.

10.0 Background and Options

- 10.1 Under the Localism Act 2011 the Council has a statutory duty to promote and maintain high standards of conduct by both its Elected Members and co-opted Members. The Council must adopt a Code of Conduct which sets out the conduct expected of Members whenever they act in their capacity as an Elected Member and must also have in place a suitable procedure at a local level to investigate complaints that a Member may be in breach of the Code of Conduct.

- 10.2 At its meeting on 19 July 2012 Full Council approved the adoption of a new Code of Conduct for Elected Members of Cheshire East Council together with a procedure relating to the investigation of complaints under the new Code.

10.3 Review Findings

The review of the arrangements for assessing and investigating member complaints has shown that the main criticisms of the current system for both subject members and complainants are of delay and complexity.

- 10.4 In abolishing the previous standards regime Parliament's intention was to reduce the time and expense that Authorities spent in dealing with low level complaints. The aim was for a local hearings process to be used for only the most serious complaints.

- 10.5 The design of any system must take account of the fact that the Borough Council must administer the complaints process for 106 Town and Parish Councils in addition to the Borough Council itself. It is therefore essential that there is a good filter process to ensure that complaints are dealt with appropriately according to the assessment criteria.
- 10.6 By introducing a local resolution process the Council recognises the wish to deal with matters swiftly and informally whilst taking member complaints seriously.
- 10.7 In practice the feedback and commentary show that the local resolution process has become too formal and slow. The local resolution process has instead taken on all the complexity of a local hearing process which was not the original intention. Commendably members sought to own the complaints process and play an active role in overseeing strong ethical governance.
- 10.8 Some of the delay in resolving the complaints has been the need to convene the Initial Assessment Panels.

10.9 Initial Assessment

The changes that are proposed are that the initial assessment of complaints should be undertaken by the Monitoring Officer in consultation with an Independent Person. That assessment, against the criteria set out in Appendix 1 should take account of any comments received from the subject member.

10.10 Informal Resolution

The emphasis, wherever possible, will be placed on the Monitoring Officer dealing with complaints in a timely manner. Where complaints do not raise serious issues the Monitoring Officer will seek informal resolution rather than refer them for investigation.

- 10.11 Consistent with her duty to uphold standards of conduct, the Monitoring Officer will seek the simplest and most cost-effective way of resolving the issue. This informal resolution process will not include a public hearing.

10.12 Local Hearings

A local hearing process is set out in the Appendix and will follow a full investigation. An investigation could be undertaken by an appropriately trained senior officer of this or another Council, or by an external investigator.

- 10.13 It is intended that there should not be an appeal process at any stage of the process. The principals of Natural Justice are not affected as

ultimately a complainant or subject member could seek resolution from the Local Government Ombudsman or ultimately through the Court.

- 10.14 It is anticipated that all local hearings will be conducted in public.
- 10.15 In the interests of fairness and natural justice, if an appeal process is provided following any part of the complaint procedure it should be affordable to both the subject member and the complainant. For example a complainant could seek to have a no breach finding returned in the same way as a subject member.
- 10.16 The legal advice to Authorities has consistently been not to introduce an appeal process as this would need to be based on strict criteria which would be very difficult to administer and would again build in complexity and delay.
- 10.17 Unlike the judicial system it would be almost impossible to ensure sufficient rigour to deny a right of appeal to either a subject member or complainant. The effect would be to build in two hearings which would replicate the problems experienced to date but at a different part of the process.
- 10.18 Although each Authority is responsible for designing and adopting its own process for dealing with complaints, it is telling to note that there are limited examples of any appeals process. Those that exist afford the same right of appeal to both a subject member and complainant.
- 10.19 For these reasons it is not recommended to members to build in any appeals. The emphasis should be on running a fair process that members can have confidence in.

11.0 Access to Information

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

Name: Anita Bradley

Designation: Head of Legal Services and Monitoring Officer

Tel No: 01270 685850

Email: anita.bradley@cheshireeast.gov.uk

Cheshire East Borough Council

Appendix 1 to the Report

**ARRANGEMENTS FOR DEALING WITH STANDARDS
ALLEGATIONS UNDER THE LOCALISM ACT 2011**

1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this Authority or of a Town or Parish Council within its area has failed to comply with the Authority’s Code of Conduct. They also set out how the Authority will deal with allegations of a failure to comply with the Authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011 the Council must have in place “arrangements” under which allegations that a member or co-opted member of the Authority or of a Town or Parish Council within the Authority’s area, or of a Committee or Sub-Committee of the Authority, has failed to comply with that Authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Authority to appoint at least one Independent Person, whose views must be sought by the Authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Authority at any other stage, or by a member or a member or co-opted member of a Town or Parish Council against whom an allegation has been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as **Appendix 1**, available for inspection on the Authority’s website and on request from the Monitoring Officer at Cheshire East Borough Council.

Each Town or Parish Council is also required to adopt a Code of Conduct. If you wish to inspect a Town or Parish Council’s Code of Conduct, you should look on their website in the first instance. You may also ask the Town or Parish clerk to allow you to inspect the Code of Conduct.

3 Making a complaint

Complaints must be submitted in writing. If you wish to make a complaint, please complete the Standard Complaint Form at **Appendix 2**. Please send your complaint to:

The Monitoring Officer
Cheshire East Borough Council
Westfields
Middlewich Road
Sandbach, CW11 1HZ

Or email:

MonitoringOfficerCEC@cheshireeast.gov.uk

The Monitoring Officer is a senior officer of the Authority with statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct and is the Council's Proper Officer for all such matters.

In order to ensure that we have all the information which we need to be able to process your complaint you need to provide us with:

- the name of the member(s) you believe have breached the Code of Conduct
- the name of their Authority.
- Please explain what the member has done that you believe breaches the Code of Conduct.
- if you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account regarding your complaint. For example:

- You should be specific, wherever possible about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was that they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Whilst not acknowledging that your complaint is justified and without prejudice, it would help in dealing with your complaint to know what your desired outcome of this complaint might be. If you feel able to provide this information please do so.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress.

If you want to keep your name and address confidential, please ensure that you complete section 5. You must also provide good reasons why you believe we should withhold your details. It is expected that it is only in exceptional circumstances that the right for confidentiality will be granted, as this may prejudice the right of the subject member to respond to the complaint.

Please note that requests for confidentiality will not automatically be granted. The Monitoring Officer in consultation with an Independent Person will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the complaint is about a very serious matter, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Requests for confidentiality will be considered using the following criteria -

- The complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed;
- The complainant is an officer who works closely with the Subject Member(s) and they are afraid of the consequences to their employment or of losing their job if their identity is disclosed;
- The complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed. Medical evidence may be requested in support of this criterion;
- Whether the complaint can be investigated without revealing the complainant's identity.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of progress.

A full copy of your complaint will, subject to any ruling on disclosure, ordinarily be sent to the Member concerned inviting their written comments within 5 working days of receipt.

4. Will your complaint be investigated?

The Monitoring Officer will review every complaint received against the Assessment Criteria set out in **Appendix 3** and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 20 working days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information. He/she may also request information from the member against whom your complaint is directed. Where your complaint relates to a Town or Parish Councillor, the Monitoring Officer may also inform the Clerk of the Town or Parish Council of your complaint and may seek the views of the Town or Parish Council before deciding whether the complaint merits formal investigation.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation for example, through mediation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action suggested by the Authority. Where the member or the Authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

5 How is the investigation conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer. This may be another senior officer of the Authority, an officer of another Authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can:

- explain your understanding of events
- suggest what documents the Investigating Officer needs to see
- suggest who the Investigating Officer needs to interview.

The Investigating Officer will normally write to the member against whom you have complained and provide him/her with a copy of your complaint. He/she will also ask the member to provide his/her explanation of events, and to identify what documents he/she needs to see and who he/she needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member or. In exceptional circumstances only, the Monitoring officer, may decide to delay notifying the member initially.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned. This provides you both with the opportunity to identify any matter, in that draft report, that you disagree with or that you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned notifying you that he/she is satisfied that no further action is required. He/she will also give you both a copy of the Investigating Officer's final report. Where your complaint relates to a Town or Parish Councillor the Monitoring Officer will also write to the Clerk of that Authority.

If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then send the matter for informal resolution or, after consulting the Independent Person seek a local hearing before the Hearing Sub-committee.

7.1 Informal Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant to seek to agree what you consider to be a fair resolution and which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action agreed by the Authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit and Governance Committee and the Town or Parish Council (where relevant) for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer may (but is not required to) refer the matter for a local hearing.

The emphasis, wherever possible, will be placed on the Monitoring Officer dealing with complaints in a timely manner. Where complaints do not raise serious issues the Monitoring Officer will seek informal resolution rather than refer them for investigation.

Consistent with his/her duty to uphold standards of conduct, the Monitoring Officer will seek the simplest and most cost-effective way of resolving the issue. This informal resolution process will not include a public hearing.

7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearing Sub-committee. That committee will then conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct.

The procedure for a Hearing Sub-committee is attached as **Appendix 6** to these arrangements.

In summary, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report. This is done to establish what is likely to be agreed and what is likely to be in contention at the hearing. The Chair of the Hearing Sub-committee may also issue directions as to the manner in which the hearing will be conducted, for example agreeing the number of witnesses. Directions may be given either before or at the hearing taking account of the advice of the Monitoring Officer.

At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you, as the complainant, to attend and give evidence to the Hearing Sub-committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearing Sub-committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Hearing Sub-committee will decide, with the benefit of any advice from the Independent Person, and may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. Where the Hearing Sub-committee concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding. The Hearing Sub-committee will explain the reasons why any advice from the Independent Person has or has not been followed in giving its decision. The Hearing Sub-committee will then consider what action, if any, it should take as a result. The Hearing Sub-committee will give the member an opportunity to make his/her representations and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8. What action can the Hearing Sub-committee take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Hearing Sub-committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearing Sub-committee may –

- Censure or reprimand the member.
- Publish its findings in respect of the member's conduct;
- Report its findings to Cheshire East Borough Council or to the Town or Parish Council for information and make any recommendations;
- Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Instruct the Monitoring Officer to, or recommend that the Town or Parish Council, arrange training for the member;
- Remove, or recommend to the Authority, or Town or Parish Council to remove, the member from all outside appointments to which he/she has been appointed or nominated by the Authority or by the Town or Parish Council;

- Withdraw or recommend to the Authority, or Town or Parish Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access if relevant to the subject matter of the complaint;
- Exclude, or recommend that the Authority, or Town or Parish Council exclude, the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings if relevant to the subject matter of the complaint.

The Hearing Sub-committee has no power to suspend or disqualify the member or to withdraw members' special responsibility allowances.

9 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Hearing Sub-committee and any actions which the committee resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer will prepare a formal decision notice in consultation with the Chair of the Hearing Sub-committee and send a copy to you, to the member, and to the Town or Parish Council. He/she will also make that decision notice available for public inspection and report the decision to the next convenient meeting of the Audit and Governance Committee.

10 Who are the Hearing Sub-committee?

The Hearing Sub-committee is a Sub-Committee of the Council's Audit and Governance Committee. The Council has decided that it will be made up of 3 members and be drawn from a panel of 15 members of the Council

The Independent Person is invited to attend all meetings of the Hearing Sub-committee and his/her views are sought and taken into consideration before the Hearing Sub-committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement. He/she is appointed by Council.

A person cannot be "independent" if he/she –

- 11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the Authority;
- 11.2 Is or has been within the past 5 years, a member, co-opted member or officer of a Town or Parish Council within the Authority's area, or

11.3 Is a relative or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means –

- 11.3.1 Spouse or civil partner;
- 11.3.2 Living with the other person as husband and wife or as if they were civil partners;
- 11.3.3 Grandparent of the other person;
- 11.3.4 A lineal descendent of a grandparent of the other person;
- 11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
- 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
- 11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

12 Revision of these arrangements

The Monitoring Officer has delegated power, in consultation with the Independent Person and the Chair of the Audit and Governance Committee or in his/her absence the Vice Chair of Audit and Governance, to approve a departure from these arrangements when he/she considers it is expedient to do so to secure the effective and fair consideration of any matter.

The Chair of the Hearing Sub-committee has the right to depart from the Hearing Sub-committee procedure, in consultation with the Monitoring Officer, at any hearing where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

The Chair of the Hearing Sub-committee is appointed by the three members who will sit at the particular hearing either in advance of the hearing or by vote at the start of the hearing.

An overview of the procedure is attached at **Appendix 4** together with a flowchart at **Appendix 5**.

13 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearing Sub-committee. If you feel that the Authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

List of Appendices

Appendix 1	Cheshire East Borough Council Code of Conduct
Appendix 1a	General Dispensations granted by Audit and Governance Committee on 27 th September 2012.
Appendix 2	Standard Complaint Form
Appendix 3	Assessment Criteria
Appendix 4	Overview of procedure for considering complaints that members have breached the code of conduct.
Appendix 5	Flowchart
Appendix 6	Procedures for Local Hearings

Arrangements proposed to be adopted by Council on 17 July 2014

Appendix 1

Cheshire East Borough Council

CODE OF CONDUCT FOR MEMBERS –2012

Cheshire East Borough Council has adopted this Code of Conduct to promote and maintain high standards of conduct and underpin public confidence in the authority and its members and co-opted members.

The Code has been adopted under section 27 of the Localism Act 2011 and is based on the following core principles of public life - selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It sets out general obligations about the standards of conduct expected of members and co-opted members of the authority, together with provisions about registering and declaring interests.

A General Obligations

Whenever you are acting as a member or co-opted member of this authority you must act in accordance with the following obligations:

Selflessness

- 1 You must act solely in the public interest and must never use or attempt to use your position improperly to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, friends or close associates.

Integrity

- 2 You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

You should exercise independent judgement. Although you may take account of the views of others (including a political group), you should reach your own conclusions on the issues before you and act in accordance with those conclusions.

Objectivity

- 3 When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You should remain objective, listen to the interests of all parties appropriately and impartially and take all relevant information, including advice from the authority's officers, into consideration.

Accountability

- 4 You are accountable to the public for your decisions and you must co-operate fully with whatever scrutiny is appropriate to your office, including by local residents.

Openness

- 5 (a) You must be open and transparent where possible about your decisions and actions and the decisions and actions of your authority. You should be prepared to give reasons for those decisions and actions. You must not prevent anyone getting information that they are entitled to by law.

(b) Where the law or the wider public interest requires it, you must not disclose confidential information or information to which public access is restricted. (see footnote)

Honesty

- 6 (a) You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests as set out in Section B below.

(b) You must only use or authorise the use of the authority's resources in accordance with the authority's requirements. You must, when using or authorising the use by others of such resources, ensure that they are used for proper purposes only. Resources must not be used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986

Respect for others

- 7 (a) You must treat others with courtesy. You should engage with colleagues and staff in a manner that underpins mutual respect and courtesy, essential to good local government.

(b) You must not do anything which may cause your authority to breach any equality laws.

(c) You must not compromise or attempt to compromise the impartiality of anyone who works for, or on behalf of, the authority.

(d) You must not bully any person, including other councillors, officers of the authority or members of the public. (see footnote)

Leadership

- 8 You must promote and support high standards of conduct when serving as member or co-opted member of the authority, by leadership and example, championing the interests of the community.

You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

Gifts and Hospitality

- 9 You must within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £100 which you have accepted as a member from any person or body other than the authority. The Monitoring Officer will place your notification on a public register of gifts and hospitality.

Notes

“Confidential Information” should not be disclosed except in limited circumstances, for example:

- You have the consent of the person authorised to give it
- You are required by law to do so
- The disclosure is made on a confidential basis to a third party in order to obtain professional advice
- You have satisfied yourself that the disclosure is in the public interest

“Bullying” may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour and includes “cyber bullying”. It may happen once or be part of a pattern of behaviour. It can be contrasted with the legitimate challenges a member may make in challenging policy or scrutinising performance. You may challenge others as to why they hold their views but must take care to raise issues in the appropriate forum. Ideas and policies may be robustly criticised but individuals should not be subject to unreasonable or excessive personal attack.

B Registering and declaring pecuniary and non-pecuniary interests

- 1 You must, within 28 days of taking office as a member or co-opted member, notify your authority’s monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse’s or civil partner’s, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
- 2 In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority’s monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.
- 3 If an interest has not been entered onto the authority’s register, then you must disclose the interest to any meeting of the authority at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a ‘sensitive interest’*.
- 4 Following any disclosure of an interest not on the authority’s register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.
- 5 Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

*A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

Extract from the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

- The following categories are Disclosable Pecuniary Interests
- "M" denotes the relevant Elected Member

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(1).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.

(1) 1992 c. 52.

Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

NB: Under the Council's Standing Orders any Member of Cheshire East Borough Council who declares a Disclosable Pecuniary Interest in an item of Business should withdraw from the room at the appropriate juncture.

Appendix 1a

General Dispensations granted by Audit and Governance Committee on 27th September 2012.

At its meeting on 27 September 2012 the Audit and Governance Committee approved the following general dispensations:

Granted dispensations for all Members of the Council and co-opted members to speak and vote on a number of matters for a period of four years as follows:

- any allowance, payment or indemnity given to Members;
- any Ceremonial Honours given to Members;
- statutory sick pay under Part X1 of the Social Security Contributions and Benefits Act 1992 where they were in receipt of or entitled to receive such pay;
- setting the Council Tax or a precept under the Local Government and Finance Act 1992 (or any subsequent legislation);
- setting a Local Council Tax Reduction Scheme or Local scheme for the payment of business rates (Including eligibility for rebates and reductions) for the purposes of the Local Government Finance Act 2012 (or any subsequent legislation); and
- school meals or school transport or travelling expenses where the Member is a parent or guardian of a child in full time education or a parent governor (unless the matter relates specifically to the school the child attends).

Appendix 2

COMPLAINT FORM

Code of Conduct – Council, Town & Parish Councillors and Co-opted Member(s).

Your details-

1. Please provide us with your name and contact details.

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

2. Please tell us which complainant type best describes you:

- ☐ Member of the public
- ☐ An elected or co-opted Member(s) of an Authority or a Town and Parish Council
- ☐ Local Authority Monitoring Officer
- ☐ Other Council Officer or employee of the Council
- ☐ Other - please specify

3. Please provide us with the name of the Member(s) you believe have breached the Code of Conduct and the name of their Authority:

Title	First name	Last name	Council or Authority name

4. Please explain in this section (or on separate sheets) what the Member(s) has/have done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should explain clearly what each individual person has done which you believe breaches the Code of Conduct.

Please provide us with details of your complaint. Continue on a separate sheet if there is not enough space on this form.

5. Only complete this section if you are requesting that your identity is kept confidential

In the interests of fairness and natural justice, the Council believes that Member(s) who are complained about have a right to know who has made the complaint. The Council also believes they have a right to be provided with a copy of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

6. Signature:

I understand that by signing this form I am giving Cheshire East Borough Council permission to pass a copy of this complaint and any evidence supplied in support, to the individual ('the Subject Member') against whom the complaint has been made.

Signed: _____

Date: _____

7. Additional Help

Complaints must be submitted in writing. You may post, fax or email your signed, completed form to the Monitoring Officer. However, in line with the requirements of the Equality Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please contact Diane Moulson (Tel: 01270 686476).

Appendix 3

ASSESSMENT CRITERIA**Initial Tests**

Before any assessment of a complaint begins, the Monitoring Officer must be satisfied that the complaint meets the following tests:

- It is a complaint against one or more named Members of **Cheshire East Borough Council** or a Town or Parish Council within Cheshire East Borough;
- The named Member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time;
- The complaint, if proven, would be a breach of the Code under which the Member was operating at the time of the alleged misconduct.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code and the complainant will be informed that no further action will be taken in respect of the complaint.

If the above tests are met the Monitoring Officer will have regard to the following criteria:

1. **Adequate information** – The Monitoring Officer will want to be satisfied that it has sufficient information to decide whether the complaint should be referred for investigation or other action;
2. **Official Capacity** - The member was acting in an official capacity.
3. **Timescale** – The Monitoring Officer will take into account when the events subject to the complaint took place and will not normally investigate or pursue other action if the events occurred more than 6 months prior to the complaint being submitted (except if it decides there are exceptional circumstances);
4. **Seriousness of the complaint** – The Monitoring Officer will not normally refer a matter for investigation or other action if it is considered trivial, malicious, politically motivated or tit-for-tat;
5. **Public Interest** - If the complaint relates to an ex-Member of Cheshire East or one of its Town/Parish Councils who is now a Member of another Authority the Monitoring Officer may refer the matter to that Authority for consideration.

If the Member has resigned, is seriously ill or has died the Monitoring Officer will only refer the matter for investigation or other action if it considers that the public interest will be served by so doing. If the complaint has already been the subject of an investigation or other action relating to the Code of Conduct or has been investigated by other regulatory authorities it is unlikely to be referred for investigation or other action unless it is evident that public interest will be served by further action being taken.

The Monitoring Officer has the option to make the following decisions on any complaint;

- **That No Further Action be Taken in respect of the matter**
- **That the Matter be Referred to the Group Leader for Informal Action** – this will normally be only where the complaint relates to **Cheshire East Borough Councillors** and will not generally be appropriate if the complaint is from a member of the public.
- **That the Matter is Referred for Informal Resolution or other action** – this enables less serious complaints to be resolved speedily and cost effectively. The matter may subsequently be referred for formal investigation should it become apparent that the issues are more serious than was originally anticipated.
- **That the Matter is Referred for Formal Investigation by an Investigator**- this enables the most serious allegations to be thoroughly investigated. In most cases the Investigator will be expected to complete his investigation and produce a written report within 8 weeks of the referral.
- **That the Matter is Referred to the Police or other relevant Regulatory Agency** – this would be appropriate where it appears a criminal offence or breach of regulations may have taken place and in particular any failure to declare a Disclosable Pecuniary Interest under s 30 -31 of the Localism Act 2011.

Cheshire East Borough Council
July 2014

Appendix 4

OVERVIEW FOR CONSIDERING COMPLAINTS THAT MEMBERS HAVE BREACHED THE CODE OF CONDUCT

1. Complaints must be submitted to Cheshire East Borough Council's Monitoring Officer (MO) using the Council's Standard Complaint Form (**Appendix 2**) setting out in sufficient detail why the complainant considers there has been a failure to comply with the relevant Code of Conduct.

MO acknowledges receipt of the complaint within 5 working days

2. MO informs the Subject Member of:
 - (a) the complaint, and provides the Subject Member with a copy of the Complaint Form and the name of the Complainant, unless in exceptional circumstances where the Monitoring Officer, in consultation with the Independent Person has granted the Complainant's request for confidentiality. Under no circumstances must the Subject Member contact the Complainant direct regarding any of the issues raised.
 - (b) his/her right to consult the Independent Person (IP) appointed by the Council, through the MO.
 - (c) his/her right to provide the MO with his/her written response to the complaint. Any such response to be received by the MO within 5 working days after receipt of the complaint by the subject member.

3. Initial Assessment

MO, in consultation with IP, will make his/her initial assessment based on the criteria set out in **Appendix 3** capacity, within 20 working days of receipt of the complaint or, if applicable, within 20 working days of receipt of the written response by the subject member. That initial assessment will determine one or more of the following outcomes:

- (a) The complaint does not come within the remit of the Code of Conduct.
- (b) The complaint is not sufficiently serious to warrant an investigation.
- (c) That it is not in the public interest to investigate the complaint.
- (d) He/she should seek to resolve the complaint without the need for an investigation by informal resolution (e.g. by an apology, mediation, or training by the subject member).
- (e) The complaint should be referred to the Group Leader for informal action (NB for complaints against Cheshire East Borough Councillors only and not generally an appropriate action if the complaint is from a member of the public).
- (f) The Complaint should not be investigated because it is obsessive, vexatious, malicious or frivolous.
- (g) The Complaint should not be investigated because it is broadly similar to a complaint against the same Member about the same alleged incident.
- (h) The Complaint should not be investigated because there is a clear ulterior/political motive for it or it is just a tit for tat complaint.
- (i) An investigation should take place.
- (j) Refer the matter to the Police or other Regulatory Agency.

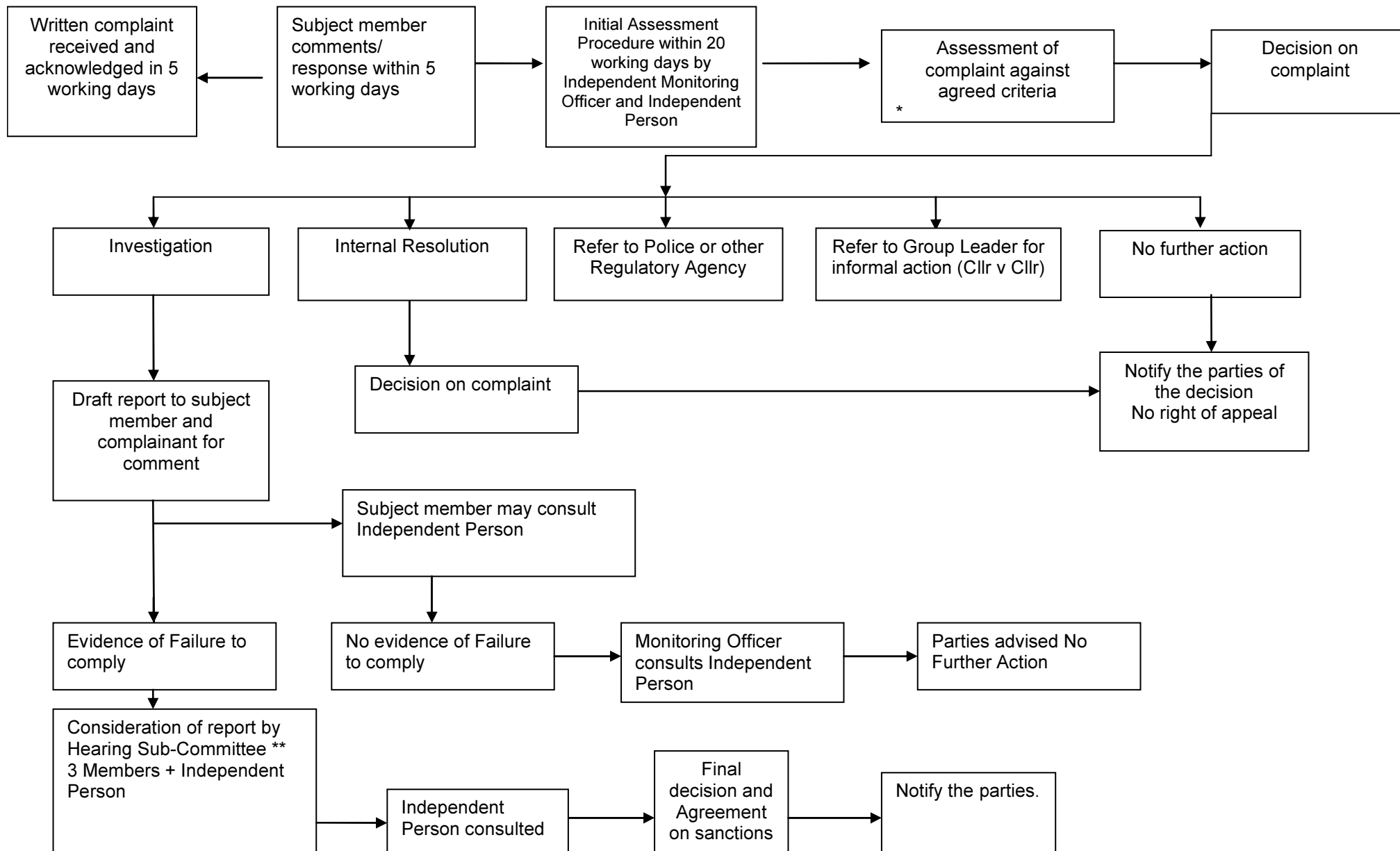
4. Before coming to his/her decision under para 3 the MO may request further information and/or clarification from the complainant and/or the subject member. Where this is the case time period may be extended up to a maximum of a further 15 working days.
5. If the MO decides that the complaint should be investigated, or his/her attempts to resolve the complaint without an investigation do not succeed, then he/she will carry out an investigation or appoint an investigator to carry out an investigation on his/her behalf.
6. Investigation:
The Investigator appointed under para 5 by the MO may be;
 - (a) A senior officer of the Town or Parish Council.
 - (b) A senior officer of Cheshire East Borough Council.
 - (c) An external investigator with relevant experience and appropriately trained.
7. Before finalising his/her report the investigator shall send a copy of it to both the complainant and subject member and give them at least 5 working days to comment on it.
8. A report into an investigation shall include the investigator's findings on whether the Code has been breached. If the investigator's final report finds there has not been a breach of the Code the MO can, in consultation with IP, decide to
 - (a) Take no action.
 - (b) Refer the report to the Audit and Governance Hearing Sub-Committee (Hearing Sub-Committee).
9. If the investigator's report finds there has been a breach of the Code then the MO must refer the matter to the Hearing Sub-Committee. That committee will meet in public.
10. Hearing Sub Committee:
When the matter has been referred to the Hearing Sub Committee by the MO, it will:
 - (a) Allow the investigator to present his/her report and call witnesses, including the complainant.
 - (b) Allow the subject member to make representations and call witnesses.
 - (c) Decide if the subject member has or has not breached the Code of Conduct.
 - (d) Decide what sanction should be imposed if they decide the Code has been breached.
11. The sanctions the Hearing Sub Committee can impose, if they find a breach of the Code are;
 - (a) Censure or reprimand the member;
 - (b) Publish its findings in respect of the member's conduct.
 - (c) Report its findings to Council or the Town or Parish Council for information and make any recommendations ;
 - (d) Recommending to the member's Group Leaders (or in the case of ungrouped members, recommending to Council or to Committees) that

- he/she be removed from any or all Committees or Sub-Committees of the Council;
- (e) Recommend to the Leader of the Council that the member be removed from the Executive, or removed from particular Portfolio responsibilities.
 - (f) Instruct the Monitoring Officer to, or recommend that the Town or Parish Council arrange training for the member;
 - (g) Remove or recommend to Authority Town or Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the Authority or by the Town or Parish Council;
 - (h) Withdraw, or recommend to the Council or Town or Parish Council that it withdraws facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or
 - (i) Exclude the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
12. In reaching a decision as to whether there has been a breach of the Code and if so what sanction should be imposed the Hearing Sub Committee will consult and consider the views of IP.
13. Following any final decision by the MO or the Hearings Sub Committee (at whatever stage) the MO shall inform the complainant and the subject member of the decision and the reasons for it within 10 working days.
14. Wherever there has been a decision that the subject member has breached the Code of Conduct that decision and the reasons for it shall be put on the Council's website in a prominent position. Wherever there is a decision that the subject member has not breached the Code of Conduct that decision shall be put on the Council's website, in a prominent position if the subject member wishes it to be.
15. Any decision of the MO or Hearing Sub-committee shall be final and binding.
16. The MO will present a report to the Audit and Governance Committee twice a year giving;
- (a) the number of complaints received and brief details.
 - (b) how they are progressing.
 - (c) what decisions have been made.
 - (d) what action has, where appropriate, been taken.
17. The MO has delegated power, in consultation with the IP and the Chair of the Audit and Governance Committee or, in his/her absence, the Vice Chair of Audit and Governance Committee, to approve a departure from these arrangements when he/she considers it is expedient to do so to secure the effective and fair consideration of any matter.
18. In all cases where the MO is unable to perform his/her role his/her deputy will do so.

Procedure for Complaints

* meeting is held in private

** meeting is held in public



Appendix 6

MEMBERS' CODE OF CONDUCT – COMPLAINT HANDLING HEARING SUB COMMITTEE – HEARING PROCEDURE

1. Date of Hearing

- 1.1 The Monitoring Officer will arrange a convenient time and date for the Sub Committee to meet and determine the matter. It is anticipated that a hearing will be dealt with on a single day. In any event, the hearing must take place within three months of receipt of the investigation report by the Monitoring Officer.
- 1.2 At least five clear working days before the hearing, the Subject Member and Investigator shall be notified of the date, time and place of meeting.
- 1.3 At least five clear working days before the hearing, the Monitoring Officer will send to each member of the Sub Committee, the Subject Member and the Investigator:
 - The agenda for the meeting; and
 - A copy of the investigation report.
- 1.4 The documentation sent out must be treated by all recipients as confidential information until such time (if any) as the report is made available to the press and public or the Sub Committee agrees that the press and public should not be excluded from the meeting at which the allegations are heard.
- 1.5 The date of the meeting and the outline agenda is published on the Council's website.

2. Representation

- 2.1 The Subject Member may be represented or accompanied during the hearing by another person as long as the Sub Committee or its intended Chairman has given prior consent.
- 2.2 The Subject Member may make representations (orally or in writing) or present evidence in accordance with this procedure either personally or through his or her representative. The Committee will not normally permit the Subject Member and his or her representative to both make representations, although the Subject Member may present evidence him or herself whether or not represented.

3. Legal Advice

- 3.1 The Sub Committee may take legal or procedural advice at any time during the hearing or its deliberations. The substance of any such advice should generally be shared with the Subject Member and/or his representative and the Investigator if they are present.

4. Introductions at the Hearing

- 4.1 The Chairman will introduce each of the Members of the Sub Committee, and shall also introduce any of the Officers present. The Subject Member, his or her representative, the Independent Person, and the Investigator shall introduce themselves.

5. Procedural Issues

5.1 Disclosure of Interests

The Chairman shall ask Members of the Sub Committee to disclose the existence and nature of any interests which they have in relation to any items on the agenda. Members are required to disclose any such items under the terms of the Council's Code of Conduct.

- 5.2 The Chairman will then explain the procedure which the Sub Committee intends to follow and resolve any issues or disagreements over how the hearing will be run, calling upon the Monitoring Officer to assist if appropriate.

5.3 Quorum

At least three members of the Sub Committee must be present for the duration of the hearing.

The members of the Sub-committee are all elected members of Cheshire East Borough Council, (drawn from a pool of 15 members constituted on a politically proportionate basis, which includes the members of the Audit and Governance Committee).

- 5.4 The Chairman will satisfy him/herself that the Sub Committee is quorate before proceeding.

5.5 Absences

If the Subject Member is not present, then the Sub Committee shall consider whether or not to proceed. If the Sub Committee is not satisfied that there is sufficient reason for the Subject Member's absence, it may either proceed to consider the matter and make a determination in the absence of the Subject Member, or adjourn the hearing to another time or date. If the Sub Committee is satisfied there is sufficient reason, it shall adjourn the hearing to another date unless the Subject Member has indicated that the hearing should proceed in his or her absence.

- 5.6 Should the Member's representative not be present, then the Sub Committee may proceed or adjourn as it considers appropriate in the particular circumstances.

- 5.7 The Sub Committee and the Monitoring Officer must in any event ensure that the hearing is held within three months from the date when the Monitoring Officer received the investigation report from the Investigator.

5.8 Exclusion of Press and Public

Hearings should normally be held in public unless there are proper reasons to exclude the press and public from all or any part of the hearing in accordance with the Council's Access to Information Rules. The Chairman will ask the parties present for their views and take any appropriate advice from the Monitoring Officer and/or Independent Person and the Sub Committee will then decide whether to exclude the press and public from all or any part of the hearing. The Sub Committee may reconsider this issue at any point in the hearing.

6. Hearing the Matter

- 6.1 The Sub Committee will then consider whether the Member failed to comply with the Code of Conduct as set out in the Investigator's report. The Sub Committee will adopt as far as reasonably practicable an inquisitorial approach to the hearing rather than permit an adversarial or hostile approach to develop.

7. Presenting the Investigator's Report

- 7.1 The Investigator, if present, will be asked to present his or her investigation report, paying particular regard to any points in dispute identified by the Subject Member and why the Investigator considered that the Member had failed to comply with the Code of Conduct.
- 7.2 Should the Investigator not be present, the Sub Committee will consider whether it is appropriate in all circumstances to proceed with the hearing. The Investigator may, with the consent of the Chairman, call such witnesses as he/she considers necessary.
- 7.3 No cross-examination of the Investigator or any witness shall be permitted, but at the conclusion of the Investigator's presentation of his or her report and at the conclusion of the evidence of any witness, the Chairman may permit the Independent Person, Subject Member or his or her representative to ask appropriate questions through the Chairman in order to clarify evidence or conclusions.

8. The Subject Member's Reply

- 8.1 The Subject Member (or his or her representative) will then be invited to make representations on the matter. The Member may, with the consent of the Chairman, call such witnesses as he/she considers necessary.
- 8.2 No cross-examination of the Subject Member or witness shall be permitted, but at the conclusion of the Subject Member's presentation of his or her representations and at the conclusion of the evidence of any witness, the Chairman may permit the Investigator and Independent Person to ask appropriate questions through the Chairman in order to clarify evidence or conclusions.

9. Evidence

- 9.1 The Sub Committee may decide not to hear any evidence if it is not satisfied that the evidence will assist its decision making.
- 9.2 The Sub Committee may at any time seek or accept additional evidence or comment from the Investigator, the Subject Member, or any other person. The Sub Committee may at any time arrange for the attendance of such witnesses as it considers appropriate and if necessary may adjourn the hearing to allow this to happen.
- 9.3 Members of the Sub Committee may ask questions of any persons present at any point in the proceedings. The Sub Committee is entitled to rely upon hearsay evidence but will give such weight to it as it deems appropriate.

10. Determination of the Matter

- 10.1 At the conclusion of the Subject Member's reply and any questions, the Chairman may ask the Investigator and/or Subject Member if they wish to make any brief concluding remarks. The Chairman will check that Members of the Sub Committee are satisfied that they have sufficient information to enable them to determine whether or not there has been a failure to comply with the Code of Conduct as set out in the Investigator's report. If not, then each member of the Sub Committee may ask further questions to gather sufficient information.
- 10.2 Unless the Subject Member has accepted there was a failure to comply with the Code of Conduct as set out in the Investigator's report, the Committee shall retire to determine in private whether or not there was such a failure on the balance of probabilities. The Sub Committee will seek the views of the Independent Person before making its determination

11. Decision

- 11.1 Having made its determination, the Sub Committee shall return and the Chairman will state the Committee's principal findings on matters in dispute and its decision on whether there has been a failure to comply with the Code.
- 11.2 No Failure to Comply with the Code of Conduct

If the Sub Committee decides that the Subject Member has not failed to comply with the Code of Conduct as set out in the investigation report, the hearing is concluded - on the basis of no breach of the Code of Conduct and no case to answer. However if the Sub Committee considers that there has been no breach of the Code of Conduct but still has some concerns it will issue a finding of no breach of the Code of Conduct, but may then proceed to consider whether it should make any general recommendations. This would include bringing to the attention of the Council, Town or Parish Council or its members any learning points and recommendations for training to the Council, Town or Parish Council, or its Members, with a view to promoting high standards of conduct in the light of concerns raised. .

11.3 Failure to Comply with the Code of Conduct

If the Sub Committee decides that the Member has failed to comply with the Code of Conduct, the Sub Committee has to decide either that:

11.3.1 No action needs to be taken in respect of the matter; or

11.3.2 A sanction be imposed

11.4 Before deciding whether to impose a sanction, the Sub Committee will consider any representations from firstly the Investigator and then the Subject Member. They will also consider any Officer advice and the views of the Independent Person as to:

11.4.1 Whether or not the Sub Committee should impose any sanction; and

11.4.2 What form any sanction should take from those available;

- (a) Censure or reprimand the member;
- (b) Publish its findings in respect of the member's conduct.
- (c) Report its findings to Council or the Town or Parish Council for information and make any recommendations ;
- (d) Recommending to the member's Group Leaders (or in the case of ungrouped members, recommending to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- (e) Recommend to the Leader of the Council that the member be removed from the Executive, or removed from particular Portfolio responsibilities.
- (f) Instruct the Monitoring Officer to, or recommend that the Town or Parish Council arrange training for the member;
- (g) Remove or recommend to Authority Town or Parish Council that the member be removed from all outside appointments to which he/she has been appointed or nominated by the Authority or by the Town or Parish Council;
- (h) Withdraw, or recommend to the Council or Town or Parish Council that it withdraws facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access if relevant to the subject matter of the complaint; or
- (i) Exclude the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings if relevant to the subject matter of the complaint.

11.5 Members of the Sub Committee may ask questions of the Investigator and Subject Member or any other relevant person and take any necessary advice to

make sure they have sufficient information in order to make an informed decision.

- 11.6 The Sub Committee shall then retire to determine in private whether to impose one or more sanctions and, if so, what and when it will take effect. It may also consider whether it should make any recommendations to the Council or Members with a view to promoting high standards of conduct and highlight any learning points for the future.
- 11.7 The Sub Committee will then return, and as far as is practicable, the Chairman will announce the Sub Committee's decision to the parties on the day and provide a short written confirmation. The Sub Committee will issue a formal written decision together with supporting reasons as soon as practicable after the end of the hearing and in any event within ten working days.