

# Council Agenda

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**Date:** Thursday, 18th July, 2019  
**Time:** 2.00 pm  
**Venue:** The Ballroom, Sandbach Town Hall, High Street, Sandbach,  
CW11 1AX

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

1. **Prayers**

2. **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 Previous meeting** (Pages 5 - 14)

To approve as a correct record, the minutes of the Annual meeting of the Council, held on 22 May 2019.

5. **Mayor's Announcements**

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

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

In accordance with paragraph 1.32 of the Council Procedure Rules 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. **Leader's Announcements**

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

8. **Recommendation from Cabinet - High Speed Rail 2 Phase 2A - Qualifying Authority** (Pages 15 - 26)

To consider the recommendation from Cabinet.

9. **Recommendation from Cabinet - Outturn Review of Performance - Requests for Supplementary Capital Estimates and Virements** (Pages 27 - 38)

To consider the recommendation from Cabinet.

10. **Recommendation from the Constitution Committee - Health and Wellbeing Board Terms of Reference** (Pages 39 - 50)

To consider the recommendation from the Constitution Committee.

11. **Recommendation from the Constitution Committee - Review of the Terms of Reference of the Investigation and Disciplinary Committee** (Pages 51 - 84)

To consider the recommendation from the Constitution Committee.

12. **Recommendation from the Staffing Committee - Appointment of the Director of Financial and Customer Services (and Section 151 Officer)** (Pages 85 - 88)

To consider the recommendation from the Staffing Committee.

13. **Recommendation from the Staffing Committee - Amendment to the Pay Policy Statement 2019/20** (Pages 89 - 94)

To consider the recommendation from the Staffing Committee.

14. **Political Representation on the Council's Committees and Terms of Reference of the Local Authority School Governor Nominations Panel** (Pages 95 - 102)

15. **Notices of Motion** (Pages 103 - 106)

To consider any Notices of Motion that have been received in accordance with paragraph 1.34 of the Council Procedure Rules

16. **Questions**

In accordance with paragraph 1.18 of the Council Procedure Rules, opportunity is provided for Members of the Council to ask the Mayor, the appropriate Cabinet Member or the Chairman of a Committee any question about a matter which the Council, the Cabinet or the Committee has powers, duties or responsibilities.

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

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**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Council**  
held on Wednesday, 22nd May, 2019 at The Tenants' Hall, Tatton Park,  
Knutsford WA16 6QN

**PRESENT**

Councillor L Smetham (Chairman)

Councillors Q Abel, M Addison, S Akers Smith, M Asquith, R Bailey, J Barber, M Beanland, M Benson, L Braithwaite, J Bratherton, S Brookfield, C Browne, J Buckley, C Bulman, B Burkhill, P Butterill, S Carter, J Clowes, S Corcoran, L Crane, A Critchley, S Davies, T Dean, S Edgar, D Edwardes, B Evans, H Faddes, A Farrall, JP Findlow, K Flavell, R Fletcher, D Flude, T Fox, A Gage, S Gardiner, P Groves, S Handley, A Harewood, S Hogben, S Holland, M Houston, M Hunter, L Jeuda, A Kolker, C Leach, I Macfarlane, N Mannion(pm only), A Martin, A Moran, R Moreton, B Murphy(pm only), D Murphy, J Nicholas, Parkinson, J Parry, B Puddicombe, P Redstone, J Rhodes, B Roberts, L Roberts(pm only), J Saunders, M Sewart, M Simon, J Smith, D Stockton, A Stott, R Vernon, L Wardlaw, M Warren, M J Weatherill and P Williams, J Wray

**1 PRAYERS**

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

**2 APOLOGIES FOR ABSENCE**

Councillors D Brown, L Gilbert, A Gregory, G Hayes, D Marren, S Pochin and N Wylie.

**3 DECLARATIONS OF INTEREST**

It was noted that Councillor Barry Burkhill and Councillor Steve Edgar had a personal interest in the appointment of Mayor and of Deputy Mayor, respectively.

**4 ELECTION OF MAYOR 2019/20**

Council was requested to elect a Mayor for the Borough of Cheshire East for 2019/20, who would also act as Chairman of the Council for that period.

It was proposed by Councillor Arthur Moran, seconded by Councillor Craig Browne and: -

**RESOLVED**

That Councillor Barry Burkhill be elected Mayor of the Borough of Cheshire East for the year 2019/20 and be appointed as 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 Mrs Sue Burkhill was to be his Mayoress. He was then invested with the badge of office.

**(Councillor Burkhill, as Mayor, took the chair).**

**5 APPOINTMENT OF DEPUTY MAYOR 2019/20**

Council was requested to appoint a Deputy Mayor of the Borough of Cheshire East for the year 2019/20, who would also act as Vice-Chairman of the Council for that period.

It was proposed by Councillor Peter Groves, seconded by Councillor Allen Gage and:-

**RESOLVED**

That Councillor Steve Edgar be appointed as Deputy Mayor of the Borough of Cheshire East for the year 2019/20 and as Vice-Chairman of the Council for that period.

The Deputy Mayor thanked the Council for appointing him to this office and announced that his wife Barbara would be his Consort.

**6 VOTE OF THANKS TO RETIRING MAYOR**

Councillor Rachel Bailey paid tribute to the retiring Mayor, Councillor Lesley Smetham and her Consort, Mr David Smetham, for the dedicated work that they had undertaken during their term of office.

The Mayor presented Councillor Smetham with a Past Mayor's Medal and Mr David Smetham with a Past Consort's medal.

Councillor Smetham then addressed Council, as outgoing Mayor.

**7 MAYOR'S ANNOUNCEMENTS**

The Mayor thanked all those who had attended the Mayor Making Ceremony and stated that the meeting would now be adjourned and would be reconvened, following lunch.

**8 APOLOGIES FOR ABSENCE**

Apologies for absence were updated.

**9 DECLARATIONS OF INTEREST**

Catherine Parkinson (Interim Director of Governance & Compliance) declared an interest in item 16 of the agenda - Report for Information: Interim Appointment of Director of Governance and Compliance (incorporating the Statutory Monitoring Officer role), and left the meeting during consideration of this matter.

**10 MINUTES OF PREVIOUS MEETING**

**RESOLVED**

That the minutes of the meeting of Council held on 21 February 2019 and the special meeting of Council held on 5 March 2019 be approved as a correct record.

**11 ELECTION OF LEADER OF THE COUNCIL**

Nominations were invited for the election of a Leader of the Council.

The following nominations were submitted:-

Councillor Sam Corcoran.

Councillor Janet Clowes.

**AMENDMENT**

An amendment to replace recommendation 2.1 with the following wording was proposed and seconded:-

“That the appointment of the Leader of the Council be for one year only, and that the Constitution be amended accordingly”.

Following the debate on the amendment, a requisition for a named vote was submitted. The amendment was put to the meeting with the following results:-

**FOR**

Councillors M Addison, M Asquith, R Bailey, M Beanland, M Benson, J Clowes, S Davies, T Dean, S Edgar, JP Findlow, A Gage, S Gardiner, P Groves, S Holland, A Kolker, C Leach, A Martin, K Parkinson, P Redstone, J Saunders, M Sewart, M Simon, L Smetham, J Smith, D Stockton, L Wardlaw, J Weatherill, and J Wray.

**AGAINST**

Councillors Q Abel, S Akers Smith, J Barber, L Brathwaite, J Bratherton, S Brookfield, C Browne, J Buckley, C Bulman, P Butterill, S Carter, S Corcoran, L Crane, A Critchley, D Edwardes, B Evans, H Faddes, A Farrall, K Flavell, R Fletcher, D Flude, T Fox, M Goldsmith, S Handley, A Harewood, S Hogben, M Houston, M Hunter, D Jefferay, L Jeuda, I Macfarlane, N Mannion, A Moran, R Moreton, D Murphy, J Nicholas, J Parry, B Puddicombe, J Rhodes, B Roberts, A Stott, R Vernon, M Warren and P Williams.

**NOT VOTING**

Councillors B Burkhill, B Murphy and L Roberts.

The amendment was declared lost, with 28 votes for, 44 against and 3 not voting.

Following the named vote, the substantive motion was voted upon, by show of hands, with the following results:-

Councillor Sam Corcoran – 43 votes.

Councillor Janet Clowes – 25 votes.

2 not voting

**RESOLVED**

That Councillor Sam Corcoran be elected as Leader of the Council for a four year term of office.

Following his election, the Leader of the Council reported and circulated details of his Cabinet and their portfolios as follows:-

Leader	Cllr S Corcoran
Deputy Leader	Cllr C Browne

**Cabinet members**

Children & Families	Cllr D Flude
Adult Social Care & Health	Cllr L Jeuda
Public Health & Corporate Services	Cllr J Rhodes
Communities	Cllr M Warren
Planning	Cllr T Fox
Highways & Waste	Cllr B Roberts
Environment & Regeneration	Cllr N Mannion
Finance, IT & Communications	Cllr A Stott

**RESOLVED**

1. That the report of the Leader of the Council regarding his Cabinet and their portfolios be noted.

2. That delegated authority be granted to the Monitoring Officer to make any consequential amendments to the Constitution.

**12 POLITICAL REPRESENTATION ON THE COUNCIL'S COMMITTEES**

Consideration was given to a report and its appendix, to determine the political representation on the Council's Committees and to appoint those Committees.

**RESOLVED**

1. That the political group representation, as set out in the Appendix to the report, as circulated at the meeting, and the methods, calculations and conventions used in determining this, as outlined in the report, be adopted, and that the allocation of places to Committees be approved and the listed Committees be appointed.
2. That the Committee Chairmen and Vice Chairmen allocations be noted, as set out in the Appendix; "(C)" denoting the allocation of the office of Chairman to political groups and "(VC)" denoting the allocation of the office of Vice Chairman to political groups.

**13 ALLOCATIONS TO THE OFFICE OF CHAIRMAN AND VICE CHAIRMAN**

Consideration was given to the allocation of Chairmanships and Vice-Chairmanships of the Council's decision-making and other bodies.

**RESOLVED**

That the office of Chairman and Vice-Chairman be allocated to the political groups, of each of the Council's decision making and other bodies, as indicated in the report and as listed in the Appendix to the previous agenda item.

**14 APPOINTMENTS TO ADOPTION PANEL AND FOSTERING PANEL**

Consideration was given to a report inviting Council to approve a number of appointments to Statutory Panels which did not fall within the definition of "Committee" for the purpose of legislation.

**RESOLVED**

1. That Councillor Brian Puddicombe be appointed to the Adoption Panel.
2. That Mrs Gillian Merry be appointed to the Fostering Panel.

**15 APPOINTMENTS TO THE CHESHIRE POLICE AND CRIME PANEL AND THE CHESHIRE FIRE AUTHORITY**

Consideration was given to a report inviting Council to make appointments to the Cheshire Fire Authority and the Cheshire Police and Crime Panel. Council was asked to appoint eight Councillors to the Cheshire Fire Authority and to appoint three Councillors and a nominated substitute to the Cheshire Police and Crime Panel.

**RESOLVED**

That Councillors Cllrs Anthony Critchley, Paul Findlow and Mick Warren be appointed to the Cheshire Police and Crime Panel, with Councillor Denis Murphy as named substitute.

That Councillors Cllrs Rachel Bailey, Michael Beanland, David Brown, David Edwardes, Dorothy Flude, Nick Mannion, James Nicholas and Jonathan Parry be appointed to the Cheshire Fire Authority.

**16 REPORT FOR INFORMATION: INTERIM APPOINTMENT OF DIRECTOR OF GOVERNANCE AND COMPLIANCE (INCORPORATING THE STATUTORY MONITORING OFFICER ROLE**

(Catherine Parkinson, Interim Director of Governance & Compliance, had declared an interest in this item and left the meeting during its consideration).

The Staffing Committee, at its meeting on 25 April 2019, had considered a report which detailed the appointment of the Interim Director of Governance and Compliance and had received a verbal report on the recruitment of the Director of Governance and Compliance.

The new Corporate Services structure had come into effect on 1 April 2019 and included a new post of Director of Governance and Compliance, whose role included that of Monitoring Officer. As the appointment of Monitoring Officer would normally be made by Council which would not be meeting until 22 May 2019, the Acting Chief Executive, under the urgency procedure, had taken the decision on the appointment of the Interim Director of Governance and Compliance. There would have been an unacceptable risk to the Council to be without a Monitoring Officer for the period 1 April 2019 to the date of the Annual Council meeting on 22 May 2019.

The Staffing Committee had resolved that that the urgent decision in relation to the appointment of the Interim Director of Governance and Compliance be noted and be reported to Council on 22 May 2019.

**RESOLVED**

That the urgent decision in relation to the appointment of the Interim Director of Governance and Compliance be noted.

**17 APPOINTMENT OF DIRECTOR OF GOVERNANCE AND COMPLIANCE (INCORPORATING THE STATUTORY MONITORING OFFICER ROLE)**

Consideration was given to a report relating to the appointment of Director of Governance and Compliance (incorporating the Statutory Monitoring Officer role).

The Staffing Committee, at its meeting on 10 April 2019, had resolved that Council be recommended to approve the appointment of Jan Bakewell to the new position of Director of Governance and Compliance, including the Monitoring Officer role, at the inclusive salary of £102,842.00, subject to satisfactory references and Cabinet consultation.

Subsequently, Cabinet Members had been consulted and had supported the recommendation and satisfactory references had been received.

**RESOLVED**

That the appointment of Jan Bakewell, as the Director of Governance and Compliance (and Monitoring Officer), on an inclusive salary of £102,842 per annum be approved.

**18 NOTICES OF MOTION**

Consideration was given to the following Notices of Motion, which had been submitted to Council in accordance with Council Procedural Rules:-

**1 CHANGE IN THE COUNCIL'S GOVERNANCE ARRANGEMENTS**

**Proposed by Councillor James Nicholas and seconded by Councillor Joy Bratherton**

The Notice of Motion, as set out in the agenda papers, was proposed and seconded, as follow:-.

"This Council is committed to implementing a change in decision-making governance arrangements, comprising the cessation of the current Leader and Cabinet model of governance, and the implementation of a full Committee model of governance; this to be developed during 2019/20 with a view to the new arrangements taking effect from the beginning of the 2020/21 Municipal Year, subject to a legally and constitutionally robust process, led by the Council's Constitution Committee, and agreed by Council."

## AMENDMENT

An amendment to substitute the above wording with the following was proposed and seconded:-

"This Council instructs the Constitution Committee to undertake a Comparative Analysis of the efficiency and cost-effectiveness of the Council's current "cabinet system" **as against** :

1. The so-called "full committee system" and **as against ...**
2. An amended cabinet system designed to give opposition councillors wider opportunities to influence the Council's decision-making process **as against....**
3. Any other appropriate system

In giving this instruction, this Council expresses its wish to have agreed changes implemented within the Municipal year 2020/21."

Following debate, a vote was taken on the amendment and the amendment was declared lost.

## RESOLVED

That the Notice of Motion be approved.

## 2 CLIMATE CHANGE

**Proposed by Councillor Sam Corcoran and seconded by Councillor Quentin Abel**

"This Council notes that on 1 May Parliament declared an environment and climate emergency and

- a) requests that a Cheshire East Environmental Strategy is brought forward as a matter of urgency
- b) commits to the target of Cheshire East Council being carbon neutral by 2025 and asks that details of how to meet this commitment are included in the Environmental Strategy
- c) will work to encourage all businesses, residents and organisations in Cheshire East to reduce their carbon footprint by reducing energy consumption and promoting healthy lifestyles."

The following information was submitted along with the Notice of Motion:

*motion passed by Parliament 1/5/19*

That this House declares an environment and climate emergency following the finding of the Inter-governmental Panel on Climate Change that to avoid a more than 1.5°C rise in global warming, global emissions would

need to fall by around 45 per cent from 2010 levels by 2030, reaching net zero by around 2050; recognises the devastating impact that volatile and extreme weather will have on UK food production, water availability, public health and through flooding and wildfire damage; notes that the UK is currently missing almost all of its biodiversity targets, with an alarming trend in species decline, and that cuts of 50 per cent to the funding of Natural England are counterproductive to tackling those problems; calls on the Government to increase the ambition of the UK's climate change targets under the Climate Change Act 2008 to achieve net zero emissions before 2050, to increase support for and set ambitious, short-term targets for the roll-out of renewable and low carbon energy and transport, and to move swiftly to capture economic opportunities and green jobs in the low carbon economy while managing risks for workers and communities currently reliant on carbon intensive sectors; and further calls on the Government to lay before the House within the next six months urgent proposals to restore the UK's natural environment and to deliver a circular, zero waste economy.

### **RESOLVED**

That the Notice of Motion be approved.

The meeting commenced at 11.00 am and concluded at 3.55 pm

Councillor B Burkhill (Chairman)  
CHAIRMAN

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**COUNCIL MEETING –18<sup>TH</sup> JULY 2019****HIGH SPEED RAIL 2 PHASE 2A - QUALIFYING AUTHORITY****RECOMMENDATION**

**That Cheshire East Council become a Qualifying Authority as specified in part 2 of Schedule 17 of the High Speed Rail (West Midlands - Crewe) Bill and the Executive Director for Place be authorised, in consultation with the Monitoring Officer, to sign the Planning Memorandum to enable this to happen.**

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Extract from the Minutes of the Cabinet meeting on 11<sup>TH</sup> June 2019

**5 HIGH SPEED RAIL 2 PHASE 2A - QUALIFYING AUTHORITY**

Cabinet considered a report which sought approval for the Council to become a Qualifying Authority for the construction of phase 2a of High Speed Rail 2 (HS2).

The Deputy Leader indicated that nothing in this or the next following report would predetermine the Council's decision on whether to support phase 2b of the scheme.

Members emphasised the need for local communities affected by the scheme to be consulted on any proposals.

**RESOLVED**

That Cabinet recommends to Council that Cheshire East Council become a Qualifying Authority as specified in part 2 of Schedule 17 of the High Speed Rail (West Midlands - Crewe) Bill and authorises the Executive Director for Place in consultation with the Monitoring Officer to sign the Planning Memorandum to enable this to happen.

**NOTE –**

The report has been amended since the Cabinet meeting, to provide some additional clarity on the following points, as requested at the meeting :-

- At para 6.1.9 – Clarification was sought as to what decision making process would be put in place - The response is that a final decision will be made in discussion with the Portfolio Holder, on receipt of more detailed knowledge of future applications.
- Clarification was also sought on how the assurances received through the petitioning process would be considered in relation to submitted applications. This is now addressed in para 6.1.13 of the report.
- A section relating to Climate Change has also been added to the report.

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*Working for a brighter future together*

## **Council**

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**Date of Meeting:** 18 July 2019

**Report Title:** High Speed Rail 2 Phase 2a – Qualifying Authority

**Portfolio Holder:** Cllr Toni Fox – Planning

**Senior Officer:** Frank Jordan, Executive Director - Place

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### **1. Report Summary**

- 1.1. This report seeks approval for the Council to become a Qualifying Authority for the construction of phase 2a of the High Speed Rail 2 (HS2).
- 1.2. The enactment of the High Speed Rail (West Midlands - Crewe) Bill ("the Bill") will give deemed planning permission to the scheme which is similar to the grant of outline planning permission under the Town and Country Planning Act. There will be additional detailed designs and other construction works however which will be subject to applications for approval by the Local Planning Authority.
- 1.3. The Bill provides for the Council to become a 'qualifying authority' which would then allow the Council to assess and determine such applications subject to certain restrictions on the grounds for refusal as set out in the Bill. However, if the Council decide not to become a qualifying authority, the grounds for refusing any applications are more restricted than those available to qualifying authorities.
- 1.4. It is crucial to the Council to retain as many decision making powers as possible in the assessment and determination of all HS2 related applications in order to ensure that the Council achieve the best and most appropriate outcomes for the local community and minimise the impacts on the wider environment as far as possible.
- 1.5. The Bill requires the Secretary of State to specify which planning authorities have entered into a Planning Memorandum to become a qualifying authority by the time the Bill is reported on by the House of Lords. The

Council must therefore confirm their decision to HS2 Ltd before the Autumn.

## **2. Recommendation/s**

2.1. Council is recommended to:

2.1.1. Become a Qualifying Authority as specified in part 2 of Schedule 17 of the Bill and authorises the Executive Director for Place in consultation with the Monitoring Officer to sign the Planning Memorandum to enable this to happen.

## **3. Reasons for Recommendation/s**

- 3.1. The proposed approach will enable the Council to have greater control over the approval of construction details associated with the High Speed Rail scheme such as the detailed design of permanent structures and an enhanced role in relation to certain enforcement and construction matters. This is essential so that the Council can (acting reasonably and where necessary) seek to either improve or control the detailed design applications. Equally, the greater number of conditions that the Council can consider as Qualifying Authority is considered vital in helping to control and manage the impacts of construction and the scheme on the Borough.
- 3.2. This is necessary to ensure that the impacts of the developments on the local environment and local amenity are fully considered and addressed in line with the approach of the Cheshire East Council Local Plan Strategy.
- 3.3. The process of becoming a Qualifying Authority binds local authorities to act in a particular way through the signing of the Planning Memorandum in respect of determining applications for consent in an expedient manner (within eight weeks in line with statutory determination periods for planning applications), and to being sufficiently resourced to be able to do so. As such, this is being adjudged by all parties involved in the High Speed Rail 2 (Phase 2a) that the decision should be made by Full Council.

## **4. Other Options Considered**

- 4.1. The alternative option is to become a Non-Qualifying Authority. This would mean that the Council would have a much more restricted role in the approval of construction matters, and would only be permitted to consider plans and specifications for buildings. This option therefore provides a narrower degree of control over the impact that the construction of the scheme will have on the local environment and local amenity.

## **5. Background**

- 5.1. In July 2017, the Government introduced a hybrid Bill to Parliament to seek powers for the construction and operation of Phase 2a of HS2. The Bill will grant planning permission for the construction of a high speed railway between Fradley in the West Midlands and Crewe and all associated development works.
- 5.2. The Bill grants what is termed as 'deemed' planning permission, which is similar to an outline planning consent, for development authorised by the Bill. However, this "planning permission" will be subject to a number of conditions requiring the nominated undertaker (the party/parties who will construct the railway) to obtain the consent or approval of the Local Authorities along the route for certain matters.
- 5.3. The Bill gives each Local Authority a choice between having a wide or narrow range of controls over the detailed design of permanent structures such as stations and viaducts, and an enhanced role in relation to certain enforcement and construction matters. Those who opt for a wider range of controls are referred to as 'qualifying authorities'.
- 5.4. A Qualifying Authority will have the responsibility for approving plans and specifications for works such as buildings and road vehicle parks, terracing, cuttings, embankments and other earthworks, fences, walls or other barriers, transformers, telecommunication masts, pedestrian access to the railway line, artificial lighting, waste and spoil disposal and borrow pits. They will not have powers of approval for any works or features of a temporary nature, for anything underground, and for any tunnel or railway track bed.
- 5.5. A qualifying authority can only refuse to approve (or impose conditions in respect of) the plans and specifications on two main sets of grounds:
  - a) The design or external appearance of the building works ought to be modified to:
    - preserve the local environment or local amenity;
    - prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area;
    - preserve a site of archaeological or historic interest or nature conservation value, and is reasonably capable of being so modified; or
  - b) The development ought to, and could reasonably, be carried out elsewhere on land within the Act limits.
- 5.6. Non qualifying authorities will only be able to refuse approval if the design or external appearance of the works ought to be modified to preserve the local environment/local amenity (and is reasonably capable of being so

modified) or the development ought to, and could reasonably, be carried out elsewhere on land within the Act limits.

5.7. In addition qualifying authorities will be able to enforce construction arrangements relating to:

- handling of re-useable spoil or topsoil;
- road transport;
- storage sites for construction materials, spoil or topsoil;
- construction camps;
- works screening;
- artificial lighting;
- dust suppression; and
- road mud control measures.

5.8. These may be subject to a class approval by the Secretary of State, in which case the relevant qualifying authority would be consulted before such approvals are made. Should the Secretary of State not make a class approval, these arrangements are subject to approval by the relevant qualifying authority.

5.9. Construction arrangements relating to construction camps, and lorry routes with more than 24 lorry movements per day would also require individual approval from the relevant qualifying planning authority; along with the bringing into use of any scheduled work or depot.

5.10. Councils wishing to become Qualifying Authorities are required to sign the “Planning Memorandum”. This document sets out rules of conduct and administrative arrangements for both the Local Planning Authorities and the nominated undertaker.

5.11. It requires the Council to commit to dealing with applications for consent in an expedient manner (within eight weeks in line with statutory determination periods for planning applications), and to being sufficiently resourced to be able to do so.

5.12. Becoming a Qualifying Authority therefore involves a commitment by the Council to deal with applications appropriately and within specified timescales, in return for control over a wider range of matters than it would otherwise have.

5.13. This commitment has resource implications: the Council will receive application fees to cover the costs associated with dealing with these consents and approvals, or HS2 Ltd. will provide a financial contribution to the Council to deal with the additional workload. This contribution would

come through a Service Level Agreement (SLA) between the Council and HS2 Ltd to cover the costs of handling the applications and any additional work required to support their determination. The Council is engaging with HS2 Ltd. through the Planning Forum to obtain the number of applications and exact timetable as early as possible to assist in determining the extent of resources required and implications on the service.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

6.1.1. Councils wishing to become Qualifying Authorities are required to sign the “Planning Memorandum”.

6.1.2. The Planning Memorandum sets out rules of conduct and administrative arrangements for both the local planning authorities and the nominated undertaker of the works. It is part of a suite of documents forming the Phase2a of HS2 Environmental Minimum Requirements.

6.1.3. The Planning Memorandum regulates the details of the deemed planning consent that are reserved for local planning authority approval. It sets out the undertakings made by Qualifying Authorities in return for the additional planning controls referred to above.

6.1.4. Signing the Planning Memorandum and becoming a Qualifying Authority:

- Is legally binding;
- Gives CEC a greater degree of control over planning conditions;
- Does not fetter CEC’s discretion to withhold approval of planning conditions but stipulates certain expectations as to the stringency of conditions

6.1.5. CEC’s status as a Qualifying Authority can be withdrawn in certain circumstances.

6.1.6. It provides for the establishment of a Planning Forum which will meet regularly to assist with the effective implementation of the planning provisions in the Bill in order to help co-ordinate and secure the expeditious implementation of those planning provisions.

6.1.7. Due to the national importance of the HS2 infrastructure project Qualifying Authorities are required to have regard to construction, cost and programme implications.

- 6.1.8. The Planning Memorandum does not fetter CEC's ability to refuse a request for approval of conditions but requires that CEC shall not seek to impose any unreasonably stringent requirements on the requests for approval of any construction arrangement, plans or specifications, mitigation scheme or site restoration scheme, which might frustrate or delay the project, or unreasonably add to its cost. In particular, it should not seek to impose unreasonably stringent requirements or standards in respects of land use, planning, design or environmental matters.
- 6.1.9. Due to the time pressures on the project, CEC will be expected to put in place appropriate internal decision-making arrangements to ensure that the 8 week period for determining requests is achieved. If adherence to the normal committee cycle would make it difficult to reach decisions in accordance with the timetable, consideration should be given to authorising greater delegated powers for officers and/or the formation of a dedicated sub-committee. A final decision on the route for decision making can be discussed and agreed with the Portfolio Holder once a more detailed understanding of the likely application numbers is known.
- 6.1.10. If CEC repeatedly fails to expedite requests for approval, or seriously fails to expedite a request in line with the stipulated timescale, or repeatedly or seriously fails to act in accordance with all the requirements of the Planning Memorandum, the Secretary of State may have sufficient grounds to order that CEC shall cease to have the additional powers of a Qualifying Authority. Prior to being disqualified, the nominated undertaker and the Secretary of State would discuss with CEC concerns regarding its performance and the performance of the nominated undertaker.
- 6.1.11. Where CEC refuses a request for approval, in addition to specifying the grounds under the Planning Conditions Schedule for its decision, it shall state clearly and precisely the full reasons for its decision.
- 6.1.12. The Planning Memorandum does not relate to applications for permission to construct over-site development - namely certain non-rail-related development over operational structures such as stations and vent shafts. These will be taken forward under the normal planning process.
- 6.1.13. Finally, it should be noted that any applications for permission are unrelated to any assurances obtained through the petitioning process. These assurances are dealt with separately as there is a contractual obligation to comply with all relevant assurances made by HS2. A unilateral written commitment is made to Parliament and an undertaking

is also given that HS2 will take the necessary steps to secure compliance with any assurances made.

## **6.2. Finance Implications**

6.2.1. Given that signing the Planning Memorandum gives the Local Planning Authority a greater range of controls, this will require more resources to process and deal with applications compared to if the Council chose to become a non-qualifying authority. However, the Service Level Agreement (SLA) between the Council and HS2 Ltd is intended to cover all costs associated with processing Schedule 17 applications and therefore there should not be any negative cost implications to the Council from becoming a qualifying authority. Any costs will be accounted for within the Council's Development Management budget.

## **6.3. Policy Implications**

6.3.1. HS2 is supported in the Cheshire East Local Plan Strategy under Strategic Priority One which states that promoting economic prosperity by creating conditions for business growth will be delivered by (amongst other things) maximising the opportunities that may be offered by High Speed 2 Rail Links (HS2).

## **6.4. Equality Implications**

6.4.1. All public sector authorities are bound by the Public Sector Equality Duty as set out in section 149 of the Equality Act 2010. In exercising their powers authorities must have regard to the effect of any differential impacts on groups with protected characteristics. In deciding to become a qualifying authority the Council must pay due regard to its Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010.

6.4.2. The enhanced controls provided for in becoming a qualifying authority should have a positive public benefit when it comes to the PSED.

## **6.5. Human Resources Implications**

6.5.1. It shall be necessary to ensure that sufficient resource is allocated in Planning, Highways, and Legal Services to support determination of the applications within the timescales required.

## **6.6. Risk Management Implications**

6.6.1. Key risks to the Council relate to ability of officers to determine the applications within the required statutory timescales and staff resource implications associated with the additional workload.

6.6.2. This will be managed through the use of the SLA between the Council and HS2 Ltd to secure additional finance to ensure sufficient resources to manage the process effectively. Early engagement with HS2 Ltd has already taken place about the likely timing and number of future applications which will also enable staff resource to be managed well in advance of any increased workload. This engagement will continue with early pre-application discussions

#### **6.7. Rural Communities Implications**

6.7.1. The route of the scheme passes through a number of rural communities which are likely to be subject to applications for the approval of detailed designs or other associated developments. Each application for approval would enable an assessment of the relevant environment effects for those matters that the Council is able to control under the Bill.

#### **6.8. Implications for Children & Young People/Cared for Children**

6.8.1. There are no direct implications for children and young people.

#### **6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

#### **6.10. Climate Change Implications**

6.10.1. There are no direct implications for climate change but environmental considerations will form part of the process that the council will undertake in assessing the scheme.

### **7. Ward Members Affected**

7.1. Those wards affected would be those covered by the route of HS2 phase2a which are: Haslington, Wybunbury, Crewe south and Crewe East

7.2. There are potential wider implications of HS2a for all Wards

### **8. Consultation & Engagement**

8.1. There is no statutory provision for public consultation on the planning approval process outlined in the hybrid bill however public consultation and engagement has taken place as part of the wider HS2 phase 2a project.

## 9. Access to Information

- 9.1. Details of the HS2 phase2a Qualifying Authority process can be found in the 'Main Provisions of the Planning Regime' information paper prepared by HS2. This is available to view on the following link.
- 9.2. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/627917/B2\\_Main\\_Provisions\\_of\\_the\\_Planning\\_Regime\\_v1.0.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627917/B2_Main_Provisions_of_the_Planning_Regime_v1.0.pdf)

## 10. Contact Information

- 10.1. Any questions relating to this report should be directed to the following officer:

Name: David Malcolm

Job Title: Head of Development Management

Email: david.malcolm@cheshireeast.gov.uk

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**COUNCIL MEETING – 18<sup>TH</sup> JULY 2019****2018/19 FINANCIAL OUTTURN AND REVIEW OF PERFORMANCE****RECOMMENDATION**

**That Council approve fully funded supplementary capital estimates above £1,000,000 in accordance with Financial Procedure Rules as detailed in Appendix 4, Table 6.**

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Extract from the Minutes of the Cabinet meeting on 11<sup>th</sup> June 2019

**12 2018/19 FINANCIAL OUTTURN AND REVIEW OF PERFORMANCE**

Cabinet considered a report on the financial outturn and review of performance for 2018/19.

It was noted that the figure for the performance and turnaround of major planning applications in paragraph 1.10 of the report should read 94% and not 74% against a target of 90%.

The Corporate Overview and Scrutiny Committee had considered the report at its meeting on 6<sup>th</sup> June 2019. Councillor J Clowes, Chairman of the Committee, reported the Committee's recommendations to Cabinet as follows:

That Cabinet be asked to consider the comments and recommendations raised by the Committee as follows:

- (a) Cabinet ensure that pragmatic actions are taken to resolve unexpected financial pressures that may impact on the Council's approved budget for 2019/20.
- (b) The Corporate Overview and Scrutiny Committee be involved in any consultation process undertaken for new, proposed ways that the Council may implement the New Homes Bonus (Phase 2).
- (c) Consideration be given to the air quality and pollution implications arising from motor traffic and highways, as part of any environmental improvement strategies.
- (d) The Corporate Overview and Scrutiny Committee be kept informed of any review undertaken of, or modification to, the Medium Term Financial Strategy Reserve (or central contingency.)

In response to a question from members, the Portfolio Holder for Highways and Waste indicated that he had asked officers to assess and report back on the financial implications of a review of car parking charges in Crewe.

**RESOLVED**

That Cabinet

1. notes and accepts the recommendations of the Corporate Overview and Scrutiny Committee;
2. notes the balanced revenue position;
3. notes the capital outturn position;
4. notes the debt management position;
5. receives and notes the Treasury Management Annual Report for 2018/19 as detailed in Appendix 7 to the report; and

6. recommends that Council approve:

fully funded supplementary capital estimates above £1,000,000 in accordance with Financial Procedure Rules as detailed in Appendix 4, Table 6.



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## Cabinet

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**Date of Meeting:** 12 June 2019

**Report Title:** 2018/19 Financial Outturn and Review of Performance

**Portfolio Holder:** Cllr Amanda Stott - Finance, IT and Communication  
Cllr Jill Rhodes - Public Health and Corporate Services

**Senior Officer:** Alex Thompson – Head of Financial Support & Procurement  
(Acting Section 151 Officer)

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### 1. Report Summary

- 1.1. This report outlines how the Council has managed its resources to provide value for money services during the 2018/19 financial year. The report includes a revenue outturn summary, a summary of financial performance for the year, as well as associated appendices to show how the Council has achieved against the outcomes contained within the Corporate Plan.
- 1.2. The financial outturn for Cheshire East Council is balanced for 2018/19, with gross income matching gross expenditure and the appropriate use of earmarked reserves, meaning General Reserves remain unchanged at £10.3m. This is despite the fact that 2018/19 presented a challenging year for the Council, in common with other local authorities across the UK, as revenue budgets came under severe pressure due to the combined effects of rising inflation, increased demand for services and continuing reductions in government funding.
- 1.3. Despite financial pressures in 2018/19 statutory duties of the Council were still delivered within the relevant statutory parameters and the associated inspection frameworks. In this environment the ability to deliver financial savings whilst maintaining service standards across the Council was extremely challenging.
- 1.4. The Council has continued to perform strongly, delivering positive outcomes in each of the six priority areas identified by the Corporate Plan. In delivering outcomes the Council has worked with residents, businesses and its partners to achieve positive outcomes.

- 1.5. The main financial challenges during the year related to demand led pressures exceeding forecasts in the People Directorate relating to the costs of Childrens Services.
- 1.6. Financial pressures experienced in 2018/19 have been addressed for 2019/20 as part of the budget setting process. These also included costs in Environmental Operations, delays associated with achieving some of the efficiency savings included within service budgets, increased B4B project revenue cost and anticipated additional costs relating to the way that holiday pay is calculated. Additional costs incurred in addressing these issues are being offset by the draw down of earmarked reserves to balance to a net budget in 2018/19.
- 1.7. Expenditure on the capital programme is £97m. The revised budgets for 2018/19 total £153.8m and underspends against these budgets will be slipped into 2019/20 and re-profiled as part of the outturn reporting. Capital receipts in year amounted to £6.3m against a forecast of £5.9m.
- 1.8. The Council's wholly owned companies produced a positive outturn for the year, with reserves increasing by £1.0m for the Group. In accordance with contractual arrangements, £0.4m will be reported as Company Reserves with £0.6m being transferred to the Council.
- 1.9. The Council's Corporate Plan sets out 6 Priority Outcomes and 2018/19 has seen important improvements in each area. Examples evidenced within Appendix 2 highlight how outcomes are being achieved. For example: People were helped to continue to live independently; Capital work programmes increase the number of school places available; National targets exceeded for waste recycling; and we are achieving higher than national results in GCSE and A-Levels to give people the education they need in order to thrive.
- 1.10. At outturn a few examples of good performance were:
  - 27 community venues have celebrated becoming Connected Communities Centres, with 21 of these opening in 2018/19
  - The Carriageway Improvements Programme saw 533,606m<sup>2</sup> of carriageway resurfaced by 2018/19 year-end
  - As of March 2019, 88% of Cheshire East schools are Good or Outstanding
  - All Green Flag and Green Heritage awards were retained this year
  - The Sport England Active Lives Survey reported that Cheshire East is the most active Borough in North West
  - Our registration service received a bronze award for 'reinventing local services' at the annual iESE (the public sector transformation partner) national awards
  - We finalised TOGETHER, our shared definition of coproduction in Cheshire East, which sets out how we will work together as equal

partners to improve, develop and deliver services towards a common goal for all of our children, young people, families and adults

- Cheshire East is top of the North West league table for the take-up of the 30 hours' free childcare scheme
- Our new Adult Safeguarding Trainer delivered training to 571 Care Staff working in a Care Home or Domiciliary setting in quarter four
- Annual Economic Output (Gross Value Added) was £13.5bn which is greater than both the rate of growth in England and the North West
- Performance and turnaround of Major Planning Applications start at 74% against a target of 90%
- The Council continues to reduce tonnage of CO2 emissions from its buildings; 8,306 tonnes against a target of 8,322 tonnes

1.11. Areas requiring further improvement also identified as:

- Timeliness of assessments for Education Health and Care Plans (EHCP's) remains a challenge and below target
- Demand on domiciliary care remains high and the number of packages of care have increased and this has led to some delays
- Number of cared for children is reducing but cost of care is remaining static

1.12. Additional and supporting detailed performance data is reported for information to Scrutiny committees. The quarter three Place Scorecard was received by the Environment and Regeneration Overview and Scrutiny Committee on 18 March 2019. The quarter two Children and Families Scorecard was received by the Children and Families Overview and Scrutiny on 28 January 2019. The latest Adults and Public Health Scorecards were received by the Health and Adult Social Care and Communities Overview and Scrutiny Committee on 7 February 2019.

1.13. The attached Appendices set out details of how the Council has performed in 2018/19:

**Appendix 1 – Revenue Outturn Summary 2018/19** – Provides the final revenue outturn position for the period 1<sup>st</sup> April 2018 to 31<sup>st</sup> March 2019.

**Appendix 2 – Achievements against the Corporate Plan** - Provides highlights of Council activities, and achievements, from working with partners and the community throughout 2018/19. The Appendix is set out in line with the 6 outcomes contained within the Corporate Plan 2017 to 2020.

**Appendix 3 – Grants** – includes details of capital and revenue grants received during 2018/19.

**Appendix 4 – Requests for Supplementary Capital Estimates and Virements**

**Appendix 5 – Debt Management**

**Appendix 6 – Reserves**

**Appendix 7 – Treasury Management Annual Report**

**2. Recommendation/s**

That Cabinet:

- 2.1. note the balanced revenue position.
- 2.2. note the capital outturn position.
- 2.3. note the debt management position
- 2.4. receive the Treasury Management Annual Report for 2018/19 as detailed in Appendix 7.
- 2.5. recommend to Council to approve:
  - 2.5.1. fully funded supplementary capital estimates above £1,000,000 in accordance with Financial Procedure Rules as detailed in **(Appendix 4 Table 6)**;

**3. Reasons for Recommendation/s**

- 3.1. The Council monitors in-year performance through a reporting cycle, which includes outturn reporting at year-end. Reports during the year reflect financial and operational performance and provide the opportunity for members to note, approve or recommend changes in line with the Council's Financial Procedure Rules.
- 3.2. The overall process for managing the Council's resources focuses on value for money and good governance and stewardship. Financial changes that become necessary during the year are properly authorised and this report sets out those areas where any further approvals are now required.
- 3.3. This report provides strong links between the Council's statutory reporting requirements and the in-year monitoring processes for financial and non-financial management of resources.
- 3.4. It also meets the requirements of the CIPFA Code of Practice for Treasury Management in the Public Services and the Prudential Code for Capital Finance in Local Authorities.

**4. Other Options Considered**

- 4.1. Not applicable

## **5. Background**

- 5.1. Monitoring performance is essential to the achievement of outcomes within the Corporate Plan. This is especially important in evidencing the achievement of value for money across an organisation the size of Cheshire East Council. The Council is the third largest in the Northwest of England, responsible for over 500 services, supporting over 375,000 local people. Gross annual spending is over £740m, with a balanced net budget for 2018/19 of £269.8m.
- 5.2. The management structure of the Council is organised in to three directorates, People, Place and Corporate. The Council's reporting structure provides forecasts of a potential year-end outturn within each directorate during the year, as well as highlighting activity carried out in support of each outcome contained within the Corporate Plan.
- 5.3. At final outturn, the Council's reserves strategy remains effective with a zero net variance against the budgeted position, as forecast at the third quarter review. Capital Expenditure for the year was £97m.
- 5.4. The Council complied with all of its legislative and regulatory requirements in accordance with the CIPFA Code of Practice for Treasury Management in the Public Services and the Prudential Code for Capital Finance in Local Authorities. Overall the level of borrowing reduced in year by £12m with average interest rates on long and short term borrowing of 2.72%. The Council held £28m of invested funds at 31<sup>st</sup> March 2019 with an average income return of 2.14% in year.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

- 6.1.1. The legal implications surrounding the process of setting the 2018 to 2021 medium term financial strategy were dealt with in the reports relating to that process. The purpose of this paper is to provide a progress report at the final outturn stage of 2018/19. That is done as a matter of prudential good practice, notwithstanding the abolition of centrally imposed reporting requirements under the former National Indicator Set.
- 6.1.2. The only other implications arising directly from this report relate to the internal processes of approving supplementary capital estimates and virements referred to above which are governed by the Finance Procedure Rules.
- 6.1.3. Legal implications that arise when activities funded from the budgets that this report deals with are undertaken, but those implications will

be dealt within the individual reports to Members or Officer Decision Records that relate.

**6.2. Finance Implications**

- 6.2.1. The Council's financial resources are agreed by Council and aligned to the achievement of stated outcomes for local residents and communities. Monitoring and managing performance helps to ensure that resources are used effectively and that business planning and financial decision making are made in the right context.
- 6.2.2. The Council's Audit & Governance Committee is responsible for reviewing and analysing the Council's financial position at year-end. The final accounts will be approved by 31st July 2019 following external auditing and associated recommendations to the Committee.
- 6.2.3. Reserve levels are agreed, by Council, in February each year and are based on a risk assessment that considers the financial challenges facing the Council.
- 6.2.4. The forecast outturn for 2018/19, as reported at quarter three, was used to inform the budget setting process for 2019/20. Analysis of the final outturn helps to inform the Council of potential issues arising for the 2019/20 budget, or highlights potential underlying issues that can be managed in future budget setting cycles. It is important to note that the minor variations reported at outturn have not identified any significant risks to the 2019/20 budget.

**6.3. Policy Implications**

- 6.3.1. This report is a backward look at Council activities during the final quarter.
- 6.3.2. Performance management supports delivery of all Council policies. The final outturn position, ongoing considerations for future years, and the impact on general reserves will be fed into the assumptions underpinning the 2020/23 medium term financial strategy.

**6.4. Equality Implications**

- 6.4.1. Any equality implications that arise from activities funded by the budgets that this report deals with will be dealt within the individual reports to Members or Officer Decision Records to which they relate.

**6.5. Human Resources Implications**

- 6.5.1. This report is a backward look at Council activities at outturn and states the year end position. Any HR implications that arise from activities

funded by the budgets that this report deals with will be dealt within the individual reports to Members or Officer Decision Records to which they relate.

#### **6.6. Risk Management Implications**

6.6.1. Performance and risk management are part of the management processes of the Authority. Risks are captured both in terms of the risk of underperforming and risks to the Council in not delivering its objectives for its residents, businesses, partners and other stakeholders. Risks identified in this report are used to inform the overall financial control risk contained in the Corporate Risk Register.

6.6.2. Financial risks are assessed and reported on a regular basis, and remedial action taken if and when required. Risks associated with the achievement of the 2018/19 budget and the level of general reserves were factored into the 2019/20 financial scenario, budget and reserves strategy.

#### **6.7. Rural Communities Implications**

6.7.1. The report provides details of service provision across the borough.

#### **6.8. Implications for Children & Young People / Cared for Children**

6.8.1. The report provides details of service provision across the borough, acknowledges the ofsted report and notes the overspend on Children in Care.

#### **6.9. Public Health Implications**

6.9.1. This report is a backward look at Council activities at the fourth quarter and provides the year end position. Any public health implications that arise from activities funded by the budgets that this report deals with will be dealt within the individual reports to Members or Officer Decision Records to which they relate.

### **7. Ward Members Affected**

7.1. All

### **8. Consultation & Engagement**

8.1. As part of the budget setting process the Pre-Budget Report 2018/19 provided an opportunity for interested parties to review and comment on the Council's Budget proposals. The budget proposals described in the consultation document were Council wide proposals and that consultation was invited on the broad budget proposals. Where the implications of

individual proposals were much wider for individuals affected by each proposal, further full and proper consultation was undertaken with people who would potentially be affected by individual budget proposals.

## **9. Access to Information**

9.1. The following are links to key background documents:

[Budget Book 2018/19](#)

[Medium Term Financial Strategy 2018/21](#)

[Mid Year Review of Performance 2018/19](#)

[Third Quarter Review of Performance 2018/19](#)

[Statement of Accounts 2018/19](#)

## **10. Contact Information**

10.1. Any questions relating to this report should be directed to the following officer:

Name: Alex Thompson

Job Title: Head of Financial Support and Procurement (Acting Section 151 Officer)

Email: [alex.thompson@cheshireeast.gov.uk](mailto:alex.thompson@cheshireeast.gov.uk)

# Appendix 4 Requests for Supplementary Capital Estimates and Virements

Table 6 - Request for Supplementary Capital Estimates above £1,000,000 and Virements above £5,000,000

Service	Capital Scheme	Amount Requested	Reason and Funding Source
		£	
Cabinet are asked to request Council to approve the Capital Virements and SCEs			
Supplementary Capital Estimates over £1,000,000			
Infrastructure and Highways (inc Car Parking)	A500 Dualling Scheme	1,500,000	Funding required to take the project to the next development stage. To be funded by the existing capital programme through other budget reductions.
Corporate - ICT	Best for Business	2,175,257	To bring Cheshire West and Chester contribution in to the budget.
Total Supplementary Capital Estimates and Virements		3,675,257	

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## **Constitution Committee**

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**Date of Meeting:** 15 July 2019

**Report Title:** Health and Wellbeing Board – Proposed Revisions to the Terms of Reference

**Portfolio Holder:** Cllr Sam Corcoran, Leader

**Senior Officer:** Mark Palethorpe Acting Executive Director of People

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### **1. Report Summary**

- 1.1. The Terms of Reference of the Cheshire East Health and Wellbeing Board are reviewed every two years. At the Annual General Meeting of the Board on 25<sup>th</sup> June 2019 a number of minor changes were proposed to take account of the reorganisation of the Cheshire Clinical Commissioning Groups that is ongoing. The proposed changes are brought to the Constitution Committee for consideration and if agreed, for forwarding on to Council. This is a requirement that is set out in the Terms of Reference that form a part of the Council Constitution.

### **2. Recommendations**

- 2.1. That the changes proposed by the Health and Wellbeing Board (see Appendix One) to the Terms of Reference are considered by the Constitution Committee and if agreed are referred to the Council meeting on 18<sup>th</sup> July 2019.

### **3. Reasons for Recommendations**

- 3.1. To ensure that the Terms of Reference for the Cheshire East Health and Wellbeing Board remain up to date, fit for purpose and facilitate the Board operating effectively as a system leadership forum and delivering its statutory requirements.

#### **4. Other Options Considered**

- 4.1. Not applicable.

#### **5. Background**

- 5.1. The Cheshire East Health and Wellbeing Board's current Terms of Reference (ToR) were agreed in May 2017 following an extensive review. Paragraph 14.1 requires the Board to review its ToR at its Annual General Meeting (AGM) every two years. The AGM held on 25<sup>th</sup> June 2019 provided the first opportunity to review the ToR since they were adopted. Any proposed changes to the Terms of Reference agreed by the Board, are required to be reviewed by the Constitution Committee and then forwarded to the next Council meeting for ratification as a change to the Constitution.
- 5.2. The Board made a number of suggested changes, mostly related to the proposed reorganisation of the Cheshire Clinical Commissioning Groups (CCGs) which is underway. If agreed this will see the merger of West Cheshire, Eastern Cheshire, South Cheshire and Vale Royal CCGs into a single Cheshire CCG. The Terms of Reference currently refer to Eastern and South Cheshire CCGs so the wording has been amended to be less specific and allow for different outcomes of the proposed merger to be accommodated. The proposed changes have been tracked in the attached Appendix One.

#### **6. Implications of the Recommendations**

##### **6.1. Legal Implications**

- 6.1.1. The proposed changes to the wording of the Terms of Reference have been agreed by the Legal Department

##### **6.2. Finance Implications**

- 6.2.1. There are no specific financial implications in relation to this report.

##### **6.3. Policy Implications**

- 6.3.1. There are no direct Policy implications relating to this report, other than the need to ensure that the Board is able to function effectively to fulfil its roles and responsibilities.

##### **6.4. Equality Implications**

- 6.4.1. There are no Equality implications in relation to this report.

**6.5. Human Resources Implications**

6.5.1. There are no human resource implications in relation to this report.

**6.6. Risk Management Implications**

6.6.1. There are no significant risk management implications in relation to this report.

**6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

**6.8. Implications for Children & Young People/Cared for Children**

6.8.1. There are no direct implications for children and young people.

**6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

**6.10. Climate Change Implications**

6.10.1. The Health and Wellbeing Board is responsible for the publication of the Joint Health and Wellbeing Strategy – revised in 2018. This sets out priorities for improving the health and wellbeing of the population of Cheshire East including through encouraging more physical activity and healthy lifestyles.

**7. Ward Members Affected**

7.1. All

**8. Access to Information**

8.1. The proposed changes to the Terms of reference are tracked in Appendix One.

**9. Contact Information**

9.1. Any questions relating to this report should be directed to the following officer:

Name: Guy Kilminster

Job Title: Corporate Manager Health Improvement

Email: [guy.kilminster@cheshireeast.gov.uk](mailto:guy.kilminster@cheshireeast.gov.uk)

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**Terms of Reference as approved by Council 17<sup>th</sup> May 2017** [KG1]

**1. Context**

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

**2. Purpose**

- To work in partnership to make a positive difference to the health and wellbeing of the residents of Cheshire East through an evidence based focus on improved outcomes and reducing health inequalities.
- To prepare and keep up to date the Joint Strategic Needs Assessments (JSNAs) and Joint Health and Wellbeing Strategies (JHWSs), which is a duty of local authorities and clinical commissioning groups (CCGs).
- To lead integrated working between health and social care commissioners, including providing advice, assistance or other support to encourage arrangements under section 75 of the National Health Service Act 2006 (ie lead commissioning, pooled budgets and/or integrated provision) in connection with the provision of health and social care services.
- To be a forum that enables member organisations of the Board to hold each other to account for their responsibilities for improving the health of the population
- To assist in fostering good working relationships between commissioners of health-related services and the CEHWB itself.
- To assist in fostering good working relationships between commissioners of health-related services (such as housing and many other local government services) and commissioners of health and social care services
- To undertake any other functions that may be delegated to it by the Council under section 196(2) of the Health and Social Care Act 2012.

Such delegated functions need not be confined to public health and social care.

- To provide advice assistance and support for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 in connection with the provision of such services.

### 3. Roles and Responsibilities

- 3.1 To work with the Council and CCG(s) [KG2] effectively to ensure the delivery of the Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy.
- 3.2 To work within the CEHWB to build a collaborative partnership to key decision making that embeds health and wellbeing challenge, issue resolution and provides strategic system leadership.
- 3.3 To participate in CEHWB discussions to reflect the views of their partner organisations, being sufficiently briefed to be able to make recommendations about future policy developments and service delivery.
- 3.4 To champion the work of the CEHWB in their wider work and networks and in all individual community engagement activities.
- 3.5 To ensure that there are communication mechanisms in place within partner organisations to enable information about the CEHWB's priorities and recommendations to be effectively disseminated.
- 3.6 To share any changes to strategy, policy, and the system consequences of such on budgets and service delivery within their own partner organisations with the CEHWB to consider the wider system implications.

### 4. Accountability

- 4.1 The CEHWB carries no formal delegated authority from any of the individual statutory bodies.
- 4.2 Core Members of the CEHWB have responsibility and accountability for their individual duties and their role on the CEHWB.
- 4.3 The CEHWB will discharge its responsibilities by means of recommendations to the relevant partner organisations, which will act in accordance with their respective powers and duties.
- 4.4 The Council's Core Members will ensure that they keep Cabinet and wider Council advised of the work of the CEHWB.
- 4.5 The CEHWB may report and be accountable to Full Council and to both the relevant Governing Body(ies) of the NHS Clinical Commissioning Group(s)

As approved by Council 17<sup>th</sup> May 2017  
H&WB Proposed changes June 2019

~~(CCG's) Governing Bodies~~ [KG3] by ensuring access to meeting minutes and presenting papers as required.

- 4.6 The CEHWB will not exercise scrutiny duties around health or adult social care services directly. This will remain the role of the Cheshire East Health and Adult Social Care Overview and Scrutiny Committee and in respect of children's health, the Children and Families Overview and Scrutiny Committee. Decisions taken and work progressed by the CEHWB will be subject to scrutiny by the Health and Adult Social Care Overview and Scrutiny Committee.
- 4.7 The CEHWB will provide information to the public through publications, local media, and wider public activities by publishing the minutes of its meetings on the Council's website. The CEHWB is supported by an Engagement and Communications Network across HWB organisations to ensure this function can operate successfully.

## 5. Membership

- 5.1 The Core membership of the CEHWB will comprise the following:

Voting members:

- **Three** councillors from Cheshire East Council
- The Strategic Director of Adult Social Care and Health
- The Director of Children's Services
- A local Healthwatch representative
- ~~Two representatives of NHS Eastern Cheshire CCG~~
- ~~Two representatives of NHS South Cheshire CCG~~
- Up to four representatives from the relevant CCG(s) [KG4]
- Independent NHS representative (nominated by the CCG(s))

Non-voting members

- The Chief Executive of the Council
- The Director of Public Health
- A nominated representative of NHS England / NHS Improvement [KG5]

The councillor membership of the CEHWB is nominated by the Leader of the Council. The Leader can be a member of the CEHWB as one of the three councillors who are voting members.

- 5.2 The Core Members will keep under review the Membership of the CEHWB and if appropriate will make recommendations to Council on any changes to the Core Membership.
- 5.3 The above Core Members <sup>1</sup> through a majority vote have the authority to appoint individuals as Non Voting Associate Members of the CEHWB. (Committee Procedure Rule 20.1 refers). The length of their membership will

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

As approved by Council 17<sup>th</sup> May 2017  
H&WB Proposed changes June 2019

be for up to one year and will be subject to re-selection at the next Annual General Meeting “AGM” of the CEHWB. Associate Members will assist the CEHWB in achieving the priorities agreed within the Joint Health and Wellbeing Strategy and may indeed be chairs of sub structure forums where they are not actual Core Members of the CEHWB.

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

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

### **6. Frequency of Meetings**

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

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

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

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

7.2 Any voting member of the Board may approach the Chairman of the Board to deal with an item of business which the voting member believes is urgent and under the circumstances requires a decision of the Board. The Chairman’s ruling of whether the requested item is considered / tabled or not at the meeting will be recorded in the minutes of the meeting.

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

### **8. Annual General Meeting**

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

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8.1 The CEHWB shall elect the Chairman and Vice Chairman at each AGM, the appointment will be by majority vote of all **Core voting Members** [KG6] present at the meeting.

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

### 9. Quorum

9.1 Any full meeting of the CEHWB shall be quorate if there is representation of any ~~four~~ **three** of the following statutory members: — ~~NHS Eastern Cheshire CCG, NHS South Cheshire CCG, the relevant NHS Cheshire CCG(s)~~, Local Health Watch, a Councillor and an Officer of Cheshire East Council.

9.2 Failure to achieve a quorum within fifteen minutes of the scheduled start of the meeting, or should the meeting become inquorate after it has started, shall mean that the meeting will proceed as an informal meeting but that any decisions shall require appropriate ratification at the next quorate meeting.

### 10. Procedure at Meetings

10.1 General meetings of the CEHWB are open to the public and in accordance with the Council's Committee Procedure Rules will include a Public Question Time Session. Papers, agendas and minutes will be published on the Cheshire East Health and Wellbeing website.

10.2 The Council's Committee Procedure Rules will apply in respect of formal meetings subject to the following:-

10.3 The CEHWB will also hold development/informal sessions throughout the year where all members are expected to attend and partake as the agenda suggests.

10.4 Core Members are entitled to speak through the Chairman. Associate Members are entitled to speak at the invitation of the Chairman.

10.5 With the agreement of the CEHWB, subgroups can be set up to consider distinct areas of work. The subgroup will be responsible for arranging the frequency and venue of their meetings. The CEHWB will approve the membership of the subgroups.

10.6 Any subgroup recommendations will be made to the CEHWB who will consider them in accordance with these terms of reference and their relevance to the priorities within the Joint Health and Wellbeing Strategy and its delivery plan.

10.7 Whenever possible decisions will be reached by consensus or failing that a simple majority vote by those members entitled to vote.

### 11. Expenses

As approved by Council 17<sup>th</sup> May 2017

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11.1 The partnership organisations are responsible for meeting the expenses of their own representatives.

11.2 A modest CEHWB budget will be agreed annually to support engagement and communication and the business of the CEHWB.

### **12. Conflict of Interest**

12.1 In accordance with the Council's Committee Procedure Rules, at the commencement of all meetings all CEHWB Members shall declare disclosable pecuniary or non-pecuniary interests and any conflicts of interest.

12.2 In the case of non pecuniary matters Members may remain for all or part of the meeting, participate and vote at the meeting on the item in question.

12.3 In the case of pecuniary matters Members must leave the meeting during consideration of that item.

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

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

### **14. Review**

14.1 The above terms of reference will be reviewed every two years at the CEHWB AGM.

14.2 Any amendments shall only be included by consensus or a simple majority vote, prior to referral to the Constitution Committee and Council.

**January 2017**

**Revised June 2019**

### **Definition**

#### **Exempt Information**

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

#### **Confidential Information**

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

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### **Conflict of Interest**

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

- *The issue affects their well being more than most other people who live in the area.*
- *The issue affect their finances or any regulatory functions and*
- *A reasonable member of the public with knowledge of the facts would believe it likely to harm or impair your ability to judge the public interest.*

### **Associate Members**

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

### **Health Services**

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

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

### **Social Care Services**

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

## **Appendix 1**

# **CEHWB Member Code of Conduct**

## **1. Selflessness**

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

## **2. Integrity**

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

## **3. Objectivity**

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

## **4. Accountability**

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

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## **5. Openness**

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

## **6. Honesty**

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

## **7. Leadership**

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



*Working for a brighter future together*

## **Constitution Committee**

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**Date of Meeting:** 15 July 2019

**Report Title:** Amendment to the Constitution – Investigation and Disciplinary Committee Terms of Reference

**Senior Officer:** Catherine Parkinson – Interim Director of Governance and Compliance

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### **1. Report Summary**

- 1.1. Chapter 2, Part 5 of the Constitution, dealing with Functions of Committees, includes the Terms of Reference for the Investigation and Disciplinary Committee (“IDC”).
- 1.2. The current Terms of Reference have been reviewed in line with the requirements set out in the Model Disciplinary Procedure and Guidance in the JNC Conditions of Service Handbook as well as learning points from recent IDC matters to improve the process. A separate IDC Handbook has been produced which provides the detail on the process to be followed and which will be included as an associated document in the Constitution with a link provided for ease of reference.
- 1.3. Chapter 3, Part 6 of the Constitution, dealing with Employment Procedure Rules includes a section on Dismissal of Head of Paid Service and Statutory Chief Officers. This section is out of date and duplicates the process contained in the IDC Terms of Reference and Handbook.
- 1.4. An amendment to the Constitution is required to include the revised IDC Terms of Reference and IDC Handbook and to replace the Employment Procedure Rules section on Dismissal of Statutory Officers with a link to the updated procedures.

### **2. Recommendation**

- 2.1. To approve the amendments of the Constitution to include the revised Terms of Reference for the IDC as set out in Appendix A, the changes to

the Employment Procedure Rules at Appendix B and a new IDC Handbook to be included as an associated document at Appendix C. Appendix D shows the changes between the current Terms of Reference in the Constitution and Appendix A.

### **3. Reason for Recommendation**

3.1. To remove any duplication and to ensure that the Council's Constitution is kept up to date and that the Terms of Reference are:

- 3.1.1. compliant with current statutory and JNC guidance. Failure to update could increase risk of legal challenge from Statutory Officers involved in potential IDC matters;
- 3.1.2. efficient, fair and transparent; and
- 3.1.3. avoids incurring unnecessary costs and delay where possible.

3.2. To reduce the number of Members required for an IDC Committee from seven to five. This is in accordance with the JNC Model Disciplinary Procedure which recommends that the Committee comprises of five members.

3.3. Some of the detail of the IDC process has been removed from the Constitution and inserted and expanded upon in a separate IDC Handbook which now includes comprehensive guidance on each stage of the process to assist Officers and Members involved.

### **4. Other Options Considered**

4.1. Not applicable.

### **5. Background**

5.1. A working group was set up in 2018 to review the IDC Terms of Reference in order to check compliance with current guidance and to factor in learning points arising from recent IDC matters, identifying any 'gaps' in the process and clarifying roles and responsibilities.

5.2. The amended Terms of Reference at Appendix A is the product of this review together with the detailed IDC Handbook at Appendix B which contains the comprehensive guidance notes on the process. The amended Employment Procedure Rules are included as Appendix C.

5.3. The Constitution now requires amending to reflect these changes to ensure that it is kept up to date.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

6.1.1. Section 37 of the Local Government Act 2000 and the guidance issued under it requires the Council to keep its Constitution up to date and regularly review it

6.1.2. The Constitution Committee may make any changes to the Constitution which are not major subject to the Monitoring Officer and s.151 Officer agreeing that the proposed changes are not major and to Council subsequently being informed of such changes. Changes that are considered by the Committee and agreed by the Monitoring Officer and s.151 Officer to be major shall be referred to Council for approval. (Constitution Chapter 2, Part 5, paragraph 98.4)

6.1.3. The Council is required to consider the Model Disciplinary Procedure and Guidance set out in the JNC Conditions of Service Handbook.

### **6.2. Finance Implications**

6.2.1. There are no specific Finance implications.

### **6.3. Policy Implications**

6.3.1. There are no known Policy implications.

### **6.4. Equality Implications**

6.4.1. There are no equality implications.

### **6.5. Human Resources Implications**

6.5.1. There are no specific HR implications – the proposed changes do not fundamentally change the approach to disciplinary matters for DSO's.

### **6.6. Risk Management Implications**

6.6.1. There are no direct risk management implications

### **6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

### **6.8. Implications for Children & Young People/Cared for Children**

6.8.1. There are no direct implications for children and young people.

**6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

**6.10. Climate Change Implications**

6.10.1. There are no climate change implications.

**7. Ward Members Affected**

7.1. None

**8. Access to Information**

8.1. Not applicable

**9. Contact Information**

9.1. Any questions relating to this report should be directed to the following officer:

Name: Catherine Parkinson

Job Title: Interim Director of Governance and Compliance

Email: [Catherine.Parkinson@cheshireeast.gov.uk](mailto:Catherine.Parkinson@cheshireeast.gov.uk)

## Appendix A

### Investigation and Disciplinary Committee (“IDC”) terms of reference.

Please refer to the IDC Handbook (link provided in Chapter 7, list of associated documents) for further information.

#### Membership: 5 Members

- 53 The Committee shall be politically balanced, shall consist of 5 Members of the Council of which 1 member of the Committee may be a member of the Cabinet. Members of the Committee must have completed mandatory training. A quorum for the meeting shall be 3 Members.

#### Statement of Purpose and Functions

- 54 Members shall be appointed to the Committee, as and when a Committee is required to be convened, under the normal processes for making appointments to committees (via group leader/whip notification to the Head of Governance and Democratic Services). In accordance with the Model Disciplinary Procedure contained in the JNC Handbook for Chief Officers, IDC meetings shall be convened by the Monitoring Officer (in consultation with the Chair of Staffing Committee). Should the Monitoring Officer (MO) be unable to act, the Head of Paid Service or Deputy Monitoring Officer (DMO) can also convene the Committee in consultation with the Chair of Staffing Committee. Subsequent meetings of a convened IDC Committee will be convened by the IDC Co-Ordinator in conjunction with the Chair of the Committee.
- 55 The Monitoring Officer, or where the Monitoring Officer cannot act the Deputy Monitoring Officer shall, in consultation with the Chair of the Staffing Committee and the Chair of any existing IDC, filter out and deal with allegations of misconduct which are clearly unfounded, trivial or can best be dealt with under some other procedure. The MO/DMO will also consider whether informal resolution is appropriate. Once appointed as MO/DMO for a specific IDC matter, the same MO/DMO shall see the matter through unless a conflict of interest arises or the MO/DMO is unavoidably indisposed.
- 56 For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the Committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of. Should any Member become conflicted or indisposed over the course of the matter, any substitution shall be at the Chair’s discretion in conjunction with the Committee’s legal adviser.
- 57 All papers issued to the Committee by the IDC Coordinator must be returned to the Coordinator (legal representative) or IDC Clerk at the end of each IDC meeting.
- 58 If a matter passes the filter stage, the Committee will in conjunction with its legal adviser consider allegations/issues regarding disciplinary matters (as defined in The Local Authorities (Standing Orders) (England) Regulations 2001 as amended) relating to the Designated Statutory Officers of the Council (the Head of Paid Service, the Monitoring Officer and the S.151 Officer) (the ‘DSOs’)
- 59 The Committee will in conjunction with its legal adviser decide:
- 59.1.1 Whether no further formal action under this procedure is required,

59.1.2 To appoint an Independent Investigator (“II”) to investigate the issue and to commission reports from an II;

59.1.3 Whether it is appropriate to reach agreement with the DSO on a formal sanction (short of dismissal) without the need to appoint an II;

59.1.4 Whether to suspend a DSO or to reconsider suspension and to review at a frequency to be determined by the Committee, any decisions taken to suspend a statutory officer. The Committee shall have the delegated power to suspend a DSO;

59.1.5 What action should be taken against a DSO following an investigation. This could include taking no further action, informal resolution or other appropriate procedures, disciplinary action short of dismissal or proposed dismissal. The Committee shall have delegated authority to impose disciplinary action short of dismissal in these circumstances

- 60 In the event that the Committee recommends dismissal then that recommendation shall be referred to the Independent Persons Panel prior to being referred to full Council for a determination in accordance with the IDC Handbook.
- 61 With the exception of a decision to recommend to full Council that a DSO be dismissed, there shall be a right of appeal to the Disciplinary Appeals Committee against any decisions made by the Committee to take disciplinary action against a DSO.

## **Disciplinary Appeals Committee**

### **Membership: 5 Members**

- 62 The Committee shall be politically balanced, shall consist of 5 Members of the Council of which 1 member of the Committee may be a member of the Cabinet. No Member who was a member of the Investigation and Disciplinary Committee making the decision which is the subject of the appeal may be a member of the Disciplinary Appeals Committee. Members of the Committee must have completed mandatory training.

### *Statement of Purpose*

- 63 Members shall be appointed to the Committee, as and when a Committee is required to be convened, under the normal processes for making appointments to committees (via group leader/whip notification to the Head of Governance and Democratic Services). For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the Committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of.
- 64 To consider any appeals brought by the designated statutory officers of the Council (the Head of Paid Service, the Monitoring Officer or S151 Officer) (the 'DSOs') against any decision made by the Investigation and Disciplinary Committee to take disciplinary action against a DSO short of dismissal.
- 65 In the event that the Investigation and Disciplinary Committee recommends dismissal, then that recommendation shall be referred to the Independent Persons Panel prior to being referred to full Council for a determination in accordance with the Staff Employment Procedure Rules and IDC Handbook.

### *Procedure for the Disciplinary Appeals Committee*

- 66 The DSO shall have the right to attend and be accompanied at the Committee Meeting which considers the appeal by a trade union representative or work colleague of their choice.
- 67 The Committee shall consider the appeal in accordance with the Council's normal procedure for dealing with appeals.

### *Access to Information*

- 68 The Council's Access to Information Procedure Rules shall apply to meetings of the Committee.

### *Access to Advice and Representation*

- 69 For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.
- 70 For the avoidance of doubt, if a DSO chooses to retain professional advice and/or representation at or in respect of any meeting of or hearing before the Committee, then the DSO in question shall be responsible for the cost of that advice or representation.

## **Independent Persons Panel**

### *Statement of Purpose and Functions*

- 71 The Independent Persons Panel is an advisory committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of the officers designated as the Head of Paid Service, the S.151 Officer and the Monitoring Officer (together the “Designated Statutory Officers” or “DSOs”) in accordance with Schedule 3 to The Local Authorities (Standing Orders) (England) Regulations 2001.
- 72 The Panel must comprise at least two of the Independent Persons appointed under section 28(7) of the Localism Act 2011 (to advise on Member conduct allegations) by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.
- 73 It shall be for the Monitoring Officer or DMO to invite the Council’s current Independent Persons (being those persons appointed to advise on Member conduct complaints under the Localism Act 2011) and if necessary one or more of the Independent Persons of neighbouring authorities (following consultation with the Monitoring Officers of those authorities), to be considered for appointment to the Independent Persons Panel. It shall be for the Chair of the Audit and Governance Committee to confirm appointments to the Independent Persons Panel.
- 74 The Panel will be appointed from those Independent Persons who have accepted an invitation to be considered for appointment, in accordance with the following priority order:
- an Independent Person who has been appointed by the authority and who is a local government elector in the Council’s area
  - any other Independent Person who has been appointed by the authority
  - an Independent Person who has been appointed by another authority or authorities.
- 75 One or more reserve members will be appointed to the Panel from Independent Persons who have been appointed under section 28(7) of the Localism Act 2011 by the authority or by another authority or authorities. A reserve member will take the place of any member of the Panel who is unable to act for the duration of the Panel meeting in question, or any adjournment of it. If more than one reserve member is available for the meeting then selection will be by the alphabetical order of their surnames so long as it does not conflict with the priority order set out in paragraph 74 above.
- 76 The appointment of a Panel Member to preside at the meeting will be the first item of business at each Independent Persons Panel meeting. Where there are equal votes cast at a meeting on any matter the Chair may exercise a second or casting vote.
- 77 The quorum for a meeting shall be three members of the Panel.

### *Terms of Reference*

- 78 To advise the Council on matters relating to the dismissal of a DSO.

- 79 The advice of the Independent Persons Panel must be sought in accordance with the Staff Employment Procedure Rules and IDC Handbook where the Investigation and Disciplinary Committee propose to recommend the dismissal of a DSO.
- 80 The advice of the Independent Persons Panel may (but need not) be sought by the Investigation and Disciplinary Committee at any other point in an investigation under the IDC process or (if not conflicted) by the Disciplinary Appeals Committee.
- 81 For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.

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## **Appendix B**

### **Dismissal of Head of Paid Service, Statutory Chief Officers and Executive Director of Place**

- 25 Dismissal of the Designated Statutory Officers of the Council (the Head of Paid Service, the Monitoring Officer and the S.151 Officer) (the 'DSOs') will be dealt with in accordance with the Investigation and Disciplinary Committee Terms of Reference above in Chapter 2 – Part 5 – Committees, together with the detailed guidance provided in the IDC Handbook which can be found here: **[insert link]** and which is included on the list of associated documents in Chapter 7. The requirements of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) and the Model Disciplinary Procedure and Guidance as set out in the JNC Conditions of Service Handbook have been followed in this regard.



## **Appendix C**

### **IDC Handbook and guidance notes**

#### **Procedure and guidance for Investigation and Disciplinary Committee**

##### **Scope:**

1. This Handbook will apply to any potential disciplinary allegation (as defined in The Local Authorities (Standing Orders) (England) Regulations 2001 as amended) raised against any of the designated Statutory Officers of the Council (the Head of Paid Service, the Monitoring Officer and the Section 151 Officer) (the 'DSOs') in accordance with the Constitution. Any allegations relating to performance or capability against a DSO will be dealt with under a separate policy and procedure in the first instance but will be referred to the IDC if there is a potential for dismissal of the DSO. Any grievances raised against a DSO will also be investigated under the Council's grievance policy and procedure in the first instance.

##### **Initial Filter Stage**

2. If an allegation of potential misconduct against a DSO is made, the Monitoring Officer ("MO"), or an appointed Deputy Monitoring Officer ("DMO"), will conduct a filter process of the allegations.
3. The MO/DMO will determine whether the allegations should be filtered out of the IDC process on the basis that they are clearly unfounded, trivial or can best be dealt with under some other procedure.
4. The MO/DMO shall also consider whether early informal resolution of the issues with the DSO is appropriate, with the option of joint secretarial conciliation to avoid time-consuming and expensive formal IDC procedures.
5. If informal resolution is not appropriate, the MO/DMO will consider the evidence and (unless the matters are clearly unfounded or trivial) write to the DSO informing him or her of the allegations and asking for his or her representations. A meeting will normally be arranged by the MO/DMO with the DSO to discuss the allegations.
6. Having considered the DSO's views and evidence available, the MO/DMO will draft an initial filter report.
7. The draft filter report will be shared jointly with the Chair of the Staffing Committee and Leader, or Chair of the IDC if there is a standing committee.

8. The MO/DMO will finalise the filter report and will take into consideration the views of the Chair of the IDC and Chair of the Staffing Committee. The filter decision is, however, an officer decision for the MO/DMO to determine.
9. If the MO/DMO decides that the allegations should be filtered out of the IDC process, this shall be the end of the IDC procedure and the DSO will be sent a letter informing him or her of the decision as soon as possible.
10. If the MO/DMO decides that the allegations should be put to the Committee, the filter report and evidence considered should be sent to the DSO at least three weeks before the Committee hearing to allow the DSO time to consider the allegations and to put forward his or her submissions at least seven working days before the hearing.
11. If the allegations relate to potential gross misconduct, the MO/DMO should ask the IDC to consider suspension of the DSO (see further below).
12. The definitions of misconduct and gross misconduct for the purpose of the IDC process shall be the same as the definitions applied in the Council's disciplinary policy and procedure.
13. The IDC Co-Ordinator should notify the Joint Secretaries of the JNC when it is proposed to use the formal IDC procedure.

**Matter proceeds to IDC process - Investigation Stage**

14. It is in the interests of all parties that the proceedings be conducted expeditiously and fairly.
15. In the exercise of its function, the Committee is to receive and consider any allegations made. It may, in conjunction with its legal adviser and after consultation with its Committee members:
  - a. make such enquiries of the relevant officer or any other person as it considers appropriate
  - b. request additional information, explanations or documents from any person
  - c. invite or receive representations from any person
  - d. take such further steps as the Committee, in its reasonable opinion, decides is appropriate including suspension as further detailed below.
16. The Committee, in conjunction with its legal adviser and, having heard representations from the DSO or his or her adviser and the MO or where the MO cannot act the DMO, shall decide whether the issues:

- e. require no further formal action, or
- f. should be referred to an Independent Investigator ("II") to investigate the issue, or
- g. require such alternative action as the Committee, in its reasonable opinion and in consultation with the DSO's line manager, decides is appropriate, including referral to other appropriate procedures or reaching agreement with the DSO on an appropriate formal sanction without the need to appoint an II.

17. In considering whether the threshold in deciding to appoint an II has been met the Committee will assess whether:

- h. if the allegations are proved it would be such as to lead to the dismissal or other action which would be recorded on the DSO's personal file;
- i. there is evidence in support of the allegation/issue sufficient to require further investigation.

18. Before deciding to appoint an II or suspend a DSO the Committee shall invite the representations of the DSO. The DSO may prepare written submissions if he/she wishes which must be provided to the IDC Coordinator at least seven working days before the Committee Meeting. The DSO shall have the right to be accompanied at the Committee Meeting when called in to the meeting by a trade union representative or work colleague of their choice. The calling of witnesses at this stage is at the discretion of the Committee.

19. An II should only be formally appointed once the IDC has determined that there is a case that requires further investigation. However, to minimise delays in any potential investigation, steps should be taken by the Coordinator to identify a shortlist of three potential Independent Investigators from the list held by the JNC Joint Secretaries concurrently with arrangements for the initial meeting of the IDC. This is not pre-judging whether an investigator will be needed, but a practical step to assist in minimising any delays.

**Suspension:**

20. Suspension will not always be appropriate as there may be alternative ways of managing risks during the course of the investigation. However, the Committee will need to consider whether it is appropriate to suspend the DSO. This may be necessary if an allegation is such that the continuing presence at work of the DSO might compromise the investigation or impair the efficient exercise of the Council's functions.

21. It may also be necessary if an exceptional situation arises for the Head of Paid Service in consultation with the Leader, or Deputy Leader in consultation with the Monitoring Officer (if the DSO is the Head of Paid Service), to carry out a temporary suspension of the DSO pending the IDC Committee hearing to consider the matter. In such circumstances, the temporary suspension decision will be reviewed by the Committee at the IDC meeting.
22. The Committee should seek the views of the DSO's line manager in relation to any suspension review or decision, in conjunction with its legal adviser
23. The DSO should also be informed of the proposed suspension and have the right to present information before such a decision is taken.
24. The continuance of a suspension should be reviewed after it has been in place for two months. The Committee shall continue to review any continuing suspension at a frequency to be determined by the Committee, in conjunction with their legal adviser, taking into consideration the wellbeing of the DSO. For any suspension review the Head of HR will prepare a report for the Committee which should include a section of consultation with the DSO's line manager. In carrying out such review the Committee shall also consider any representations made by the DSO or his or her representative.
25. The Committee shall re-consider whether suspension is appropriate if requested to do so by the Monitoring Officer or where the Monitoring Officer is unable to act the Deputy Monitoring Officer, or in circumstances where the Chair thinks it appropriate.
26. The view of the Head of Paid Service (or if the DSO is the Head of Paid Service, the Leader), should be taken into consideration by the Committee when considering or re-considering any suspension decisions.
27. Before suspending the DSO careful consideration should be given to whether it is necessary and whether there are any other suitable alternative ways of managing the situation, for example by agreeing particular working arrangements such as working from home or working in some other way that does not impact or interfere with the investigation and which protects the DSO and the Council from further allegations of a similar nature.
28. If the DSO is suspended, a Single Point of Contact ("SPOC") and support officer (which can be the same person if agreed by the DSO) should be appointed for contacting the DSO.

### **Appointment of Independent Investigator**

29. The IDC Coordinator will obtain three CVs from the JNC 'taxi rank' of investigators and appropriate references. If these are acceptable, the three CVs will be sent to the DSO to select one of the names.
30. The IDC Coordinator should consider the commissioning and procurement in line with the Council's procurement rules.
31. The only acceptable reason for the DSO not selecting from the names being supplied is a conflict of interest. If two of the names provided are conflicted, a new list of three CVs will be sent to the DSO. If only one of the names is conflicted, the DSO shall select one of the other two names provided. If an appointment is not agreed by the DSO within 14 calendar days of the names being supplied, the Committee Chair, in conjunction with its legal adviser and taking into consideration the views of the Head of Paid Service, will be at liberty to select an Investigator from the names supplied.
32. Terms of reference for the II are to be issued to the DSO for information only once agreed by the Committee in conjunction with its legal adviser. Terms of reference should make clear the precise allegations or issues to be investigated and provide access to sources of information and potential witnesses and set out expectations on timescales for completion of the report. It is anticipated that the report should be produced within 2-3 months' of sending the terms of reference to the II.
33. The II should share with the IDC Coordinator his/her proposed methodology for the investigation within 14 days of receiving the terms of reference. The II shall liaise with the IDC Coordinator in respect of any arrangements regarding the investigation.
34. Once completed, the II report should set out the Investigator's opinion whether (and if so, the extent to which) the evidence he/she has obtained supports any allegation of misconduct or other issue under investigation and recommending any disciplinary action (if any is appropriate) or range of actions which appear to him/her to be appropriate for the Council to take against the DSO.

### **Receiving the II's Report**

35. The II should send a draft of his/her proposed report to the IDC Coordinator as soon as completed and within 12 weeks of the ToFR being agreed or within alternative agreed timescales. The Coordinator shall consult with the Head of

HR, proof read and make sure any and all statements are signed off together with any proposed suggestions/edits.

36. The Committee should receive the final report produced by an II in relation to a DSO within one month of the receipt of the report from the II by the IDC Coordinator. The report shall also be shared with the MO/DMO that filtered the matter.
- 53 The DSO shall be sent a copy of the report as soon as possible after it has been finalised and not less than four weeks before the intended meeting which considers the II's report. The DSO shall have the right to attend and be accompanied by their representative (trade union representative or work colleague of their choice) at the Committee Meeting which considers the II's report. The DSO shall submit any written representations or additional evidence he/she wishes the Committee to consider, to arrive with the Co-Ordinator at least 8 working days before the intended meeting so that a final bundle for the meeting may be prepared.
- 54 Any relevant witnesses should be issued with their statement, documents that will be referred to in their evidence and a copy of the agenda.
- 55 Democratic services to take responsibility for:
  - 55.1 Preparing paginated final bundle for the hearing to be indexed and copied to all parties five working days before the hearing
  - 55.2 Arranging hearing dates based on all parties' availability. (II; DSO; witnesses and members)
  - 55.3 Ensuring all packs are collected back in after the hearing and passed to the IDC Coordinator.

### **The Hearing**

- 56 The Committee shall consider the II's report and shall invite representations from the DSO and/or his/her representative.
- 57 Having considered all the evidence and heard from the DSO and relevant witnesses the Committee may:
  - 57.1.1 Take no further action
  - 57.1.2 Recommend informal resolution or other appropriate procedures
  - 57.1.3 Refer back to the II for further investigation and report
  - 57.1.4 Impose disciplinary action against the DSO short of dismissal
  - 57.1.5 Propose dismissal of the DSO

- 58 In conducting any hearing the Committee shall have regard to the model disciplinary procedure in the JNC handbook for Chief Executives and the ACAS Code of Practice.

### **Decision**

- 59 The Committee should make its decision on the basis of the II report and evidence heard at the hearing. It is open to the Committee to impose a lesser or greater sanction than that recommended by the II.
- 60 Where the DSO is found to have no case to answer, appropriate communication should be prepared by IDC Chair; legal adviser; Council communications, Head of Paid Service and the DSO to ensure as far as possible that there is no damage to the DSO's reputation.
- 61 Where the decision taken by the Committee is action short of dismissal, the action will be taken by the Committee itself, in conjunction with its legal adviser.
- 62 In the case of any disciplinary action other than dismissal the DSO may appeal to the Disciplinary Appeals Committee against the decision within 10 working days of the decision. The Disciplinary Appeals Committee will consider the report of the II and any other relevant information considered by the Committee. This process will follow the procedure for appeals under the Council's general disciplinary procedure. The DSO will be invited to an appeal hearing and the aim will be for it to take place no more than 30 working days following receipt of the DSO's appeal.
- 63 The DSO will have the opportunity to appear at the appeal meeting and state his/her case. The DSO will have the right to be accompanied to the meeting by a trade union representative or work colleague of their choice. The decision of the Appeals Committee will be final.
- 64 If the Committee decides that the DSO shall be dismissed the Committee shall inform the Head of HR that it is proposing to dismiss the DSO and that the executive objections procedure should commence. The Head of HR shall give all members of the Cabinet the opportunity to raise any objections prior to the decision, providing them with:
- a summary of the allegations;
  - a summary of the II's report and recommendations;
  - a summary of any representations from the DSO; and
  - the timescale during which any material and well-founded objections should be made.

In order for an objection to be considered material and well founded, the objection would need to be not only based on evidence (well-founded) but must also be relevant to the case (material). The Committee will consider at a reconvened committee meeting any objections and satisfy itself as to whether any of the objections are both material and well founded, in conjunction with its legal adviser. If they are then the Committee will consider the impact of the objections on its proposal for dismissal. Having satisfied itself that there are no material or well-founded objections to the proposal to dismiss, the Committee will inform the DSO of the decision and the proposal for dismissal will be put to the Independent Persons Panel for consideration along with the II report and any other necessary material.

- 65 The Committee Chair, the Committee's legal adviser and the DSO (or his or her representative) should be present at the meeting of the Independent Panel. The DSO will have the opportunity to make representations and the Committee Chair (or its representative) will have the chance to respond. The Independent Panel will review the decision and prepare a report for full Council. This report should contain a clear rationale if the Panel disagrees with the recommendation to dismiss. The Independent Panel must be appointed at least 20 days before the meeting of Full Council at which the recommendation for dismissal is to be considered. Appropriate training will be given.
- 66 A meeting of Full Council will consider under Part 2 of the meeting the proposal that a DSO should be dismissed and must take into account:
  - 66.1.1 Any advice, views or recommendations of the Independent Panel
  - 66.1.2 a summary of the allegations;
  - 66.1.3 a summary of the II's report and recommendations; and
  - 66.1.4 a summary of any representations of the DSO
- 67 The DSO will have the opportunity to appear before Full Council and put his/her case before a decision is taken. The DSO will have the right to be accompanied to this hearing by a trade union representative or work colleague of their choice.
- 68 Full Council must approve the dismissal before notice of dismissal is issued. Given the independent investigation that has already been carried out in respect of the allegations, it will not be appropriate for Full Council to undertake a full re-hearing of the case. Instead, consideration by the Council will take the form of consideration of a summary of the case and the proposal to dismiss and any advice, views or recommendations of the Independent Panel.

69 Full Council may reject the proposal to dismiss. If so, it must give reasons and the matter will then be referred back to the Committee to determine the sanction and the above procedures will be repeated again.

70 The hearing by Full Council will also fulfil the appeal function for the DSO's appeal against dismissal.

***Power to agree financial settlements***

71 It is possible at any stage to consider the mutual termination of the contract of employment of the DSO.

72 The Head of Paid Service (or Deputy if the DSO is the Head of Paid Service) shall have authority to agree a formal settlement agreement with the DSO subject to and in accordance with the terms of the Constitution. The Head of Paid Service (or Deputy) shall inform the Committee once a decision on any formal settlement has been reached.

***Grievances raised by DSO during disciplinary proceedings***

73 Where a DSO raises a grievance relating to his or her disciplinary case, the Committee will decide how to deal with the grievance. This will depend on the facts of the case, the stage of the IDC process reached and the nature of the grievance raised. In some cases it may be appropriate to hear the grievance before continuing with the IDC process. In other cases it will be appropriate to deal with the issues raised in the grievance as part of the IDC process itself.

***Access to Information***

74 The Council's Access to Information Procedure Rules shall apply to meetings of the Committee.

***Access to Advice and Representation***

75 For the avoidance of doubt, the Committee will commission and have access to external legal advice.

76 For the avoidance of doubt, if a DSO chooses to retain professional advice and/or representation at or in respect of any meeting of or hearing before the Committee, then the DSO in question shall be responsible for the cost of that advice or representation.

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## Appendix D

**Investigation and Disciplinary Committee (“IDC”) terms of reference.**

Please refer to the IDC Handbook (link provided in Chapter 7, list of associated documents) for further information.

**Membership: 75 Members**

~~53~~—The Committee shall be politically balanced, shall consist of 75 Members

53 of the Council ~~and at least of which~~ 1 member of the ~~committee~~ ~~shall~~ Committee may be a member of the Cabinet. Members of the ~~committee~~ Committee must have completed mandatory training. A quorum for the meeting shall be 3 Members.

**Statement of Purpose and Functions**

54 Members shall be appointed to the ~~committee~~ Committee, as and when a ~~committee~~ Committee is required to be convened, under the normal processes for making appointments to committees (via group leader/whip notification to the Head of Governance and Democratic Services ~~and Governance~~). In accordance with the Model Disciplinary Procedure contained in the JNC Handbook for Chief ~~Executives~~ Officers, IDC meetings shall be convened by the Monitoring Officer (in consultation with the ~~Chairman~~ Chair of Staffing Committee) ~~who will,~~). Should the Monitoring Officer (MO) be unable to act, the Head of Paid Service or Deputy Monitoring Officer (DMO) can also convene the Committee in consultation with the ~~Chairman~~ Chair of the Staffing Committee ~~and the Chairman of the~~. Subsequent meetings of a convened IDC, ~~filter out and deal~~ Committee will be convened by the IDC Co-Ordinator in conjunction with ~~allegations which are clearly unfounded, trivial or can best be dealt with under some other procedure~~ the Chair of the Committee.

55 The Monitoring Officer, or where the Monitoring Officer cannot act the Deputy Monitoring Officer shall, in consultation with the Chair of the Staffing Committee and the Chair of any existing IDC, filter out and deal with allegations of misconduct which are clearly unfounded, trivial or can best be dealt with under some other procedure. The MO/DMO will also consider whether informal resolution is appropriate. Once appointed as MO/DMO for a specific IDC matter, the same MO/DMO shall see the matter through unless a conflict of interest arises or the MO/DMO is unavoidably indisposed.

~~55~~6 For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the ~~committee~~ Committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of. ~~Should any Member become~~

conflicted or indisposed over the course of the matter, any substitution shall be at the Chair's discretion in conjunction with the Committee's legal adviser.

57 ~~To~~All papers issued to the Committee by the IDC Coordinator must be returned to the Coordinator (legal representative) or IDC Clerk at the end of each IDC meeting.

5658 If a matter passes the filter stage, the Committee will in conjunction with its legal adviser consider allegations/issues regarding disciplinary matters (as defined in The Local Authorities (Standing Orders) (England) Regulations 2001 as amended) relating to the ~~designated~~Designated Statutory Officers of the Council (the Head of Paid Service, the Monitoring Officer and the ~~Chief Finance~~S.151 Officer) (the 'DSOs') ~~and to authorise initial investigation.~~

59 The Committee will in conjunction with its legal adviser decide:

59.1.1 Whether no further formal action under this procedure is required,

5759.1.2 To appoint an Independent Investigator ("II") to investigate ~~allegations of misconduct against any DSO~~ the issue and to commission reports from an II;

58 ~~To determine appropriate action upon receipt of any preliminary investigation.~~

59.1.3 ~~To decide whether~~Whether it is appropriate to reach agreement with the DSO on a formal sanction (short of dismissal) without the need to appoint an II;

5959.1.4 Whether to suspend a DSO or to reconsider suspension and to review at a frequency to be determined by the Committee, any decisions taken to suspend a statutory officer. The Committee shall have the delegated power to suspend a DSO;

6059.1.5 ~~To determine what~~What action should be taken against a DSO following an investigation. This could include taking no further action, informal resolution or other appropriate procedures, disciplinary action short of dismissal or proposed dismissal. The Committee shall have delegated authority to impose disciplinary action short of dismissal ~~or dismissal~~in these circumstances

6160 In the event that the Committee recommends dismissal then that recommendation shall be referred to the Independent Persons Panel prior to being referred to full Council for a determination in accordance with the ~~Staff Employment Procedure Rules~~IDC Handbook.

- 6261** With the exception of a decision to recommend to **full** Council that a DSO be dismissed, there shall be a right of appeal to the Disciplinary Appeals Committee against any decisions made by the Committee to take disciplinary action against a DSO.

*~~Procedure for Investigation and Disciplinary Committee~~*

~~Investigation~~

- ~~63—It is in the interests of all parties that the proceedings be conducted expeditiously and fairly.~~
- ~~64—In the exercise of its function, the Committee is to receive and consider any complaint/allegations made. It may:~~
- ~~64.1—make such enquiries of the relevant officer or any other person as it considers appropriate~~
- ~~64.2—request additional information, explanations or documents from any person~~
- ~~64.3—invite or receive representations from any person.~~
- ~~65—The Committee having carried out such steps as it considers appropriate and having heard representations from the DSO or his or her adviser shall decide whether the issues:~~
- ~~65.1—require no further formal action, or~~
- ~~65.2—should be referred to an II~~
- ~~66—In considering whether the threshold in deciding to appoint an II has been met the Committee will assess whether:~~
- ~~66.1—if the allegations are proved it would be such as to lead to the dismissal or other action which would be recorded on the DSO's personal file~~
- ~~66.2—there is evidence in support of the allegation/issue sufficient to require further investigation.~~
- ~~67—In deciding whether the threshold for the appointment of an II has been reached the Committee may carry out such preliminary investigations as it considers appropriate or necessary or authorise officers to do so. This shall be solely for the purpose of establishing whether or not the threshold for appointing an II to carry out an investigation has been met.~~
- ~~68—Before deciding to appoint an II or suspend a DSO the Committee shall invite the representations of the DSO unless it is impracticable to do so. The DSO shall have the right to be accompanied at the Committee Meeting.~~

~~Receiving the II's Report/ Hearing~~

- ~~69 — The Committee should receive any report produced by an II in relation to a DSO within one month of the receipt of the report by the Council.~~
- ~~70 — The DSO shall have the right to attend and be accompanied at the Committee Meeting which considers the II's report.~~
- ~~71 — The Committee shall consider the II's report and shall invite representations from the DSO and/or his/her representative. The Committee may impose disciplinary sanctions as set out in the Council's disciplinary procedures, the JNC Terms and Conditions Handbook for Chief Officers and the JNC Terms and Conditions Handbook for Chief Executives. In conducting any hearing the Committee shall have regard to the model disciplinary procedure in the JNC handbook for Chief Executives.~~

~~Decision~~

- ~~72 — If the Committee decides that the DSO shall be dismissed the Full Council shall consider the Committee's recommendation of dismissal. Prior to consideration by Full Council the Independent Persons Panel shall consider the matter and the Proper Officer shall give all members of the Cabinet the opportunity to raise any objections prior to the decision. This process is governed by the Staff Employment Procedure Rules set out in this Constitution. [Note the Independent Persons Panel may meet concurrently with the Investigation and Disciplinary Committee]~~

~~In the case of any disciplinary action other than dismissal the DSO may appeal to the~~

~~73~~ **Disciplinary Appeals Committee ~~against the decision.~~**

~~Suspension~~

~~74—If a DSO has been suspended for a period of 2 months (or in the case of a decision to suspend taken under urgency provisions) then the Committee shall review that suspension. The Committee shall continue to review any continuing suspension every 2 months. In carrying out such review the Committee shall consider any representations made by the II and the DSO and/or his or her representative.~~

~~Access to Information~~

~~75—The Council's Access to Information Procedure Rules shall apply to meetings of the Committee.~~

~~Access to Advice and Representation~~

~~7653 For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.~~

~~7753 For the avoidance of doubt, if a DSO chooses to retain professional advice and/or representation at or in respect of any meeting of or hearing before the Committee, then the DSO in question shall be responsible for the cost of that advice or representation.~~

**Disciplinary Appeals Committee Membership: 75 Members**

- 78**—The Committee shall be politically balanced, shall consist of **75** Members
- 62** of the Council ~~at least of which~~ 1 member of the ~~committee shall~~ Committee may be a member of the Cabinet. No Member who was a member of the Investigation and Disciplinary Committee making the decision which is the subject of the appeal may be a member of the Disciplinary Appeals Committee. Members of the ~~committee~~ Committee must have completed mandatory training.

*Statement of Purpose*

- 7963** Members shall be appointed to the ~~committee~~ Committee, as and when a ~~committee~~ Committee is required to be convened, under the normal processes for making appointments to committees (via group leader/whip notification to the Head of **Governance and Democratic Services** ~~and Governance~~). For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the ~~committee~~ Committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of.
- 8064** To consider any appeals brought by the designated statutory officers of the Council (the Head of Paid Service, the Monitoring Officer or **Chief Finance Officer** ~~Officer~~/S151 Officer) (the 'DSOs') against any decision made by the Investigation and Disciplinary Committee to take disciplinary action against a DSO short of dismissal.
- 8165** In the event that the Investigation and Disciplinary Committee recommends dismissal, then that recommendation shall be referred to the Independent Persons Panel prior to being referred to **full** Council for a determination in accordance with the Staff Employment Procedure Rules **and IDC Handbook**.

*Procedure for the Disciplinary Appeals Committee*

- 8266** The DSO shall have the right to attend and be accompanied at the Committee Meeting which considers the appeal **by a trade union representative or work colleague of their choice**.
- 8367** The Committee shall consider the appeal in accordance with the Council's normal procedure for dealing with appeals.

*Access to Information**Access to Information*

*Committee*

~~8468~~ The Council's Access to Information Procedure Rules shall apply to meetings of the Committee.

*Access to Advice and Representation*

69 For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.

70 For the avoidance of doubt, if a DSO chooses to retain professional advice and/or representation at or in respect of any meeting of or hearing before the Committee, then the DSO in question shall be responsible for the cost of that advice or representation.

~~*Access to Advice and Representation*~~

~~8553~~ ~~For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.~~

~~86 — For the avoidance of doubt, if a DSO chooses to retain professional advice and/or representation at or in respect of any meeting of or~~

~~hearing before the Committee, then the DSO in question shall be responsible for the cost of that advice or representation.~~

|

**Independent Persons Panel***Statement of Purpose and Functions*

~~87~~71 The Independent Persons Panel is an advisory committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of the officers designated as the Head of Paid Service, the ~~Chief~~ ~~Finance~~ ~~S.151~~ Officer and the Monitoring Officer (together the “Designated Statutory Officers” or “DSOs”) in accordance with Schedule 3 to The Local Authorities (Standing Orders) (England) Regulations 2001.

~~88~~72 The Panel must ~~be convened having invited~~ ~~comprise~~ at least two of the Independent Persons appointed under section 28(7) of the Localism Act 2011 (to advise on Member conduct allegations) by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.

~~89~~73 It shall be for the Monitoring Officer ~~or DMO~~ to invite the Council’s current Independent Persons (being those persons appointed to advise on Member conduct complaints under the Localism Act 2011) and if necessary one or more of the Independent Persons of neighbouring authorities (following consultation with the Monitoring Officers of those authorities), to be considered for appointment to the Independent Persons Panel. ~~It shall be for the~~ ~~Constitution~~ ~~Chair of the Audit and Governance~~ Committee to confirm appointments to the Independent Persons Panel~~].~~

~~90~~74 The Panel will be appointed from those Independent Persons who have accepted an invitation to be considered for appointment, in accordance with the following priority order:

- an Independent Person who has been appointed by the authority and who is a local government elector in the Council’s area
- any other Independent Person who has been appointed by the authority
- an Independent Person who has been appointed by another authority or authorities.

~~94~~75 One or more reserve members will be appointed to the Panel from Independent Persons who have been appointed under section 28(7) of the Localism Act 2011 by the authority or by another authority or authorities. A reserve member will take the place of any member of the Panel who is unable to act for the duration of the Panel meeting in question, or any adjournment of it. If more than one reserve member is available for the meeting then selection will be by the alphabetical order of their surnames so long as it does not conflict with the priority order set out in paragraph ~~90~~74 above.

~~92~~76 The appointment of a Panel Member to preside at the meeting will be the first item of business at each Independent Persons Panel meeting. Where there are equal votes cast at a meeting on any matter the ~~Chairman~~Chair may exercise a second or casting vote.

~~93~~77 The quorum for a meeting shall be ~~two~~three members of the Panel.

#### *Terms of Reference*

~~94~~78 To advise the Council on matters relating to the dismissal of a DSO.

~~95~~79 The advice of the Independent Persons Panel must be sought in accordance with the Staff Employment Procedure Rules and IDC Handbook where the Investigation and Disciplinary Committee propose to recommend the dismissal of a DSO.

~~96~~80 The advice of the Independent Persons Panel may (but need not) be sought by the Investigation and Disciplinary Committee at any other point in an investigation ~~of disciplinary~~under the IDC process or (if not conflicted) by the Disciplinary Appeals Committee.

81 ~~For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.~~For the avoidance of doubt, the Committee may commission and have access to external legal and professional advice.



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## Council

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**Date of Meeting:** 18 July 2019

**Report Title:** Appointment of the Director of Financial and Customer Services  
(and s.151 Officer)

**Senior Officer:** Acting Chief Executive

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### 1. Report Summary

- 1.1 The Staffing Committee met on 28 June 2019 and resolved that Council be recommended to approve the appointment of Alex Thompson to the new position of Director of Financial and Customer Services, including the s.151 Officer role, at the inclusive salary of £86,603, and subject to satisfactory references and Cabinet consultation.
- 1.2 Subsequently, Cabinet members were consulted and supported the recommendation.
- 1.3 Satisfactory references have also been received in respect of Alex Thompson following the selection process on 28 June 2019.

### 2. Recommendation

That Council approve the appointment of Alex Thompson as the Director of Financial and Customer Services (and s.151 Officer) on an inclusive salary of £86,603 per annum.

### 3. Reasons for Recommendation/s

In accordance with the Constitution, Council must approve the appointment of the Council's s.151 Officer as a Statutory Officer.

### 4. Other Options Considered

Not applicable

### 5. Background

- 5.1 The recruitment process for the Director of Financial and Customer Services (and s.151 Officer) has been conducted by the Staffing Committee.
- 5.2 Four candidates attended the final selection process which involved an assessment centre including presentation and a formal interview with Staffing Committee Members on 28 June 2019.
- 5.3 The Staffing Committee Members agreed that the position of Director of Financial and Customer Services (and s.151 Officer) be offered to Alex Thompson.
- 5.4 Satisfactory references have been received in respect of Alex Thompson following the selection process on 28 June 2019.
- 5.5 Alex Thompson is currently the Head of Financial Support and Procurement and the Acting s.151 Officer at Cheshire East Council.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

The designation of the s.151 Officer must be approved by Council. The s.151 Officer is appointed in accordance with the Local Government and Housing Act 1989.

### **6.2. Finance Implications**

This post of Director of Financial and Customer Services (and s.151 Officer) is an established position within the Council's senior management structure and funded within the Council's staffing budgets.

### **6.3. Policy Implications**

There are no direct policy implications.

### **6.4. Equality Implications**

There are no direct equality implications.

### **6.5. Human Resources Implications**

Actions have been undertaken in accordance with the Constitution and appropriate policies and procedures.

### **6.6. Risk Management Implications**

Actions have been undertaken in accordance with appropriate policies procedures and scheme of officer delegation.

**6.7. Rural Communities Implications**

There are no direct implications for rural communities.

**6.8. Implications for Children & Young People/Cared for Children**

There are no direct implications for children and young people.

**6.9. Public Health Implications**

There are no direct implications for public health.

**6.10 Climate Change Implications**

There are no direct climate change implications.

**7. Ward Members Affected**

None applicable.

**8. Access to Information**

None applicable.

**9. Contact Information**

Any questions relating to this report should be directed to the following officer:

Name: Sara Barker

Job Title: Head of HR

Email: [sara.barker@cheshireeast.gov.uk](mailto:sara.barker@cheshireeast.gov.uk)

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**COUNCIL MEETING – 18 JULY 2019****RECOMMENDATION FROM STAFFING COMMITTEE – AMENDMENT TO THE PAY POLICY STATEMENT 2019/20****RECOMMENDATION**

**That**

- 3 Council be recommended to amend the Pay Policy Statement 2019-20 as follows:**

**3.5 Chief Officer Remuneration**

**Chief Executive – Tier 1**

- **The salary package of the post is within the range of £151,000 to £161,000.**

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Extract from the Minutes of the Staffing Committee meeting on 28 June 2019

**4 RECRUITMENT AND SECTION FOR THE HEAD OF PAID SERVICE**

The Committee considered a report seeking approval of the arrangements to commence the process to recruit to the post of Head of Paid Service (Chief Executive).

In accordance with the Employment Procedure Rules, the Staffing Committee was required to approve the job description and specification, determine whether the post was recruited to internally or externally and agree the salary for the new appointment.

The proposed job description and specification for the Head of Paid Service (Chief Executive) was attached at Appendix 1 to the report. This had been amended from the previous version to include reference to the Council's environmental vision.

The Council had recently engaged Penna Executive Search to support senior recruitment to key roles across the Council and it was recommended that Penna be used to support an external recruitment process.

Consideration was given to the salary range for the position. The Council's Pay Policy Statement gave the salary range for the Head of Paid Service as £156,075 to £166,075. Following discussion the Committee proposed that the salary range should be reduced to £151,000 to £161,000 and that Council be recommended to amend the Pay Policy Statement to reflect this.

**RESOLVED:** That

- 1 the job description and specification for the post of Head of Paid Service, as set out in Appendix 1 to the Report, be approved;
- 2 the post be advertised externally with support from Penna Executive Search; and
- 3 Council be recommended to amend the Pay Policy Statement 2019-20 as follows:

3.5 Chief Officer remuneration

Chief Executive – Tier 1

- The salary package of the post is within the range of £151,000 to £161,000.



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## **Staffing Committee**

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**Date of Meeting:** 28 June 2019

**Report Title:** Recruitment and Selection for the Head of Paid Service

**Senior Officer:** Sara Barker, Head of Human Resources

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### **1. Report Summary**

- 1.1 To seek formal approval and agree arrangements to commence the process to recruit to the post of Head of Paid Service (Chief Executive).

### **2. Recommendations**

- 2.1 It is recommended that Staffing Committee:-

- 2.1.1 Approve the job description and specification for the post of Head of Paid Service (attached at Appendix 1).
- 2.1.2 Agree that the post will be advertised externally with support from Penna Executive Search.
- 2.1.3 Note the current salary range for the Head of Paid Service within the Pay Policy Statement 2019/20 and confirm the salary for the new appointment.

### **3. Reasons for Recommendations**

- 3.1 In accordance with the Constitution, Staffing Committee is required to undertake the recruitment and selection process for the Head of Paid Service in accordance with the Employment Procedure Rules.

### **4. Other Options Considered**

Not applicable.

### **5. Background**

5.1 The appointment of the Head of Paid Service is subject to specific requirements which are set out in the Constitution within the Employment Procedure Rules. Where the Council proposes to appoint to the Head of Paid Service, Staffing Committee will oversee the arrangements for the recruitment and selection to the vacancy.

5.2 The Employment Procedure Rules state that at the commencement of the process, Staffing Committee shall:-

5.2.1 Draw up a statement specifying the duties of the officer concerned and any qualifications or guidelines to be sought in the person to be appointed; and

5.2.2 Where it is not proposed to appoint from existing employees, make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.

## **6. Current Recruitment and Selection Process**

6.1. Prior to the launch of a new recruitment and selection process, there is a requirement to approve the job description and specification; determine whether the post is recruited to internally or externally and agree the salary for the new appointment.

6.2. A proposed job description and specification for the Head of Paid Service (Chief Executive) which outlines the specific duties and qualifications is attached at Appendix 1.

6.3. Cheshire East Council has recently engaged Penna Executive Search to support senior recruitment to key roles across the Council. Penna were previously involved with the Head of Paid Service recruitment process earlier this year when the post was advertised externally and subsequently paused in May 2019. It is recommended that Penna support a new external recruitment process.

6.4 Within the Pay Policy Statement 2019/20, which was approved by Council on 21<sup>st</sup> February 2019, the salary range for the Head of Paid Service is £156,075 to £166,075. Within this range, the current spot salary is £159,197. Staffing Committee is asked to note the current salary range and confirm the salary for the new appointment. Any changes to the Pay Policy Statement would need to be recommended to Council for approval.

## **7. Implications of the Recommendations**

### **7.1. Legal Implications**

7.1.1 The designation of the role of Head of Paid Service is required in accordance with Section 4(1) of the Local Government and Housing Act 1989.

7.1.2 The recruitment and selection of the Head of Paid Service must be undertaken by Staffing Committee. Following the interview of candidates, the Committee will come to a view as to the most suitable person to recommend for the position. They will notify the Head of HR of the name of the person in question and any other particulars, which the Committee consider are relevant to the appointment.

7.1.2 The Head of HR will, within two days, notify each member of Cabinet.

7.1.3 A conditional offer of appointment must wait until the Committee is notified by the Head of Head of HR that no objections have been received, or that the Committee is satisfied that any objection received is not material or not well founded.

7.1.4 The Committee will then recommend that person for appointment to the next meeting of Council or at a specially convened meeting of the Council.

### **7.2. Finance Implications**

7.2.1 The post of Head of Paid Service is an established position within the Council's senior management structure and funded within the Council's staffing budgets.

### **7.3. Policy Implications**

7.3.1 There are no direct policy implications.

### **7.4. Equality Implications**

7.4.1 There are no direct equality implications.

### **7.5. Human Resources Implications**

7.5.1 Actions have been undertaken in accordance with the Constitution and appropriate policies and procedures.

**7.6. Risk Management Implications**

7.6.1 Actions have been undertaken in accordance with appropriate policies procedures.

**7.7. Rural Communities Implications**

7.7.1 There are no direct implications for rural communities.

**7.8. Implications for Children & Young People/Cared for Children**

There are no direct implications for children and young people.

**7.9. Public Health Implications**

7.9.1 There are no direct implications for public health.

**7.10 Climate Change Implications**

7.10.1 There are no direct implications for climate change.

**8. Ward Members Affected**

All

**9. Access to Information**

Pay Policy Statement 2019-20:

<https://www.cheshireeast.gov.uk/pdf/council-and-democracy/council-information/open-data/pay-policy-statement.pdf>

**10. Contact Information**

Any questions relating to this report should be directed to the following officer:

Name: Sara Barker

Job Title: Head of Human Resources

Email: [sara.barker@cheshireeast.gov.uk](mailto:sara.barker@cheshireeast.gov.uk)



*Working for a brighter future together*

## **Council**

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**Date of Meeting:** 18 July 2019

**Report Title:** Political Representation on the Council's Committees and terms of reference of the Local Authority School Governor Nominations Panel

**Senior Officer:** Head Democratic Services and of Governance

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### **1. Report Summary**

- 1.1. The law requires that each relevant Council decision making body must be politically balanced, as far as is reasonably practicable, and that the total of Committee seats allocated to the Council's political groups balances perfectly.
- 1.2. The terms of reference of the Local Authority School Governor Nominations Panel need to be included in the Constitution.

### **2. Recommendations**

- 2.1 That the political group representation, as set out in Appendix A to the report (or in any updated and circulated Appendix), and the methods, calculations and conventions used in determining this, as outlined in the report be adopted, the allocation of places to Committees be approved and that it be noted that the Council's Annual General Meeting appointed the listed Committees.
- 2.2 That the terms of reference of the Local Authority School Governor Nominations Panel, as set out in Appendix B to the report, be included in the Constitution.

### **3. Reasons for Recommendations**

- 3.1. To determine the political representation on the Council's Committees and to appoint to those Committees.

### **4. Other Options Considered**

- 4.1. Not applicable.

## 5. Background

- 5.1. Appendix A sets out the political representation on ordinary committees and sub committees, this being based on the political structure of the Council as a whole.
- 5.2. The proportionalities in the Appendix have been arrived at by the following methods and conventions:

applying the relevant percentage to each body

rounding up from 0.5 and above and rounding down below 0.5

where rounding up would result in more than one political Group receiving an additional seat, and the total allocation of seats exceeding what is required, the Group having the lowest residual entitlement will not receive an additional seat

where the required number of members for a decision making body cannot be achieved using the above methods and calculations, the political group having the largest residual percentage for that body will be entitled to be awarded the additional place (e.g. if one group is entitled to 4.25 places, and another group is entitled to 1.48 places, the first group will be awarded 4 places on the body in question, and the second group will be awarded 2 places)

where two or more political Groups have an identical residual percentage, the agreement of one Group to sacrifice a seat will be observed. Alternatively, the matter will be resolved by the toss of a coin.

- 5.3 The Local Authority School Governor Nominations Panel has been established since the beginning of the life of the Council.. These need to be included in the Constitution.

## 6. Implications of the Recommendations

### 6.1. Legal Implications

- 6.1.1. The Local Government (Committees and Political Groups) Regulations 1990, made pursuant to the Local Government and Housing Act 1989, make provisions in respect of the political group representation on a local authority's committees in relation to the overall political composition of the Council. The legislation applies to overview and scrutiny committees and the decision-making committees and sub committees of the Council.

6.1.2. The legislation requires that, where proportionality applies, and seats are allocated to different political groups, the authority must abide by the following principles, so far as is reasonably practicable:

6.1.2.1. Not all of the seats can be allocated to the same political Group (i.e. there are no single group committees).

6.1.2.2. The majority of the seats on the body are to be allocated to a political Group with a majority membership of the authority.

6.1.2.3. The total number of seats on all ordinary committees and sub committees allocated to each Political Group bears the same proportion to the proportion on the full Council.

6.1.2.4. The number of seats on each ordinary committee allocated to each Political Group bears the same proportion to the proportion on full Council.

6.1.3 The proposals contained in this report meet the requirements of the legislation.

6.1.4 The 1990 Regulations require Political Group Leaders to notify the Proper Officer of the Groups' nominations to the bodies in question.

## **6.2. Finance Implications**

6.2.1. There are no direct finance implications.

## **6.3. Policy Implications**

6.3.1. There are no direct implications for policy.

## **6.4. Equality Implications**

6.4.1. There are no direct implications for equality.

## **6.5. Human Resources Implications**

6.5.1. There are no direct human resource implications.

## **6.6. Risk Management Implications**

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

## **6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

**6.8. Implications for Children & Young People/Cared for Children**

6.8.1. There are no direct implications for children and young people/Cared for Children.

**6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

**6.10 Climate Change Implications**

6.10.1. There are no direct climate change implications.

**7. Ward Members Affected**

7.1. All ward members

**8. Access to Information**

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

**9. Contact Information**

9.1. Any questions relating to this report should be directed to the following officer:

Name: Brian Reed

Job Title: Head Democratic Services and of Governance

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

APPENDIX A

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

Based upon the following:

Con:33; Lab:25; Ind:16; Lib Dem:4; R. Ind:2; NGI:2

Committee	Con.	Lab.	Ind.	Lib. Dem.	R. Ind	Total Allocated
Corporate (Resources) Overview and Scrutiny	5 C	3	2	1	1 VC	12
Environment & Regeneration (places) Overview and Scrutiny	5 C	4 VC	2	1	0	12
Children and Families (People) Overview and Scrutiny	5 C	4	2 VC	1	0	12
Health and Adult Social Care (People) Overview and Scrutiny	6 C	5	3 VC	1	0	15
Audit and Governance Committee	4 VC	3	2	1 C	0	10
Constitution	6	3 VC	3 C	1	1	14
Strategic Planning Board	5 VC	4 C	2	1	0	12
Northern Planning Committee	5 VC	4	2 C	0	1	12
Southern Planning Committee	5 C	4	2 VC	1	0	12
Public Rights of Way	3 C & VC	2	2	0	0	7
Licensing Committee  (only required area of change)	6	5 VC	3 C	0	1	15
Staffing	3	3 C & VC	2	0	0	8
Local Authority School Governor Appointments Panel	2 VC	2 C	1	0	0	5
Community Governance Review Sub Committee	3 VC	2 C	2	0	0	7
Committee	Con.	Lab.	Ind.	Lib. Dem.	R. Ind	Total
Total Places allocated	63	48	30	8	4	153
Percentage entitlement	41.25	31.25	20	5	2.5	100%
Proportional	63.1125	47.8125	30.6	7.65	3.825	

Entitlement	(63)	(48)	(30)	(8)	(4)	153
Difference	0	0	0	0	0	153

## Appendix B

### Local Authority School Governor Nominations Panel

#### Membership: 5 Members

1. To consider and determine the selection of Authority Governors to educational establishments, where governors are nominated by Cheshire East Council, including maintained schools and academies (as determined by their Articles of Association) in order that appointments can be made in accordance with agreed criteria.
2. To monitor vacancy rates of the Authority Governors based on information provided by the Governance and Liaison Service, with a view to ensuring that vacancies are filled within one school term.
3. To note the nomination and appointment of additional governors and any urgent appointment to schools in the Cheshire East Vulnerable Schools Programme
4. To consider, and where appropriate, agree, terminating appointments of Authority Governors where the governor has clearly breached confidentiality or brought the school or the Local Authority into disrepute, or otherwise failed to fulfil the role according to the code of conduct. This is in addition to situations where governors are automatically disqualified under Schedule 4 of the School Governance (Constitution)(England) Regulations 2012.

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**COUNCIL – 18 JULY 2019****NOTICES OF MOTION**

**Submitted to Council in Accordance with paragraph 1.34 of the Council Procedural Rules**

**1 Free TV Licences for Over 75s****Proposed by Cllr Andrew Gregory**

The decision by the BBC to withdraw free TV licences for the over 75 should be condemned by this Council; The BBC (who are responsible for the decision to withdraw funding for this service) should think again and change this decision given the impact this will have on many of the most poor and vulnerable people in the borough, who rely on terrestrial television as their main means of being kept informed and entertained.

In addition this decision acts as a reminder that for many older people, access to the internet is not available to them meaning they can only rely on the national TV and radio stations. If such people cannot afford to pay the annual licence fee, then many may have no means of entertainment to enjoy in their homes in their later years.

With the D Day Landing celebrations only a few weeks behind us, it is unfortunate that the generation which gave so much to give us the freedoms we enjoy, could be penalised by such a short sighted measure.

**2 Schools Funding****Proposed by Cllr Jos Saunders and seconded by Cllr George Hayes**

That this Council recognises the work undertaken by the previous administration to counteract the continued challenges faced by our schools and colleges as a result of the inequitable National School Funding System.

Significant work has already been undertaken which has included leading a campaign lobbying local Members of Parliament and the Right Honourable Secretary of State for Education.

As a consequence we request that this Council resolves to continue lobbying and advocating for a fairer funding deal for our schools.

**3 Cheshire East Independent Person/Independent member of the Cheshire Police & Crime Panel**

**Proposed by Cllr Suzanne Brookfield and seconded by Cllr Stewart Gardiner**

This Council

- 1) regrets the comments made by Mr Fousert when, as then Chair of the Cheshire Police & Crime Panel, he noted that the Deputy Chief Constable had worn a rainbow lanyard, said that this was a political statement and that this was a breach of police regulations
- 2) asks the Monitoring Officer to prepare a report on whether Mr Fousert should be removed as an Independent Person
- 3) asks the Monitoring Officer to prepare a report on whether Mr Fousert should be removed as a member of the Police & Crime Panel
- 4) asks the Monitoring Officer not to involve Mr Fousert in any complaints about councillor conduct while the above reports are being prepared

**4 Maximising the potential of Cheshire East Land Holdings for both efficient food production and effective carbon capture.**

**Proposed by Cllr Janet Clowes and Seconded by Cllr Tony Dean.**

This Council acknowledges that in May 2019 The Government's Committee on Climate Change recommended that Britain should cease its contributions to global warming by 2050 by reducing greenhouse gas emissions to "net zero". Earlier this year, in March 2019, this Council made a commitment to ensure its own activities should be carbon neutral by 2025 - a commitment that was re-iterated at Full Council in May.

In this context, land use is an essential resource that can sequester and store carbon.

However since the 1940s the United Kingdom has seen a systematic loss of its peatlands and forested areas both of which have a pivotal role in storing carbon.

The Climate Change Report highlights the need for fundamental land reform and has identified that to help meet the 2050 net zero target, there must be:

- Better soil and livestock management practices.
- Changes in agricultural practices (including healthier eating behaviours)
- The restoration of Peatlands and
- the planting of up to 1.5 million hectares of new woodland and hedgerows. This would raise the land coverage used for this purpose from 13% to 19% by 2050 and require the re-utilisation of between 26% and 35% of land that is currently used as grassland or rough grazing.

Cheshire East is a highly rural area and the Council owns or manages a range of agricultural and rural land holdings. This Council therefore has the potential to make a significant contribution to meeting both the Borough's and thus the wider UK's climate change targets.

This Council therefore resolves to:

- (1) Review its agricultural land-holdings and on-going work with farm tenants to:-
  - (1.1) Optimise Opportunities to improve soil and livestock management practices.
  - (1.2) Identify appropriate grassland and rough pasture released by (1.1) for tree and hedge planting.
  - (1.3) Review the terms and conditions of all new tenancies on Cheshire East Farms, as they become available, to facilitate (1.1) and (1.2) above.
- (2) Review (either through its own land ownership practice or with appropriate land-owners and Natural England) the effective maintenance and restoration of peatland areas in Cheshire East, including the nationally designated "Nature Improvement Area (Meres and Mosses)" south of Crewe.
- (3) Utilising the knowledge and experience of (1) and (2) above, this Council will work with the Boroughs' schools, academies, colleges and associated partners to develop appropriate resources, practical educational and volunteering opportunities to ensure that Climate Change is incorporated into the wider curricula for young people and volunteers.
- (4) That the actions identified in (1), (2) and (3) are incorporated into the Cheshire East Council 'Environment Strategy' and the Cheshire East 'Rural Action Plan'.
- (5) Lobby David Rutley: Member of Parliament; Macclesfield and Forestry Minister) and all other Cheshire East Constituency MPs, to support the recommendations of the Climate Change Committee and the expeditious implementation of "help with skills, training and information to implement new uses of land, and support with high up-front costs and long-term pay-backs of investing in alternative uses". (Recommendation 2, page 11, CCC, 2019)

References:

<https://www.theccc.org.uk/wp-content/uploads/2018/11/Land-use-Reducing-emissions-and-preparing-for-climate-change-CCC-2018-1.pdf>

<https://naturalengland.blog.gov.uk/2019/06/21/natural-englands-role-in-meeting-climate-change-targets/>

<https://www.nfuonline.com/cross-sector/environment/climate-change/climate-change-news/nfu-reiterates-its-net-zero-aims-for-agriculture/>

## **5 Air Quality**

### **Proposed by Cllr Rob Vernon**

This Council notes that:

- At 2019 Annual Council we voted for strong action on the Climate Emergency through a new Environmental Strategy, recognising the urgent need to tackle the varied environment issues across our borough
- There are currently 17 declared Air Quality Management Areas (AQMA) within Cheshire East
- Public Health England have concluded that air pollution is expected to cause over 2 million new cases of disease by 2035, at a health and social care cost of £5.3bn

This Council resolves to:

- Review previous and put in place new Air Quality Action Plans (AQAPs) to tackle air quality in each individual AQMA, as well as across the wider Cheshire East borough
- Support the inclusion in AQAPs of:
  - Weight restrictions to reduce the number of HGVs passing through AQMAs
  - Establishing and promoting safe cycle routes, as well as encouraging more schools to develop walking buses
  - Any necessary review to nearby junctions with a view to reducing traffic queues
  - Contributions by developers to air quality mitigation measures in nearby AQMAs that equate to the maximum necessary for preventing any further increase in air pollution
  - Much greater expansion of green planting and the protection of green spaces
  - Changes to bus services that cater to new and in-progress developments
- Ensure air quality is an important aspect when considering environmental, transport and housing policy going forward