

POWERS AND RESPONSIBILITIES OF OFFICERS

1.0 AN INTRODUCTION TO THE ROLES AND RESPONSIBILITIES OF OFFICERS AND ELECTED MEMBERS

- 1.1** Elected Members set policy priorities and strategies to reflect local interests and needs and are also responsible for allocating funding between individual priority areas.
- 1.2** Officers of the Authority are responsible for implementing these strategies and policies by delivering services and major initiatives. It is Officers therefore, who have responsibility for managing the Authority's day to day operations, within a policy and budgetary framework laid down by Members.
- 1.3** As such, the Chief Executive, Corporate Management Team¹ and Heads of Service or their nominated representatives are entitled to be notified and represented at all meetings of the Council and Cabinet² and to be consulted in advance on all reports and items of business being submitted to Members.
- 1.4** Under laws introducing "executive arrangements" in the discharge of local authority functions, both the full Council and Cabinet have specific functions which can be delegated to committees or to Officers.
- 1.5** Where Council or Cabinet have established a committee to discharge their respective functions then subject to any limitations they impose, that committee can also delegate its functions to sub-committees or Officers.
- 1.6** This scheme of delegation captures a full range of executive and Council functions by service area. A definition of what constitutes an executive function is set out below.
- 1.7** The majority of the functions set out in this scheme of delegation are executive functions delegated to Officers by the Cabinet. Details of the functions that are delegated to Officers by full Council and its committees can be found in the sections of this Constitution that relate to Local Choice Functions and Non-Executive Functions.

2.0 EXECUTIVE FUNCTIONS DEFINED

- 2.1** Executive functions include those Local Choice Functions identified in this Constitution as being the responsibility of the Cabinet, and all the other

¹ Defined at paragraph 3.2 below

² "Council" and "Cabinet" shall include any committees, sub-committees, special committees, panels, boards or other similarly constituted bodies including briefing meetings and in respect of the Cabinet shall the Cabinet Members sitting *functus officio* whether individually or collectively.

functions of the Authority that are not specified in the section of this constitution that sets out Non-Executive Functions.

2.2 However, in accordance with the functions Regulations³, the following are NOT functions of the Executive:

2.2.1 Imposing conditions, limitations or restrictions on approvals, licences, permissions or registrations on a non-executive function.

2.2.2 Determining any terms that any such approval etc. is subject to.⁴

2.2.3 determining whether and how to enforce any failure to comply with such approvals or any of the attached conditions etc.⁵

2.2.4 Amending, modifying, varying or revoking any such approval.⁶

2.2.5 Determining whether a charge should be made for such approvals or the amount of such charge.⁷

2.2.6 Making, amending, revoking or replacing the Members Allowance Scheme or determining any amounts or rates in the scheme.⁸

2.2.7 Electoral arrangements.⁹

2.2.8 Governance arrangements.¹⁰

2.2.9 Community governance reviews.¹¹

2.2.10 Subject to any Regulations under S20 of the Local Government Act 2000, making arrangements for the joint exercise of functions under S101(5) of the Local Government Act 1972 and making appointments to committees/joint committees under S.102 of the 1972 Act.¹²

2.2.11 Any functions reserved to full Council under legislation which pre-dates the Regulations.¹³

³ The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 SI2000/2853

⁴ Reg. 2(2)

⁵ Reg. 2(3)

⁶ Reg. 2(4)

⁷ Reg. 2(6)

⁸ Reg. 2(5) and 2 (6)

⁹ Reg 2(6A and B)

¹⁰ Reg2(6Ca) -c),Da) and b), and F)

¹¹ Reg2(6E)

¹² Reg. 2(8)

¹³ Reg. 2(11)

2.2.12 Amending, modifying, varying or revoking any plan or strategy unless it is required to give effect to the requirements of the Secretary of State or Minister submitted for approval or where full Council when approving the plan/strategy authorised the Executive to do so.¹⁴

2.2.13 The adoption/approval of a plan/strategy which is not in the policy framework, if full Council has determined that full Council should take the decision¹⁵ and where the decision is contrary to or not wholly in accordance with the Budget and Policy Framework.¹⁶

3.0 OFFICER MANAGEMENT ARRANGEMENTS

3.1 The Officer management arrangements for the Authority are overseen by a Corporate Management Team comprising the Chief Executive, the Strategic Director (Places and Organisational Capacity), the Strategic Director (Children, Families and Adults), the Head of HR & Organisational Development, the Director of Finance and Business Services, and the Borough Solicitor. The Corporate Management Team shall be chaired by the Chief Executive.

3.2 Each member of the Corporate Management Team (“CMT Member”) is accountable to the Chief Executive for leading the Services within his or her area of responsibility and ensuring that the Services are managed in accordance with the objectives, plans, policies, programmes, budgets and processes of the Authority.

3.3 Within these arrangements powers are delegated to CMT Members who will establish, operate and keep under review schemes of internal delegation to cascade powers and responsibilities to Heads of Service and other subordinate Officers.

3.4 Heads of Service are accountable to the Chief Executive and the appropriate CMT Member for effectively and efficiently managing the Services for which he or she is responsible, in accordance with the objectives, plans, policies, programmes, budgets and processes of the Authority. This includes responsibility for the proper exercise of any delegated powers.

4.0 PRINCIPLES UNDERPINNING THE OFFICER SCHEME OF DELEGATION

4.1 In addition to the delegations set out in this scheme, the Council and Cabinet can arrange for bespoke delegations on specific matters.

4.2 The fact that a function is delegated under these arrangements does not preclude the delegator from exercising the function directly by determining to reserve particular decisions for itself. In respect of Cabinet functions the

¹⁴ Reg. 4

¹⁵ Reg. 5(1)

¹⁶ Reg. 5(1)

power to reserve decisions is exercisable by the relevant portfolio holder or the leader of the Cabinet.

- 4.3** Officers with delegated powers under this scheme may, subject to any limitations imposed in the terms of the delegation to them, delegate further to other Officers. Every such sub-delegation shall be recorded in writing within the internal Service schemes of delegations. The sub-delegation of functions shall not in any way diminish the overall responsibility and accountability of the delegator.
- 4.4** Officers shall devolve responsibility for service delivery and management to the nearest practicable point to the service user.
- 4.5** In some circumstances, a delegatee (whether officer or committee/sub-committee) may consider a matter to be of such importance that their delegated authority should not be exercised. In these circumstances the delegatee may refer the matter back to the delegator for determination.
- 4.6** Any power delegated under this scheme can be exercised by the relevant CMT Member and in any case by the Chief Executive personally (which power shall not be capable of further delegation).
- 4.7** Each Officer with power to act under this section is authorised to do so only in relation to the budgets, resources and policies within their areas of responsibility.
- 4.8** Before taking decisions, Officers are under a duty to satisfy themselves that they have the duly delegated power to do so and that they have undertaken any appropriate consultation. Appropriate advice must be taken where the matter in question involves professional or technical considerations that are not within the Officer's sphere of competence.
- 4.9** Officers are under a duty to ensure that they take decisions in accordance with:-
 - 4.9.1** Principles of natural justice.
 - 4.9.2** Professional standards.
 - 4.9.3** Statutory powers and requirements, guidance and Codes of Practice.
 - 4.9.4** This Constitution.
 - 4.9.5** The approved budget and policy framework including contract and financial procedure rules.
 - 4.9.6** Any other approved policies, procedures and practices.

4.10 The scheme of delegation does not delegate to Officers:-

4.10.1 Any matter specifically reserved by law or by this Constitution to the Council or to any committee or sub-committee of the Council.

4.10.2 Any matter in respect of which specific provision is made elsewhere in this constitution.

4.10.3 Any matter which in law may not be delegated to an Officer.

4.10.4 Any Key Decision other than those in respect of which specific provision has been made for delegation to Officers.

4.11 Any decision made under this scheme of delegation may be called-in in accordance with the appropriate decision making procedure rules from time to time in force.

5.0 POWERS TO IMPLEMENT DECISIONS OF THE COUNCIL AND CABINET

5.1 Once Cabinet and Council decisions come into effect, CMT Members (and Officers duly authorised by them to act on their behalf) have, in accordance with this scheme of delegation, the power to take all necessary actions (including the letting of contracts and incurring expenditure) to implement those decisions, without further reference to the Cabinet or Council, to ensure that all matters of day to day management and administration of the Authority's affairs are carried out effectively and efficiently.

5.2 In implementing Cabinet and Council decisions CMT Members are empowered to undertake statutory processes and carry out, consider and act upon the outcome of statutory and non statutory consultations on service provision in consultation with the relevant Portfolio holder(s) providing that this is consistent with the overall Policy and Budgetary Framework of the Council.

5.3 The powers and responsibilities in the following paragraphs are set out to assist clarity and are without prejudice to the generality of the power set out above.

5.4 The general delegation above and the delegations below include the power to do anything ancillary or incidental to, arising from, or necessary or desirable to give effect to or facilitate the exercise of the powers and functions delegated to Officers including, where not specifically prohibited or available within the Authority, the engagement or retention of any external source of expertise to advise, represent or act for or on behalf of the Officer or Authority.

5.5 References to legislation include any amendments or re-enactments in addition to, where appropriate, any subordinate legislation, regulations, statutory codes of practice or guidance.

6.0 GENERAL FINANCIAL RESPONSIBILITIES

6.1 CMT Members are responsible for financial management within their Departments. They shall manage the development of budget policy options with a detailed assessment of financial implications within the budget process and resource framework agreed by the Council

6.2 CMT Members shall establish, operate and keep under review schemes of internal financial delegation in consultation with the Director of Finance and Business Services to ensure that:-

6.2.1 The day to day financial management of Services within their Departments is carried out in a secure, efficient and effective manner and in accordance with Financial Procedure Rules and Codes of Practice on Financial Management.

6.2.2 Budgetary problems are contained wherever possible within the Department and if necessary specific in year approval for the transfer of resources between budgets is sought.

6.2.3 Reports are made to the appropriate bodies on the management of resources and performance against targets set out in the business plan.

6.2.4 Risks are appropriately assessed, reviewed and managed.

6.2.5 All members of staff are fully trained, aware and comply with the requirements of the Financial Procedure Rules, the Code of Practice on Financial Management and the Contract Procedure Rules.

6.2.6 All allegations of suspected fraud, corruption and financial irregularity are promptly reported to the Director of Finance and Business Services and Borough Solicitor and that any local investigations are undertaken thoroughly, consistently and impartially.

7.0 BAD DEBTS

7.1 CMT Members shall decide whether to write off debts (other than local taxation) in accordance with Financial Procedure Rule.

8.0 CASH IMPRESTS ACCOUNTS

- 8.1 CMT Members shall authorise the establishment and administration of individual cash imprests accounts in accordance with the Financial Procedure Rules.

9.0 FEES AND CHARGES

- 9.1 CMT Members shall determine the level of fees or charges payable in respect of any chargeable goods or services supplied, work undertaken, or the loan or use of plant, equipment or machinery whether authorised by specific statutory provision or local authority powers at large.

10 PERSONNEL

- 10.1 CMT Members are authorised deal with the full range of employment and staff management issues including but not limited to appointments, terms and conditions, training, discipline, dismissal, performance, progression, promotion, shifts and working hours, grievance, grading, emoluments, expenses, allowances, sick pay, leave, equal opportunities and health and safety in accordance with the Authority's approved policies and procedures.

11.0 CHANGES TO STAFFING STRUCTURES

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

11.1.1 Involves the loss of one or more posts not currently vacant.

11.1.2 Involves the re-grading of posts or the grading of new posts.

11.1.3 Involves changes to existing National or Local Agreements and policies.

11.1.4 Cannot be achieved within delegated powers in respect of budgets.

- 11.2 Decisions in respect of restructures which do not fall within the preceding paragraph are delegated to the Head of Human Resources and Organisational Development.

- 11.3 Proposals which involve expenditure outside approved budgets or issues outside approved policy will be referred to the Council or appropriate committee.

12.0 MANAGEMENT OF LAND PREMISES VEHICLES EQUIPMENT AND STORES

- 12.1 CMT Members are authorised to manage all land, premises, vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture, appliances, and uniforms necessary for the provision of services. For the avoidance of doubt this includes a power to make arrangements for the cleaning, maintenance, hire and letting of the same and authorising the write-off, loss or disposal of the same where obsolete or surplus to operational requirements.
- 12.2 The power in the preceding paragraph in respect of acquiring and disposing of interests in and rights over land or premises is only exercisable in respect of arrangements not exceeding 7 years in duration and on terms negotiated and recommended by the Assets Manager, subject to there being sufficient budgetary provision and in accordance with the Finance and Contract Procedure Rules.
- 12.3 CMT Members are authorised to make application for planning permission pursuant to the Town and Country Planning General Regulations 1992 and any other necessary applications for any other consent required for the development of land.

13.0 LEGAL AUTHORISATIONS AND COMPLIANCE

- 13.1 CMT Members shall implement and ensure compliance with the Authority's procedures relating to data protection, freedom of information, human rights, and surveillance activities.
- 13.2 CMT Members shall authorise¹⁷ Officers (and such other persons where permitted by law) possessing such qualifications as may be required by law, in accordance with the Authority's policy or where CMT Members are satisfied that appropriate training has been undertaken, to:-
- 13.2.1 Take samples, carry out inspections or surveys, enter land and premises and generally perform the functions of and/or act as a duly authorised or Proper Officer of the Authority (however described).
- 13.2.2 to issue any necessary certificates of authority or certify copies of documents.

¹⁷ which shall include a power to issue such letters or warrants of authorisation and/or identification as is considered necessary or appropriate

13.2.3 To enforce the requirements of legislation including by way of fixed penalty notice.

13.3 CMT Members shall with the approval of the Borough Solicitor:-

13.3.1 Authorise the issue and service of requisitions for information, any notice, order, or direction.

13.3.2 Approve or issue any licence or regulations which may be required or authorised by or under any legislation or byelaws.

13.3.3 authorise the institution of legal and quasi-legal proceedings and/or other action (including debt recovery) whether in respect of any default in compliance with anything so served or authorised, approved or issued or otherwise as is considered necessary to protect the interests of the Authority.

13.3.4 Sign certificates for contracts pursuant to the Local Government (Contracts) Act 1997.

14.0 SAFEGUARDING CHILDREN

14.1 CMT Members shall ensure that arrangements are in place to discharge the responsibilities of the Department in respect of the need to safeguard and promote the welfare of children as required under Section 11 of the Children Act 2004.

15.0 POWERS AND RESPONSIBILITIES OF THE CHIEF EXECUTIVE

15.1 The Chief Executive is the Head of the Authority's Paid Service.

15.2 The Chief Executive is responsible to the Council for:-

15.2.1 Being the Authority's principal Officer representative and point of contact and to promote its good image and reputation.

15.2.2 Exercising the powers and responsibilities of any CMT Member in his or her absence.

15.2.3 Leading and directing the strategic management of the Authority

15.2.4 Ensuring the effective pursuit and achievement of the Authority's objectives

- 15.2.5 Ensuring the Authority's activities are carried out with maximum effectiveness and efficiency
- 15.2.6 Ensuring the efficient and effective discharge of the decision making and scrutiny functions of the Authority
- 15.2.7 The general supervision of this scheme of delegation
- 15.2.8 Monitoring and reviewing the Authority's management and general sufficiency of staffing arrangements (including this Scheme of Delegation) and reporting periodically to the Council on the effectiveness of the arrangements and any need for change pursuant to his duty as Head of the Paid Service under the Local Government and Housing Act 1989.
- 15.2.9 Invoking disciplinary processes for CMT Members.
- 15.2.10 Discharging the Authority's responsibilities under its emergency planning and civil protection functions subject to any constraints/restrictions imposed by the Council.

DIRECTOR OF PUBLIC HEALTH (PENDING)

The Director has four key roles:

- Health Improvement
- Health protection
- Health care, Commissioning and service planning
- Reduction of health inequalities

16.0 STRATEGIC DIRECTOR (PLACES AND ORGANISATIONAL CAPACITY)

The Strategic Director (Places and Organisational Capacity) is the nominated Deputy Chief Executive

Highways, Traffic and Street Management

- 16.1 The Strategic Director (Places and Organisational Capacity) shall be responsible for discharging the operational day to day functions of the Authority in respect of the maintenance and improvement of highways, traffic and street management including but not limited to:-
 - 16.1.1 Granting consents and imposing requirements in connection with works in highways or adjacent premises.

- 16.1.1 Determining, subject to conditions, applications for the placing of plant, structures, trees and equipment in, over or under highways or highway land.
- 16.1.2 Construction of carriageway crossings over footways and verges, erection of fences, boundary posts, cattle grids and the carrying out of works for the drainage of highways.
- 16.1.3 Exercising the Authority's responsibilities under the New Road and Street Works Act 1991 and, where appropriate, waiving charges under the provisions of Section 74 of the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) Regulations 2001.
- 16.1.4 Authorising urgent repair of private streets under Section 230 of the Highways Act 1980 and the passing of exemption resolutions and the giving of exemption notices on behalf of the Street Works Authority under Section 219 of the Highways Act 1980.
- 16.1.5 Authorising minor improvements to roads including grass verges, street furniture etc not exceeding £30,000 for which provision has been made in the budget and capital programme.
- 16.1.6 Setting charges for work and maintenance carried out by the Authority for which the costs are to be met by third parties.
- 16.1.7 Authorising the installation of sound insulation.
- 16.1.8 Nominating safety supervisors.
- 16.1.9 Making observations on planning applications consultations.
- 16.1.10 Taking of traffic censuses.
- 16.1.11 On the advice of the Assets Manager or District Valuer, settling claims for borehole damage up to £1,500.
- 16.1.12 Approving routine traffic management orders, highway stopping-up and alley gating orders and variations to pedestrian crossing schemes under the Road Traffic Regulations Act 1984 and Highways Act 1980.
- 16.1.13 Accepting blight notices on properties affected by an approved scheme, where all the conditions on the establishment of blight are satisfied.

- 16.1.14 Determining, in appropriate cases, the manner in which the requirements of Schedule 14 to the Highways Act 1980 relating to the serving of notice of application shall be carried out.
 - 16.1.15 Taking emergency measures to protect persons and property from escapes of water from reservoirs.
 - 16.1.16 Granting licences under Sections 142, 176, 177 and 181 of the Highways Act 1980.
 - 16.1.17 Exercising the Highway Authority's powers and duties under Part VIIA of the Highways Act 1980 – Provision of Amenities on certain highways.
 - 16.1.18 Exercising the Authority's powers and duties under the Traffic Management Act 2004 and in particular the appointment from time to time of a Traffic Manager to perform such tasks as are considered will assist the Authority to perform its Network Management duty under that Act.
 - 16.1.19 Accepting land for road improvements by dedication subject to the total consideration whether in works or otherwise not exceeding £30,000.
 - 16.1.20 Entering into agreements for the construction and adoption of estate roads.
 - 16.1.21 All other functions of the Authority as set out in the Schedule to the Local Government (Committees and Political Groups) Regulations 1990 (as amended) and in particular the functions conferred by the Countryside Act 1968, Local Government (Miscellaneous Provisions) Act 1976, Highways Act 1980, Cycle Tracks Act 1984, Road Traffic Regulation Act 1984 and Road Traffic Act 1988.
- 16.2 Without prejudice to the powers and responsibilities delegated in the preceding paragraph the Strategic Director (Places and Organisational Capacity) shall in consultation with the appropriate Cabinet Portfolio Holder undertake all necessary external consultation and advertisement associated with the exercise of powers to implement schemes of maintenance of and improvement to the highways infrastructure and in the discharge of the following functions:-
- 16.2.1 Traffic Management and Regulation Orders
 - 16.2.2 Stopping Up and Alley-gating Orders
 - 16.2.3 Street naming proposals

- 16.3 The Strategic Director (Places and Organisational Capacity) shall be responsible in consultation with the appropriate Cabinet Portfolio Holder for all matters appertaining to the strategic management of the highways network
- 16.4 The Strategic Director (Places and Organisational Capacity) shall maintain operational oversight in respect of the discharge of the following functions relating to transportation:-
- 16.4.1 Tendering, applications to Traffic Commissioners and other relevant functions under the provisions of the Transport Act 1985.
 - 16.4.2 Negotiations in respect of terms with service operators in respect of concessionary fare/travel and dial-a-ride schemes.
 - 16.4.3 The organisation of (special and non-special) school transport services, including the issue of scholars' passes, and Social Services transport services.
 - 16.4.4 The issuing of minibus permits under the Public Passenger Vehicles Act 1981.
 - 16.4.5 The administration of Car Contract Hire Schemes.
 - 16.4.6 The Management of the client side of vehicle maintenance contracts under the Local Government Act 1988.
 - 16.4.7 The Organisation of School Crossing Patrols.
 - 16.4.8 The holding of Operators Licence(s) on behalf of the Authority and all associated functions and responsibilities.

Waste

- 16.5 The Strategic Director (Places and Organisational Capacity) shall be responsible for the discharge of the functions of the authority relating to waste, waste collection and waste disposal including but not limited to:-
- 16.5.1 Taking any action under the Refuse Collection (Amenity) Act 1978 and the Removal and Disposal of Vehicle Regulations 1986 and to generally manage the refuse collection, disposal, and recycling system of the Authority.
 - 16.5.2 Functions relating to the provision of litter/dustbins and wheeled bins including functions relating to the recovery of charges, expenses and fines

Burial Grounds, Cemeteries and Crematoriums

16.6 The Strategic Director (Places and Organisational Capacity) shall be responsible for exercising functions in relation to the general management and operation of the Authority's burial grounds, cemeteries and crematoriums including but not limited to:-

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

Housing

16.7 The Strategic Director (Places and Organisational Capacity) shall be responsible for discharging the following functions in relation to housing.

- 16.7.1 To enforce the functions of the 'local housing authority' within the meaning of the Housing Act 1985 and other housing legislation.
- 16.7.2 To authorise the awarding and payment of grants in accordance with the Authority's Private Sector Housing Renewal Policy.
- 16.7.3 To authorise designated Officers, signatories and administrators.
- 16.7.4 To exercise the powers and duties of the Authority in the development of strategies and policies for Assessment of housing need the provision of social housing private sector housing duties, including condition, improvement and enforcement private tenancy relations advice and assistance to enable people to stay in their own home.
- 16.7.5 Energy conservation advice to residents of the Borough Operational management to Head of Service and Section Manager.
- 16.7.6 To co-ordinate the preparation of the Authority's Housing Strategy Statement prior to its submission to the Government in connection with the annual Housing Investment Programme
- 16.7.7 To meet the Regional Controller of the Government Office and Housing Officials to review the annual Housing Investment Programme submission and resources allocation
- 16.7.8 To liaise with the Homes and Communities Agency as appropriate

- 16.7.9 To advise the Council on the Housing Needs of the Borough and to recommend how to fulfil those needs in accordance with a defined Housing Strategy
- 16.7.10 To work in partnership with other housing providers to meet the housing needs of the Borough and to recommend any financial arrangements to be made between the Authority and other housing providers to carry this out.
- 16.7.11 To act as consultee on issues of acquisition and disposal of land (including interests in land) for the purposes of providing social housing in partnership with Registered Social Landlords
- 16.7.12 To liaise with Housing Associations on the Right to Buy sharing agreement.
- 16.7.13 To administer the Authority's responsibilities for the homeless including the provision of hostels, in accordance with the Housing Act 1996.
- 16.7.14 To administer the Authority's duty to make available accommodation for the homeless, in accordance with the Housing Act 1996.
- 16.7.15 To administer a Housing Advice Service
- 16.7.16 To administer the Authority's Housing and Social and Welfare Policies and initiatives such as Care and Repair
- 16.7.17 To maintain the Housing Waiting List and to make nominations to registered Social Landlords in accordance with the Authority's Allocation Policy.
- 16.7.18 To approve applications for all types of grants other than those specifically delegated to the Cabinet within the policies of the Council.

Assets

- 16.8 The Strategic Director (Places and Organisational Capacity) shall be responsible for exercising the following Assets functions
 - 16.8.1 to produce and implement the Corporate Asset Management Plan for the Council's portfolio of land and buildings.

- 16.8.2 To manage the Council's Estate in accordance with the Corporate Asset Management Plan and serve all notices, contractual or statutory as required.
- 16.8.3 Subject to prior consultation with the relevant Portfolio Holder and in accordance with the Asset Management Plan
- to authorise and negotiate terms and complete the development and appropriation of land and buildings, together with the granting or taking, assignment, surrender or termination of leases, tenancies, licences, easements, way leaves and variations of rent, in accordance with approved budgets
- to authorise and complete the acquisition of land and buildings or any estate or interest in any land or buildings. in accordance with approved budgets
- to authorise and complete the disposal of land and buildings or any estate or interest in any land or buildings subject to the requirements and consents of the Director of Finance and Business Services
- 16.8.4 To take such actions as are considered appropriate in relation to advance payments, blight notices, home loss payments under the Land Compensation Act 1973, notices to quit, purchase notices and other notices and to pay all necessary compensation and complete the necessary land acquisitions.
- 16.8.5 To seek planning permission for the development of land where such land is not required for the statutory functions of the Council.
- 16.8.6 To establish and maintain a corporate database of the Council's land and buildings, including details of liabilities, and to perform any responsibilities placed on the Council under the Local Government Planning and Land Act 1980.
- 16.8.7 To take appropriate action on behalf of the Council with regard to rating issues, including the conduct of appeals.
- 16.8.8 To fulfil the Corporate Landlord function and in doing so determine and issue general guidelines to Officers for the management of land resources and the maintenance of buildings.

- 16.8.9 To certify or make arrangements for the certification of authorisation and identity cards and passes for Officers and Members.
- 16.8.10 To let, licence and complete land and premises agreements and leases for not more than fifteen years in accordance with the Council's Asset Management Plan.
- 16.8.11 In accordance with the Council's Asset Management Plan to sell and complete the sale of land and buildings surplus to requirements subject to prior consultation with the Monitoring Officer and relevant Portfolio Holder and consultation with relevant Ward Members and requirements and consents of the Director of Finance and Business Services.
- 16.8.12 To deal with and complete all matters in connection with the management and leasing/licensing of the Council's industrial land and retail, premises and the Council farm's estate in accordance with the Council's Asset Management Plan.
- 16.8.13 In consultation with the Monitoring Officer to deal with and complete all matters in connection with the Council entering into way leaves and easements.
- 16.8.14 In consultation with the Monitoring Officer and relevant Portfolio Holder to enter into and complete leases of land where the Council is to construct a public amenity or provide or reacquire the freehold of land.
- 16.8.15 In consultation with the Monitoring Officer and Ward Members to take decisions on applications by electricity, gas, water, telephone, broadcasting or cable companies to place any apparatus in, on, over or under any land or building owned by the Council.
- 16.8.16 To assess each application for release from restrictive covenants on its own merits and to negotiate and complete compensation payable to the Council where such release is requested in order to facilitate speculative development or some other profit making exercise.
- 16.8.17 To exercise the provisions of any authorised guarantee agreement, such provisions to always be enforced except where there are commercial or operational reasons not to do so.

- 16.8.18 To serve the required legal notice (Section 17 Notice) on original tenants where the tenant (Assignee) is in arrears in order to protect the Council's rights to pursue original tenants for the debt if it is considered viable.
- 16.8.19 To negotiate and complete the grant of way leaves for the purposes of Town Centre Enhancement Schemes, new developments or Closed Circuit Television Schemes.
- 16.8.20 To undertake and complete maintenance, repairs, alterations, demolitions and new developments in respect of the Council's operational and non-operational property.
- 16.8.21 In consultation with the Monitoring Officer and Ward Members to determine and complete licences to erect and site public notice boards and advertising hoardings throughout the Borough of Cheshire East..
- 16.8.22 To approve, complete and enter into property investments and joint venture property investments, management and development partnerships, including un/conditional contracts and complete such legal contracts as are necessary in accordance with the Asset Management Plan.
- 16.8.23 To authorise and complete the transfer of freehold land at nil value to Voluntary Aided, Voluntary Controlled and Trust Schools and 125 year leases to Academy Schools, where it is a statutory requirement to do so.
- 16.8.24 To authorise and complete all asset transfers, freehold or leasehold, under the Devolution Agenda or Localism or "Quirk" recommendations. In consultation with the Portfolio Holder, Monitoring Officer and Ward Members.
- 16.8.25 To authorise the Borough Solicitor to institute legal proceedings in cases of breach of covenant.
- 16.8.26 To manage the Cheshire East property portfolio in accordance with the maximum values and authorised transactions above for all matters in connection with the acquisition, disposal, leasing and licensing, statutory notices and permissions and any other matters and transactions in accordance with the above responsibilities and in accordance with the Council's Asset Management Plan.

16.8.27 To make planning applications where necessary to establish the potential of land or property or to facilitate the better management of land or property.

16.8.28 With the consent of the Director of Finance and Business Services to undertake urgent work to repair, replace or reinstate vehicles, buildings or equipment where the work is fully funded from insurance monies.

In exercising these delegations the Strategic Director (Places and Organisational Capacity) shall consult with and where appropriate gain the consent of the Director of Finance and Business Services and the Borough Solicitor in accordance with the requirements of the Constitution and the Finance Procedure Rules

HEAD OF HEALTH AND WELLBEING

17.1 The Head of Health and Wellbeing Shall be responsible for the following services relating to libraries, archives and culture:-

17.1.1 Opening and closing of library, information and archive service points including their hours of opening.

17.1.2 Establishing and varying of mobile library schedules.

17.1.3 Promoting cultural activities in libraries and other locations, subject to the cost not exceeding £1,000 for any one event in any one place.

17.1.4 Maintaining the Register of Commons pursuant to the Commons Registration Act 1965.

17.1.5 Acting as lead Officer on behalf of the Authority in relation to the Data Protection Act 1998 and Freedom of Information Act 2000.

17.2 The Head of Health and Wellbeing shall be responsible for making grants, under schemes and financial limits approved by or on behalf of the Authority and in accordance with Finance Procedure Rules:-

17.2.1 towards the cost of cultural projects and commissions

17.2.2 for the provision of, and improvements to community recreation facilities

17.2.3 for the improvement of the environment

17.2.4 for the promotion of sport and recreation

- 17.2.5 towards the cost of cultural projects and commissions
- 17.2.6 towards the cost of voluntary adult sports projects
- 17.2.7 to other appropriate statutory or voluntary organisations
- 17.2.8 for archaeological excavations
- 17.3 The Head of Health and Well being shall discharge the following functions¹⁸ in relation to public rights of way¹⁹:-
 - 17.3.1 To keep a register of information with respect to maps, statements and declarations (S31A)
 - 17.3.2 To keep a register with respect to applications under sections 118ZA, 118C, 119ZA, and 119C of the Highways Act 1980 (S121B).
 - 17.3.3 To take all necessary action to assert and protect the rights of the public to the use and enjoyment of public paths (S130)
 - 17.3.4 To exercise all powers in relation to highways delegated to the Head of Environmental Services (in place of the same) where the highway in question is a public right of way.
 - 17.3.5 To serve notice of proposed action in respect of obstructions on public paths (S130A).
 - 17.3.6 To apply for the variation of orders issued under S130B of the Highways Act 1980 (S130B(7))
 - 17.3.7 To authorise the temporary disturbance of a public path (S135)
 - 17.3.8 To discharge functions in respect of the making good of damage and the removal of obstructions from public paths. (S135B HA)
 - 17.3.9 To discharge functions in respect of the removal of things so deposited on public paths so as to be a nuisance. (S149 HA)
 - 17.3.10 To keep a register of prescribed information with respect to applications under S53(5) of the Wildlife and Countryside Act 1981. (S53B Wildlife and Countryside Act 1981)

¹⁸ References to Section numbers in this paragraph are to Sections of the Highways Act 1980 unless otherwise stated.

¹⁹ Footpaths, Bridleways, Restricted Byways, and Byways Open to All Traffic and other such ways that are within the remit of the Head of Health and Wellbeing

- 17.3.11 Power to prepare a map and statement by way of consolidation of the definitive map and statement. (S57A of the Wildlife and Countryside Act 1981).
- 17.3.12 To grant permission for provision of services, amenities, recreation and refreshment facilities on public paths. (S115A – S115K)
- 17.3.13 Authorising the use of footpaths and bridleways for motor vehicles and cycle trials. (S33 Road Traffic Regulation Act 1988)
- 17.3.14 Certifying extracts from the Definitive Map under the provisions of Section 56 of the Wildlife and Countryside Act 1981.
- 17.3.15 Making temporary diversion orders for footpaths and bridleways under the Highways Act 1980.
- 17.3.16 Serving notices to require the removal of obstructions from public rights of way, the restoration of public rights of way following ploughing, cropping or other disturbances and the maintenance of stiles, gates or other structures across public rights of way.
- 17.3.17 Granting permission to extend the period of restoration following disturbance of the surface of a right of way and the granting of orders that a right of way shall be subject to a condition that the surface may be disturbed by excavation or operations.
- 17.3.18 Issuing notices under the provisions of Schedule 12A of the Highways Act 1980.
- 17.3.19 Authorising the erection of stiles and gates across any public right of way.
- 17.3.20 The making of Traffic Regulation Orders in respect of any public right of way.
- 17.3.21 Managing Tatton Park in relation to the terms of the Lease from the National Trust.
- 17.4 The Head of Health and Wellbeing shall be responsible for the general management, hire and letting of sports and leisure facilities for public use, including (but not limited to) sports centres, athletics stadium, swimming pools, sauna suites, community centres, community halls, theatres, parks, lakes, waterways, playing fields, recreation grounds, caravan parks and allotments.

18 HEAD OF SAFER AND STRONGER COMMUNITIES

18.1 The Head of Safer and Stronger Communities shall discharge the following functions in respect of trading standards and consumer protection:-

18.1.1 To undertake or appoint to the role of the Authority's Chief Inspector of Weights and Measures under Section 72 of the Weights and Measures Act 1985.

18.1.2 To appoint and authorise Officers of the Authority to act as duly authorised persons, proper Officers, inspectors, or similar (howsoever statutorily described) to discharge the statutory functions devolving upon the Authority under the legislation²⁰ listed in the Appendix to this section including but not limited to the functions of registration, enforcement, inspection or any associated action or granting, amending, varying, refusing, revoking, suspending or transferring any licences, approvals or consents.

18.1.3 To enter into reciprocal arrangements for the authorisation and appointment of Officers for the purposes set out in the preceding paragraph to facilitate cross-border co-operation in the discharge of the said functions with any other local authority.

18.1.4 To Amend the functions listed in the Appendix to this section (and any associated Officer authorisations) in accordance with legislation from time to time in force:-

18.1.4.1 without reference to elected Members in respect of functions which the authority is obliged by legislation to discharge (mandatory functions); or;

18.1.4.2 Following approval from elected members in respect of functions which the authority has discretion to discharge (discretionary functions).

18.2 Subject to the exceptions listed below, the Head of Safer and Stronger Communities is authorised to discharge the following licensing functions:-

18.2.1 Power to licence hackney carriages and private hire vehicles and suspend licences (including suspension pending inspection).

18.2.2 Power to issue and suspend operators licences

²⁰ Which shall include any Statute extending or amending the same or incorporated therewith, or any re-enactment thereof, or any Statutory Instruments, Regulations, Byelaws or Orders made there under or continued in force thereby and also such other powers and duties under such other Statutes, Statutory Instruments, Regulations, Byelaws or Orders as may from time to time be conferred upon said officers by the Council.

- 18.2.3 Power to licence and suspend hackney carriage and private hire drivers
- 18.2.4 Power to licence street and House to House collections
- 18.2.5 Power to renew or transfer licences for sex establishments where:-
 - 18.2.5.1 there has been no material change to the character of the relevant locality or to the use to which any premises in the vicinity are put or to the layout, character or condition of the premises in respect of which the application is made; and
 - 18.2.5.2 no objections have been received, or those that have been received have been withdrawn.
- 18.2.6 Power to issue street trading consents
- 18.2.7 Power to licence performances of hypnotism
- 18.2.8 Licensing functions under the Licensing Act 2003 and the Gambling Act 2005 (subject to the exceptions below)
- 18.2.9 Sanctioning the use of buildings for the storage of celluloid
- 18.2.10 Licensing employment of children
- 18.3 In the following circumstances, the power delegated to the Head of Safer and Stronger Communities in respect of general licensing functions shall stand referred to the body set out below:-
 - 18.3.1 The determination of applications for hackney carriage or private hire vehicles where the vehicle does not meet the Authority's vehicle conditions or does not pass the vehicle inspection be referred to the General Licensing Sub-Committee.
 - 18.3.2 The determination of applications for operators licences where the Council's requirements are not met be referred to the General Licensing Sub-Committee.
 - 18.3.3 The determination of applications for hackney carriage or private hire drivers licences where the applicant does not meet the Council's requirements be referred to the General Licensing Sub-Committee.
 - 18.3.4 The determination of applications for the renewal or transfer of licences for establishments where objections have been received and have not been withdrawn shall be referred to the General Licensing Committee.

- 18.3.5 The determination of requests for waiver of the Authority's street collection regulations (with the exception of the regulation in relation to processions) shall be referred to the General Licensing Sub-Committee.
- 18.3.6 The determination of applications for street trading consents where representations have been received and not withdrawn be referred to the General Licensing Sub-Committee.
- 18.3.7 The decision to designate streets (section 3 and Schedule 4 Local Government (Miscellaneous Provisions) Act 1982) shall be reserved to the General Licensing Committee.
- 18.3.8 The power to set fees in relation to hackney carriages and private hire vehicles, operators and drivers, sex establishments and street trading shall be reserved to the General Licensing Committee.
- 18.4 In the following circumstances, the power delegated to the Head of Safer and Stronger Communities in respect of Licensing Functions (Licensing Act 2003 and Gambling Act 2005) shall stand referred to body set out below.
 - 18.4.1 Any licensing function under the Licensing Act 2003 and the Gambling Act 2005 reserved to full Council (i.e. the determination of the three year statement of principles and the decision not to licence casinos under the 2005 Act).
 - 18.4.2 With the exception of applications for minor variations under sections 41A-C or 86A-C of the Licensing Act 2003, the determination of an application under the Licensing Act 2003 or the Gambling Act 2005 where relevant representations have been received and are not withdrawn shall be referred to the Licensing Act Sub-Committee.
 - 18.4.3 The determination of review applications (under sections 52, 88 and 167 of the Licensing Act 2003) shall be referred to the Licensing Act Sub-Committee.
 - 18.4.4 The determination of review applications (under section 201 of the Gambling Act 2005) shall be referred to the Licensing Act Sub-Committee.
 - 18.4.5 The determination of interim steps pending summary review (under sections 53A(2) and 53B of the Licensing Act 2003) and determination of reviews (under section 53C of the Licensing Act 2003) shall be referred to the Licensing Act Sub-Committee.
 - 18.4.6 The decision to object when the local authority is a consultee and not the relevant authority considering an application under the Licensing Act 2003 shall be referred to the Licensing Act Sub-Committee.

- 18.4.7 The consideration of representations in relation to the proposed rejection of a club gaming permit or club machine permit (schedule 12 of the Gambling Act 2005) is reserved to the Licensing Act Sub-Committee.
- 18.4.8 The decision to cancel a club gaming/club machine permit (schedule 12 of the Gambling Act 2005) shall be referred to the Licensing Act Sub-Committee.
- 18.4.9 The decision to give a counter notice to a temporary use notice (section 224 of the Gambling Act 2005) shall be referred to the Licensing Act Sub-Committee.
- 18.4.10 The decision to make an order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises where representations have been made by the licensee shall be referred to the Licensing Act Sub-Committee.
- 18.4.11 The decision to revoke a personal licence where convictions come to light after grant or renewal (under section 124 of the Licensing Act 2003) shall be referred to the Licensing Act Sub-Committee.
- 18.4.12 The decision to set fees under the Gambling Act 2005 shall rest with the Licensing Committee.
- 18.4.13 The power to institute criminal proceedings under the Gambling Act lies with the Borough Solicitor.
- 18.5 The Head of Safer and Stronger Communities is authorised to discharge the following functions in relation to environmental health:-
 - 18.5.1 Power to issue licences authorising the use of land as a caravan site
 - 18.5.2 Power to licence the use of moveable dwellings and camping sites
 - 18.5.3 Power to license premises for acupuncture, tattooing, ear piercing and electrolysis
 - 18.5.4 Power to licence pleasure boats and pleasure vessels
 - 18.5.5 Power to licence scrap yards
 - 18.5.6 To register motor salvage operators
 - 18.5.7 To register and licence premises for the preparation of food
 - 18.5.8 Power to licence premises for the breeding of dogs

- 18.5.9 Power to licence pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business
- 18.5.10 To register animal trainers and exhibitors
- 18.5.11 Power to licence zoos
- 18.5.12 To licence dangerous wild animals
- 18.5.13 To grant consent for the operation of a loudspeaker
- 18.5.14 To approve meat product premises
- 18.5.15 To approve premises for the production of minced meat or meat preparations
- 18.5.16 To approve dairy establishments
- 18.5.17 To approve fish products premises
- 18.5.18 To approve dispatch or purification centres
- 18.5.19 Power to register fishing vessels on board which shrimps or molluscs are cooked
- 18.5.20 Power to approve factory vessels and fishery product establishments
- 18.5.21 To register auction and wholesale market
- 18.5.22 To keep a register of food business premises
- 18.5.23 To enforce Chapter 1 (Health Act 2006) and regulations made under it
- 18.5.24 Power to authorise Officers
- 18.5.25 Functions relating to fixed penalty notices
- 18.5.26 Power to transfer enforcement functions to another enforcement authority
- 18.5.27 Functions relating to health and safety at work (to the extent that those functions are discharged otherwise than in the authority's capacity as an employer)

19 HEAD OF PLANNING AND HOUSING

- 19.1 Apart from the matters reserved to the Strategic Planning Board and Planning Committees, all those Council functions set out in the Local Authorities (Functions & Responsibilities)(England) Regulations 2000 which relate to town & country planning & development control, the protection of important hedgerows, the preservation of trees and the regulation of high hedges are delegated to the Head of Planning & Policy.
- 19.2 Development control functions include decisions regarding planning applications, permitted development, certificates of lawful use & development, enforcement, listed buildings and conservation areas.
- 19.3 The planning functions are to be construed purposively and broadly, to include anything which facilitates or is incidental to them. For example, the power to determine planning applications under s70 Town & Country Planning Act 1990 will include powers governing environmental impact assessments under the various TCP (Environmental Impact Assessment) Regulations. It will also include power to impose conditions, limitations or other restrictions or to determine terms to which approvals are subject, and to modify, vary or revoke approvals.
- 19.4 Where legislation is amended or replaced by new provisions or where new development control provisions are enacted, then the relevant authority delegated in this Scheme applies to those new provisions.
- 19.5 The Head of Planning and Housing is authorised to exercise all the powers and duties conferred on the Authority in relating to Building Control and without limitation upon those general matters, to be responsible for:-
 - 19.5.1 The passing or rejection of plans of proposed work deposited in accordance with Building Regulations or passing them subject to conditions, under the provisions of Section 16 of the Building Act 1984, subject to any other section of this Act or any other Act that expressly requires or authorises the rejection of such plans in certain cases.
 - 19.5.2 The declaration by notice that the deposit of plans is of no effect under the provisions of Section 32 of the Building Act.
 - 19.5.3 The dispensation with the requirements of the Building Regulations in appropriate cases.
 - 19.5.4 Dealing with applications for regularisation certificates in respect of unauthorised building work.
 - 19.5.5 The serving of notice to open up work in cases where a person carrying out building work neglects to notify the Authority of the

stages of work referred to in Regulation 14 of the Building Regulations 1985.

- 19.5.6 Dealing with dangerous structures by:- (i) Taking action under Section 77 of the Building Act 1984 to secure the removal of dangerous conditions in buildings or structures including application to Magistrates Court for an order to remove such dangerous conditions.
- 19.5.7 Take emergency action under Section 78 of the Building Act in such cases where immediate action is necessary to remove danger.
- 19.5.8 Dealing with ruinous and dilapidated buildings and neglected sites by taking action under Section 79 of the Building Act 1984.
- 19.5.9 Dealing with private demolitions of the whole or part of a building or buildings by taking action under Section 81 of the Building Act 1984
- 19.5.10 The taking of enforcement action in cases where the provisions of the Building Regulations and other related legislation have not been complied with, including instituting proceedings in the Magistrates Court for contraventions of the Building Regulations
- 19.5.11 Supervision of Building Work etc Otherwise than by Local Authorities
- 19.5.12 The receipt and acceptance or rejection, on prescribed grounds AND, where appropriate, of the various notices referred to in Part II of the Building Act 1984 and the Building (Approved Inspectors) Regulations 1985 in connection with the supervision of plans and work by approved inspectors
- 19.5.13 Variation of the standard fee scales of the Local Government Association model scheme by plus or minus 10% (by a percentage greater than 10% - to portfolio holder)
- 19.6 The Head of Planning and Housing is authorised to exercise all the powers and duties conferred on the Authority relating to Local Land Charges and without limitation upon those general matters, to be responsible for:-
 - 19.6.1 The maintenance of the Local Land Charges Register
 - 19.6.2 The issuing of official searches of the Local Land Charges Register
 - 19.6.3 The issuing of responses to Con 29 R and O Enquiries of a Local Authority

20 ASSETS MANAGER

- 20.1 The Assets Manager shall be responsible for oversight of the day to day control and management of land and buildings in the ownership of the Authority, to ensure compliance with all relevant statutory requirements (including the Health and Safety at Work Act 1974), fitness for purpose, service delivery, maximum asset value and in particular:-
 - 20.1.1 Corporate landlord management
 - 20.1.2 The provision of fixtures and fittings.
 - 20.1.3 Matters relating to energy conservation.
 - 20.1.4 Architecture, Estates, Building Maintenance and security services.
 - 20.1.5 Promotion of responsibilities relating to improved access and mobility within the built environment with particular reference to people with disabilities under relevant legislation and codes of practice.
 - 20.1.6 May maintain an Approved Select List of Building/Engineering Contractors and Suppliers to the Authority.
 - 20.1.7 Maintaining an up-to-date terrier of all land and buildings held by the Authority.
 - 20.1.8 Undertaking a periodic review of property owned by the Authority.
 - 20.1.9 Recommending policies for the acquisition, management and disposal of land and interests in land.
 - 20.1.10 Design, preparation and contract management (including Health and Safety issues) of building work (whether new build or restoration) of all corporate property and professional services provided under the Local Authorities (Goods and Services) Act 1970.
 - 20.1.11 Technical recommendations relating to derelict land.
 - 20.1.12 Co-ordinating land management with economic development.
 - 20.1.13 Accepting of title to existing open space land where there is a history of maintenance by the Authority.

20.1.14 Authorising of deeds of rectification with Housing Associations

20.2 The Assets Manager shall be responsible for managing the Farms estate including the service of all statutory notices and granting consent to farm estate tenants for:-

20.2.1 The provision of fixtures.

20.2.2 Ploughing out permanent pasture

20.2.3 Investment in improvements to farms up to a maximum value of £20,000

20.2.4 The acquisition and sale of Milk Quota.

20.2.5 Negotiating and approving tenant right settlements on changes to tenancy.

20.3 The Assets Manager is authorised to:-

20.3.1 Approve valuations of the Authority's property assets for all purposes

20.3.2 Negotiate and approve (including any subsequent modifications or renewals) the terms of all property transactions entered into by the Authority and to recommend such terms for approval at the appropriate level

20.3.3 Negotiate and approve, on the advice of the Borough Solicitor, the content and format of any documents to be entered into by the Authority to give effect to an approved property transaction

20.4 The Assets Manager shall be responsible for the general management of markets run or promoted by the Authority and in particular:-

20.4.1 The letting of market stalls consistent with maintaining a balanced mix of trades in accordance with the Authority's policy.

20.4.2 The determination of and application of the Market Rules and Regulations.

20.4.3 The maintenance and letting of Community stalls on both markets.

20.4.4 The fixing of market stall charges in accordance with the Authority's approved scale of charges.

20.4.5 To grant leave of absence to regular market traders (of a minimum of two years standing) for medical reasons without financial penalty and without the loss of their regular status.

- 20.4.6 To allocate market stalls to charities and local fund raising organisations without charge on up to 12 occasions annually, being no more than once per month.
- 20.4.7 To determine future applications for concessionary waiver applications of market stall charges due to weather conditions up to a limit of £500 per occasion
- 20.5 The Assets Manager shall be responsible for the general management of the Authority's car parks including all signage, planting, maintenance, lay out, the giving of consent for alternative uses or events, the reservation of car parking spaces and the collection of fees and charges.
- 20.6 The Assets Manager shall be responsible for the management of the Authority's vehicle fleet for the acquisition and disposal of vehicles and for their maintenance.

21 HEAD OF POLICY AND PERFORMANCE

- 22.1 Shall be responsible for monitoring the performance of the Authority, for promoting business quality, public relations and for involving and developing the Authority's employees.
- 22.2 Shall promote the efficiency and effectiveness of the Authority, through the Business Quality Programme.
- 22.3 Shall oversee the Authority's response to "Best Value", including recommendation of targets/service standards, performance indicators and consultation.
- 22.4 Shall consider all formal service reviews and to make recommendations to individual Committees and Council.
- 22.5 Shall advise Council on service changes and to recommend an Annual Performance Plan.
- 22.6 Shall oversee the formal administration of the Authority's Quality System, Risk Management and EFQM.
- 22.7 Shall promote customer care and equality in service delivery and access.

23 STRATEGIC DIRECTOR (CHILDREN, FAMILIES AND ADULTS)

Children's and Family Services

- 23.1 The Strategic Director (Children, Families and Adults) will provide a professional focus and lead for children's and family services ensuring that the needs of children, young people and families are met in the locality.

The Strategic Director has three key roles in this regard:-

- 23.1.1 Professional accountability for the effectiveness, availability and value for money of all local authority children's services;
- 23.1.2 A leadership role to secure any necessary changes to culture and practice, so that services are organised around children and young people's needs; and
- 23.1.3 Building and leading effective partnerships with and between those local bodies who also provide children's services, in order to focus resources jointly on improving outcomes for children and young people.
- 23.2 The Strategic Director (Children, Families and Adults) is appointed to discharge Children's Services functions in four areas:
- 23.3.1 Education services. The Authority's functions in its capacity as a local authority under the Education Acts, except those certain functions relating to further education, higher education and adult education.
- 23.3.2 Children's social care. The authority's social services functions within the meaning of the Local Authorities Social Services Act 1970 insofar as they relate to children and young persons, and the local authority's functions for children and young people leaving care.
- 23.3.3 Health services. Any health related functions exercised on behalf of an NHS body, insofar as they relate to children.
- 23.3.4 Inter-agency co-operation. The new functions of Children's Services set out in the Children Act 2004, in particular building and leading the arrangements for inter-agency co-operation and safeguarding.
- 23.4 The Strategic Director (Children, Families and Adults) will in addition be responsible for new functions conferred on Children Services Authorities under the Children Act 2004 and by any subsequent legislation or Regulations.
- 23.5 The Strategic Director (Children, Families and Adults) or the duly nominated Officer in respect of Children's Services, is required to observe all policy decisions taken by the Council and its relevant bodies and shall exercise all

functions of a Strategic Director (Children, Families and Adults) (DCS) specified in relevant legislation and Government Guidance.

23.6 The Strategic Director (Children, Families and Adults) shall:-

23.6.1 Bring forward strategic plans and policies and to develop partnership and commissioning arrangements to ensure the provision of children's services.

23.6.2 Bring forward strategic plans and policies and implement all necessary decisions, including the allocation of resources within approved estimates, so as to maintain the operation and effectiveness of the early years and related services for which the DCS is responsible and which are statutorily covered by Acts of Parliament and related Regulations.

23.6.3 Bring forward strategic plans and policies and implement all necessary decisions, including the allocation of resources within approved estimates, so as to maintain the operation, effectiveness and quality of post early years children's education and related services for which the DCS is responsible and which are statutorily covered by Acts of Parliament and related Regulations.

23.6.4 In relation to persons under 19 years of age, to bring forward proposals and implement all necessary decisions, as appropriate, including the allocation of resources within approved estimates, so as to maintain the operation and effectiveness of all the children services for which the Director is responsible and which are statutorily covered by Acts of Parliament and related Regulations.

23.6.5 Bring forward strategic plans and policies and implement all necessary decisions, including the allocation of resources within approved estimates, so as to maintain the operation and effectiveness of the children's social care and related services for which the DCS is responsible and which are statutorily covered by Acts of Parliament and related Regulations.

23.6.6 Institute and defend proceedings in relation to the care of children, the exercise of parental responsibility, provision of secure accommodation and wardship proceedings and to intervene, where appropriate, in matrimonial, guardianship and special guardianship proceedings or any other proceedings pursuant to its functions relating to children and young persons, and to undertake the functions of the Authority as an adoption and fostering agency.

23.6.7 Ensure the provision and quality of statutory youth and related Services, and the development of associated strategic plans and partnership arrangements for youth and related services.

- 23.6.8 Jointly with the relevant members of Management Team and on behalf of the Authority to take leasehold interests in appropriate property in order to provide accommodation for the Surestart Partnership subject to prior confirmation from the Partnership that it will reimburse the Authority in respect of its liabilities in relation to any such property.

Adult Services

- 23.7 Except where specifically provided for elsewhere in this constitution or precluded by statute the Strategic Director (Children, Families and Adults) shall exercise of the powers and duties of the Authority under the enactments listed in Schedule 1 of the Local Authority Social Services Act 1970 (excluding Children and Young Persons).
- 23.8 The Strategic Director (Children, Families and Adults) shall:-
- 23.8.1 Apply for orders of receivership under the legislation relating to mental health and for grants of representation in respect of the estates in cases of intestacy arising under the appropriate provisions of the National Assistance Act 1948, non-recoverable expenses to be defrayed by the Authority.
- 23.8.2 Authorise the removal of parts of the body of a deceased resident in accordance with the wish expressed by the resident during his/her lifetime.
- 23.8.3 On terms approved by the Director of Finance and Business Services and Borough Solicitor, authorise adaptations to property and the provision of assistance and aids in accordance with the Chronically Sick and Disabled Persons' Act 1970, within the overall budget and policies set by the Authority.
- 23.8.4 Act as trustee or appointee for the assets of service users for whom the Authority has a statutory responsibility.
- 23.8.5 Exercise powers to purchase domiciliary, residential and nursing home services vested in the Authority under the National Assistance Act 1948 as amended by subsequent legislation.
- 23.8.6 Except where therein otherwise provided, exercise the powers and duties of the Social Services Authority under the legislative provisions relating to mental health, including those relating to Guardianship and the institution of Court proceedings.

24 DIRECTOR OF FINANCE AND BUSINESS SERVICES

- 24.3** The Director of Finance and Business Services is:-

- 24.3.1 The financial adviser to the Council, the Cabinet and Officers

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

24.4 The Director of Finance and Business Services will:-

- 24.4.1 Establish, keep under review and operate (including the reporting of any non-compliance) any such guidance and policy documents in relation to the administration of the Authority's financial affairs as is considered to be necessary or desirable to ensure the proper administration of the Authority's financial affairs so that resources are used in the most efficient and effective manner in order to meet the Authority's objectives.
- 24.4.2 For the avoidance of doubt the guidance and policy documents referred to in the preceding paragraph shall incorporate or apply any national requirements from time to time in force and shall include but not be limited to Financial Procedure Rules, Financial Schemes of Delegation, and any other relevant codes of practice on financial Management.
- 24.4.3 To monitor the Authority's capital and revenue budgets, investments, and financial position generally and maintain an efficient and effective internal audit of the Authority's financial affairs.
- 24.4.4 Secure effective treasury management, including taking all action necessary in relation to all debts, payment of accounts, loans (including guarantees and indemnities), grants, advances, investments, financing and banking generally.
- 24.4.5 Take all action necessary to ensure the safeguarding of assets, the appraisal and management of risk generally, including the taking out and administration of appropriate insurances and approving requests to postpone legal charges.
- 24.4.6 Agree the format of capital appraisals for schemes as required under the Finance Procedure Rules.
- 24.4.7 Exercise discretion to apply interest charges against service budgets, where avoidable cash flow losses have been incurred.
- 24.4.8 Agree specific ring-fencing of certain provisions as part of the annual budget setting process.

- 24.4.9 Give consent for urgent work to repair, replace or reinstate vehicles, buildings or equipment where the work is fully funded from insurance monies.
- 24.4.10 Agree in consultation with Corporate Management Team and the Chief Executive circumstances where normal procurement requirements and or requirements for quotations or tenders should be waived.
- 24.4.11 To take all necessary action in respect of the Authority's role in relation to the administration and operation of the Cheshire Pension Fund.
- 24.4.12 Administering the supply of goods and services to other public authorities and bodies under the Local Authorities (Goods and Services) Act 1970 and all other enabling legislation and setting of prices and collecting and recovering any charges made.
- 24.4.13 To make recommendations to the Council on Council Tax requirements, determine the Council tax base and to administer and manage generally all matters relating to Council Tax, Non Domestic Rates, Community Charge and General Rates including the awarding of discounts, relief, and exemptions and the levying, collection, recovery, and disbursement of all sums due to the Authority in respect of the same in accordance with all governing Regulations.
- 24.4.14 To receive and determine applications for Housing Benefit including rent restrictions, rebates, allowances, backdating requests and overpayment recovery and otherwise exercising all powers and responsibilities of the Authority under legislation relating to Housing Benefit
- 24.4.15 To negotiate, enter into arrangements and act generally on behalf of the Authority in respect of continuing financial matters arising from arrangements and obligations existing between the former Cheshire County and six District Councils.
- 24.4.16 Take all action necessary to ensure the safeguarding of assets, the appraisal and management of risk generally, including the taking out and administration of appropriate insurances.

25 BOROUGH SOLICITOR AND MONITORING OFFICER

- 25.3 The Borough Solicitor is the Authority's Monitoring Officer pursuant to Section 5 and 5A of the Local Government and Housing Act 1989 (as amended) and is responsible for exercising the functions of that role.
- 25.4 After consulting with the Chief Executive and the Director of Finance and Business Services the Monitoring Officer will report to the full Council (or to

the Executive in relation to an Executive function), if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to a finding of maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- 25.5 The Borough Solicitor shall be responsible for settling of actual or potential uninsured claims or Local Government Ombudsman cases as follows:-

25.5.1 Up to £20,000 the Borough Solicitor may authorise settlement

25.5.2 Above £20,000 and below £50,000 the Borough Solicitor and Director of Finance and Business Services may jointly authorise settlement

25.5.3 £50,000 and above - approval by Executive

- 25.6 The Borough Solicitor shall be responsible for:-

25.6.1 Conducting and appearing on behalf of the Authority any legal proceedings authorised by or on behalf of the Authority before any court or tribunal and similarly defending the Authority where any proceedings are instituted against it and taking all other action (within such proceedings or otherwise) considered by him or her to be necessary to protect and/or further the Authority's interests.

25.6.2 Save when specifically referred to in this Constitution, to act as the Authority's proper Officer for the purposes of Section 234 of the Local Government Act 1972 (Authorisation of Documents).

25.6.3 Lodging objections to any proposal affecting Borough interests.

25.6.4 To act as Proper Officer under the Access to Information Procedure Rules and in particular for the purposes of the Access to Information provisions of the Local Government Act 1972.

25.6.5 Determining applications for the display of the crest or logo of the Authority.

25.6.6 Determining applications for Certificates of Lawful Development or Interim Development Orders.

25.6.7 Taking all action including the completion of agreements, the service of notices, giving of directions, obtaining or issuing orders, authorising the execution of powers of entry, and the institution and defence of legal proceedings necessary or desirable to protect and advance the interests of or discharge the roles, functions and responsibilities of the Authority.

25.6.8 Making orders for the temporary closure of highways and regulation of traffic.

25.6.9 To make any Statutory and discretionary payments under Land Compensation Act 1973.

25.6.10 To be responsible for the overall monitoring of the operation of the Regulation of Investigatory Powers Act 2000.

25.6.11 To exercise such functions as are conferred on to the authority by agreements or instruments made pursuant to the provisions of the Registration Service Act 1953 (Registration Schemes)

25.6.12 To exercise such functions as are necessary to effectively discharge the Authority's duties in respect of the provision of a Coroners Service

25.6.13 To make minor and consequential amendments to the constitution on account of drafting anomalies and authorised revisions.

26 SOLICITORS, BARRISTERS, LEGAL EXECUTIVES AND TRAINEE SOLICITORS

26.3 Are authorised to:

26.3.1 appear in, and conduct legal proceedings in, any Court or Tribunal on behalf of the Authority; and

26.3.2 prove debts owed to the Authority in bankruptcy and liquidation proceedings.

27 DEMOCRATIC AND REGISTRATION SERVICES MANAGER

27.3 To act as Proper Officer in respect of functions conferred upon the Authority in respect of the registration of births, deaths, and marriages.

27.4 To act as Proper Officer in respect of functions conferred upon the Authority in respect of the overview and scrutiny function.

28 HEAD OF HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT

28.1 The Head of Human Resources and Organisational Development shall be responsible for discharging the following functions:-

28.1.1 To be responsible for the effective implementation and maintenance of Equal Opportunities in Employment Policy.

- 28.1.2 To apply, in consultation with the Director of Finance and Business Services the terms of the early retirement/redundancy scheme in those cases where the post is to be deleted.
- 28.1.3 To determine and pay honoraria in accordance with the NJC Scheme subject to a report to appropriate Members the next available meeting
- 28.1.4 In consultation with the portfolio holder and chair of the appropriate Scrutiny Committee and the Director of Finance and Business Services to determine annually the recruitment requirements for trainee positions at a level that can be met within budgetary provisions.
- 28.1.5 To approve the Management Structure of each Directorate below Head of Service level after undertaking appropriate consultations.
- 28.1.6 To approve Job Descriptions/Person Specifications for all employees other than members of Management Team.
- 28.1.7 To recommend to Council, the development of policies on the full range of Personnel issues, after appropriate consultation with Members.
- 28.1.8 To approve Codes of Conduct in support of Personnel policies as set out in the Authority's Performance Strategy.
- 28.1.9 To have regard to issues relating to the Local Government Pensions Scheme and the Authority's Early Retirement Scheme except where they are applied to individual employees.
- 28.1.10 To monitor staffing information reports.
- 28.1.11 To consider recommendations in respect of the use of the powers in Section 13(4) and 13(5) of the Local Government Act 2000 to place staff at the disposal of other local authorities to facilitate joint arrangements or joint working.
- 28.1.12 Take responsibility for the health and safety of the Authority's employees.

Note: pending completion of the senior management review, all existing delegations remain effective and will accrue to the relevant new post holder as appropriate.