

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting:	19 th September 2013
Report of:	Interim Head of Legal Services and Monitoring Officer
Subject/Title:	Review of Powers and Responsibilities of Officers

1.0 Report Summary

- 1.1 This report requests Members' consideration of a newly drafted section of the Constitution which sets out the Powers and Responsibilities of Officers and Proper Officer Provisions (which is given a new title in the document of Scheme of Delegation to Officers). These are the powers delegated by full Council to Officers to make decisions and take action. The draft document (Appendix 1) has been the subject of consideration by a Members' Working Group, set up by the Constitution Committee for this purpose.

2.0 Recommendations

- 2.1 To recommend to Council that

1. the Scheme of Delegation to Officers be approved; and t
2. the Interim Head of Legal Services and Monitoring Officer be authorised, in consultation with the Chairman of the Constitution Committee, to incorporate the new Management Structure into the Scheme of Delegation to Officers when all necessary aspects of the structure are settled.

3.0 Reasons for Recommendations

- 3.1 A review of the Powers and Responsibilities of Officers has been required to ensure the Constitution is up to date, addresses Members' current aims and reflects the needs of the Council. It does also need to reflect the changes to the Council's Management Structure, which are not yet finally confirmed. In addition the review of this section of the Constitution provides an opportunity to clarify this part of the Constitution and eliminate any inconsistencies.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 The delegations to officers relates to operational decisions by officers. The draft document makes it clear that all decisions made by officers must comply with policy approved by Members.

7.0 Financial Implications

- 7.1 The Finance Procedure Rules are not proposed to be amended by the revised Powers and Responsibilities of Officers. Where the document refers to financial issues it reflects those Rules as they are currently approved by Council. The draft document makes it clear that all decisions made by officers must be within approved budgets.
- 7.2 The only exception to the above is the “Note to paragraph 6.4 which conflicts with the Financial Procedure Rules (relevant parts copied at paragraph 1.6). The note requires all bad debt to be written off by Portfolio Holder or Cabinet. The Financial Procedure Rules allow officers to write off debt up to £2,500. A decision needs to be made regarding as to which approach members wish to take.

8.0 Legal Implications

- 8.1 The Council needs to keep its Schemes of Delegations to Committees, to Portfolio Holders and to Officers up to date in order to ensure that it is clear who has the ability to make decisions and to reduce the risk of challenge to the Council that a decision has not been made with the correct authority.
- 8.2 In accordance with Cheshire East Council’s current Constitution (Paragraph 3 of the Terms and Conditions of the Constitution Committee in Part 3 of the Constitution) changes to the Constitution are required to be agreed by Council, following recommendation from the Constitution Committee.
- 8.3 Any changes need to reflect statutory requirements. This has been considered as part of this review.

9.0 Risk Management

- 9.1 As paragraph 8.1 above.
- 9.2 The review has provided an opportunity to reduce the inconsistencies in the Constitution and to put in place a workable operational decision making framework.

10.0 Background and Options

- 10.1 At its meeting on 5th July 2012 the Constitution Committee resolved that in respect of the review of the Constitution "...that officers give priority to work on the scheme of delegation". This report is the culmination of that piece of work.
- 10.2 A Member Working Group was set up by the Constitution Committee at its meeting on 17th November 2011 to make recommendations on detailed changes to the Constitution. The Working Group has undertaken considerable work on the Scheme of Delegation.
- 10.3 The exercise has involved an extensive re-write of the whole of the section in the Constitution dealing with Officer Delegations. The proposed format is that all delegations from Council are to the Director or the most senior officer with responsibility for the function, who will then internally cascade delegations to other designated staff within the organisation as appropriate to the particular operational requirements of the service.
- 10.4 The Member Working Group has agreed that the Scheme of Delegation in Appendix 1 be referred to Constitution Committee. Paragraph 1.5 is additional to the work of the Member Working Group and is suggested in order to ensure the Constitution can keep up to date with all structural changes as they occur. The key changes to the Scheme are shown in Appendix 2, in particular the proposed additional Member involvement in decision making.
- 10.5 The Delegations to the Director of Public Health (Section 8 of the Scheme) were approved by Council on 28th February 2013 and are awaiting review by the Member Working Group.
- 10.6 As the work of the Member Working Group reached its conclusion, the Management Restructure was commenced. The Scheme of Delegation recommended by the Working Group to this Committee is based on the management structure prior to May. The Management Restructure is taking place over a period of several months and there is not yet sufficient detail in all aspects of the restructure to incorporate it into the Scheme of Delegation to Officers. In particular it is not clear where each function will ultimately sit.
- 10.7 It will also be noted that the Corporate Management Board is now known as the Corporate Leadership Board and this has been changed within the Scheme.
- 10.8 It is therefore recommended that delegation be given to the Interim Head of Legal Services/Monitoring Officer, in consultation with the Chairman of the Constitution Committee, to incorporate those changes as they are clarified. It is not anticipated that there will need to be any changes to the substance of the delegations in undertaking this process. If substantive changes are required they will be brought back to Constitution Committee.

11.0 Access to Information

11.1 The Council's current Constitution is available on the Council's website:
www.cheshireeast.gov.uk

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