

## Cheshire East Council – New Constitution

### Explanatory note – List of Substantive Issues

#### Part 2 (E) Responsibility for Functions – Officer Delegations/Scheme of Delegation

#### Structure of Part 2 (E)

Section	Title	Contents
1	Introduction	Sets out what this Part of the Constitution (the "Scheme of Delegation") covers and relevant definitions. It sets the scene for the cascade approach to delegations with all decisions being taken at the appropriate level.
2	General Principles	Sets out the general principles which apply to all decision making by officers. These include the need to act in compliance with the law, relevant policies and procedures, take advice, consult if appropriate etc. It also makes the document as future proof as possible by making clear that the Scheme of Delegation continues to apply despite management reviews, officer changes, post changes and law changes.
3	General Delegations to all Chief Officers	Sets out the delegations which apply to all officers called "Chief Officers" for the purposes of the Constitution i.e. the six roles set out below (which might be carried out by fewer than six people – for example currently the COO is also the s.151 officer) General delegations cover such areas as finance, staffing, land and assets. The Scheme gives authority for all decisions in those areas of activity relevant to the officer's functions, unless the constitution says otherwise
4	Delegations to the Chief Executive/Head of Paid Service	Sets out the specific delegations which apply to this post including power to act in emergencies.
5	Delegations to the Executive Director (People)	Sets out the specific delegations to this post by reference to the headline areas of responsibility of the post – all other officer delegations will be set out in the Local Scheme of Delegation for the Directorate.

Section	Title	Contents
6	Delegations to the Executive Director (Place)	Sets out the specific delegations to this post by reference to the headline areas of responsibility of the post – all other officer delegations will be set out in the Local Scheme of Delegation for the Directorate.
7	Delegations to the Chief Operating Officer	Sets out the specific delegations to this post by reference to the headline areas of responsibility of the post – all other officer delegations will be set out in the Local Scheme of Delegation for the Directorate.
8	Delegations to the s.151 Officer	Sets out the specific statutory functions of this post, whichever post-holder undertakes it.
9	Monitoring Officer	Sets out the specific statutory functions of this post, whichever post-holder undertakes it. Gives the Monitoring Officer all Proper Officer Functions unless he/she appoints other officers to these roles
10	Proper Officer arrangements	Sets out what this means and a link to the <a href="#">Proper Officer Register</a> . This new approach means the lists of proper officer functions can be accessed through a hyper link and not be part of the core constitution. It will be for the Chief Executive/Head of Paid Service to review and keep this up to date. It will be possible to provide a comparison document which shows the amendments that have been made to the Proper Officer Register.

If the approach to this Part of the document is agreed, the next step will be to prepare and populate the following documents:-

- The Local Schemes of Delegation to cover the onward delegations to the next tier of officers in the directorates for the
  - Executive Director (People)
  - Executive Director (Place)
  - Chief Operating Officer
- The Proper Officer Register
- The Specific Delegation Register (where one-off delegations will be captured).

## Substantive Changes

This Part is a fundamental rewriting of what was previously in Part 3 of the old constitution – Scheme of Delegation to Statutory Officers and Statutory and Proper Officer Procedure Rules

We describe the changes that we have made in three categories:

- I. Substantive changes required by law for approval
- II. Substantive changes based on best practice recommended for approval
- III. Substantive changes for consideration by the Sub-Committee

I. Substantive changes required by law for approval – None for this Part.

II. Substantive changes based on best practice recommended for approval

Page	Section	Comment and/or area for consideration
2	Introduction	<p>The current constitution defines the Chief Officers as being:</p> <ul style="list-style-type: none"> <li>• Chief Executive</li> <li>• Executive Director People and Deputy Chief Executive</li> <li>• Chief Operating Officer (Section 151 Officer)</li> <li>• Executive Director Place</li> <li>• Strategic Director of Adult Social Care and Health</li> <li>• Director of Legal Services (Monitoring Officer)</li> </ul> <p>We have redefined the Chief Officers as:</p> <ul style="list-style-type: none"> <li>• Executive Director (People)</li> <li>• Executive Director (Place)</li> <li>• Chief Operating Officer</li> <li>• Section 151 Officer</li> <li>• Monitoring Officer</li> </ul> <p>Note that we have listed the COO and the Section 151 Officer separately to accommodate the reality that although they may be performed by the same person, this is not always the case.</p>
4	General Principles relating to Officer Delegation	<p>This section has been completely re drafted, taking best practice from the previous Constitution and making the remit of officers exercising delegated powers much clearer to ensure transparency and accountability.</p> <p>A number of provisions make it more future proof –</p>

Page	Section	Comment and/or area for consideration
		<ul style="list-style-type: none"> <li>the delegation will apply to the post-holder with the relevant functions so the Constitution will not need updating if changes are made to job titles/roles</li> <li>the delegation is not linked to named statutes/legal provisions but to areas of service responsibility.</li> </ul> <p>There are changes to the obligations for consultation by officers exercising their delegated powers. In the new Office Scheme of Delegation the relevant wording now states as follows:-</p> <p>"An officer in exercising delegated powers may consult the relevant portfolio holder or chair of committee if he/she considers it appropriate to do so and shall consult other officers for professional advice including legal, financial and technical officers and shall have regard to any views and advice received".</p> <p>This approach is in accordance with the principle agreed by the Constitution Committee i.e. to</p> <ul style="list-style-type: none"> <li>delegate decision-making to the most appropriate level with the right checks, balances and scrutiny</li> </ul>
8, 16	Proper Officer functions	<p>In the current Constitution this is somewhat dispersed.</p> <p>The revised Constitution consolidates this at the highest level within the organisation i.e. Chief Executive/Head of Paid Service, with the facility for explicit delegation down the organisation as required.</p>

III. Substantive changes for consideration by the Sub-Committee – none for this Part