

Cheshire East Council

New Constitution

Part 2 (e)

Responsibility for Functions – Officer Delegations

Scheme of Delegation

1 INTRODUCTION

- 1.1 This part of the Constitution sets out the ways in which the officers of the Council can make decisions and which decisions they have the power to make. It is called the "Scheme of Delegation"
- 1.2 This Scheme of Delegation is set out as follows:-

Section	Title	Contents
1	Introduction	Sets out what this Part of the Constitution (the "Scheme of Delegation") covers and relevant definitions
2	General Principles	Sets out the general principles which apply to all decision making by officers
3	General Delegations to all Chief Officers	Sets out the delegations which apply to all officers called "Chief Officers"
4	Delegations to the Chief Executive/Head of Paid Service	Sets out the delegations which apply to this officer
5	Delegations to the Executive Director (People)	Sets out the delegations which apply to this officer
6	Delegations to the Executive Director (Place)	Sets out the delegations which apply to this officer
7	Delegations to the Chief Operating Officer	Sets out the delegations which apply to this officer
8	Delegations to the s.151 Officer	Sets out the delegations which apply to this officer

Section	Title	Contents
9	Monitoring Officer	Sets out the delegations which apply to this officer
10	Proper Officer arrangements	Sets out the legal requirements for "proper officers", what this means and a link to the Proper Officer Register

- 1.3 “Officers” is the term used to refer to the people employed, retained or appointed by the Council to advise and support Councillors and implement their decisions. The term “officers” in this Constitution includes all the people who operate in this capacity including contractors, consultants, agency staff and volunteers.
- 1.4 The Council operates a “Cascade” principle of delegation to ensure that decisions are taken at the most appropriate level closest to those who will be affected. This means that the vast majority of the Council's decisions and actions will fall into the category of operational day to day decisions taken by its officers.
- 1.5 In order to ensure the smooth functioning of the Council and the efficient delivery of services, Full Council and the Cabinet have delegated to officers all of the powers that they need to perform their roles.
- 1.6 Certain officers have specific legal duties to ensure that the Council acts within the law, uses its resources wisely and exercises its powers properly. These officers are known as “Statutory” or “Proper” Officers and some have specific legal titles in addition to their job titles. Sections 9 and 10 of this Part of the Constitution explain these roles.
- 1.7 The way the Council structures its services and its officer arrangements changes from time to time to reflect changes in service delivery and best practice. The current arrangements include a **Chief Executive/Head of Paid Service** (as the most senior officer of the Council) supported by five other senior roles called:-
- **Executive Director (People)**
 - **Executive Director (Place)**
 - **Chief Operating Officer**
 - **Section 151 Officer**
 - **Monitoring Officer**
- 1.8 These officers are called, for the purposes of this Constitution, **"Chief Officers"**.
- 1.9 The Head of Paid Service, the Section 151 Officer and the Monitoring Officer are also called "statutory officers" (because every council is required by statute – the law – to have these posts).
- 1.10 It is possible (subject to any legal restrictions) for the roles of Section 151 officer and/or the Monitoring Officer to be combined with another of the Chief Officer posts (or with other officer posts in the Council) so the five roles in 1.7 might be delivered

by fewer than five officers, depending on the officer arrangements in place at any time.

- 1.11 There are also a number of formal functions which the Council has to allocate to named officers called "Proper Officers". There is a [Proper Officer Register](#) which sets out these details.
- 1.12 Click to see the [current organisational structure](#) of the Council, showing more detail about the roles and responsibilities of the Chief Officers and the officers supporting them to deliver all the Council's services.

2 GENERAL PRINCIPLES RELATING TO OFFICER DELEGATION

- 2.1 This scheme gives the power for the Chief Officers and Statutory Officers to take decisions in relation to all the functions in their areas of responsibility except where:-
 - 2.1.1 A matter is prohibited by law from being delegated to an officer and;
 - 2.1.2 A matter has been specifically excluded from delegation by this scheme, by a decision of the Council, the Cabinet/Executive or a Committee or Sub-Committee.
- 2.2 The cascade principle under which this scheme operates means that any officer given powers under this scheme can further delegate those powers to other officers either:-
 - through a Local Scheme of Delegation (which sets out all the standing delegations given to specific officers in defined areas of the Council's service areas). This is a [full list of the Local Schemes of Delegation](#) and you can look at any of the schemes in detail or
 - through a Specific Delegation in relation to an individual decision which must be evidenced in writing using the agreed standard form, dated and signed by the officer delegating the power with a copy supplied to the Monitoring Officer – here is a [register of these Specific Delegations](#). A Specific Delegation does not need to be given where an officer is given delegated powers to action a particular decision by Council, Cabinet or a Committee or Sub Committee
- 2.3 All Local Schemes of Delegation (and any changes to them) must be agreed by the Chief Operating Officer and the Monitoring Officer.
- 2.4 Where a function has been delegated to an officer (including where sub-delegated through the Cascade principle), the person or body making the delegation may at any time take back responsibility for the function and may therefore exercise the function (make the decision) despite the delegation.
- 2.5 In some circumstances the officer to whom a power has been delegated may consider a matter to be of such importance or sensitivity that their delegated authority should not be exercised. In these circumstances he or she may refer the matter back to the delegator for determination.

- 2.6 Any power delegated or cascaded under this Scheme can be exercised by the relevant Chief Officer or Statutory Officer and in all cases by the Chief Executive personally.
- 2.7 The powers of this Scheme are delegated to the officers referred to by title within this Scheme of Delegation. So the delegations apply to whoever holds that post title at any time – not to the individual person. The powers are automatically transferred to any successor officer, to whom the functions are allocated following any reorganisation of the Council's management arrangements, irrespective of a change in the title/name of the officer post.
- 2.8 Delegations relate to all provisions for the time being in force under any applicable legislation and cover executive, non-executive and local choice functions of the Council and all powers and duties incidental to that legislation.
- 2.9 Any delegation must be exercised:-
- 2.9.1 In compliance with all the Council's Procedure Rules, the Pay Policy Statement approved annually and the Officer Code of Conduct;
 - 2.9.2 In accordance with the decision-making requirements set out in the Constitution including requirements for decision-records and access to information;
 - 2.9.3 Having identified and managed appropriate strategic and operational risks within the officer's area of responsibility;
 - 2.9.4 Within the approved budget and policy framework approved by the Council (or separate approval must be sought) and
 - 2.9.5 Following any appropriate legislative, regulatory, consultation, equalities or procedural requirements that may be required.
- 2.10 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 appropriate officers for professional advice including legal, financial and technical officers and shall have regard to any views and advice received.
- 2.11 Whenever legislation is amended or replaced by new provisions, then the relevant delegated authority in this scheme applies to those new provisions. Whenever new legislation relevant or related to the functions exercised by the Chief Officer is introduced, that Officer will have the delegated authority to exercise powers or otherwise take action under that legislation until such time as the Council, Cabinet, a committee or the Chief Executive decides to whom to allocate responsibility for the new legislation.
- 2.12 Chief Officers may appoint another officer as their deputy and such deputy shall have all the powers of a Chief Officer as set out in this Constitution. A deputy may be appointed in relation to all the areas of service delegated to the Chief Officer under this Constitution or in relation to a particular area of service only. A deputy may be appointed for a specific period of time (for example to cover the absence of a Chief Officer) or without time limitation. The appointment of a deputy shall not

prevent the exercise by the Chief Officer of any delegation set out in this Constitution.

- 2.13 If there is any dispute or lack of clarity as to which Chief Officer has power to make decisions on specific areas of service, the Chief Executive shall have power to determine where the delegation should be exercised.

3 GENERAL DELEGATIONS TO ALL CHIEF OFFICERS

- 3.1 The following delegations shall apply to all Chief Officers (and to any appointed deputies).

Urgent action

- 3.2 To act on behalf of the Council in cases of urgency in the discharge of any function of the Council for which his/her Directorate or Service has responsibility, other than those functions which by law can be discharged only by the Council or a specific Committee. This delegation is subject to the conditions that any urgent action
- (a) shall be reported to the Cabinet, the appropriate Cabinet Member or the appropriate Committee;
 - (b) shall take account of advice of the Monitoring Officer and the Section 151 Officer and
 - (c) shall be exercised in consultation with the appropriate Cabinet Member or the Chairman of the appropriate Committee.

Implementation of decisions

- 3.3 To take all necessary actions (including the letting of contracts, undertaking statutory processes and incurring expenditure) to implement decisions of Cabinet and Council.

General Operational

- 3.4 To have overall responsibility for the operational management of the relevant area of service and for bringing forward such strategic plans and policies, and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to exercise the functions for which the service is responsible.

Consultation

- 3.5 To undertake and consider the outcome of statutory and non-statutory consultations on service provision.
- 3.6 To respond to Government Consultations and consultations from other bodies, in consultation with the relevant Portfolio Holder(s) or committee chairman.
- 3.7 To undertake all steps required to complete Government Statistical Returns.

Finance

- 3.8 To manage the finance of their departments to ensure value for money and the development of budget policy options with a detailed assessment of financial implications.
- 3.9 To enter into contracts and incur expenditure.
- 3.10 To determine the level of fees or charges payable in respect of any goods or services supplied, work undertaken or the loan or use of plant, equipment or machinery.

Staffing

- 3.11 To deal with the full range of employment and staff management issues, below Chief Officer level including but not limited to appointments, terms and conditions (other than those negotiated nationally) 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 approved policies and the Staff Employment Procedure Rules.
- 3.12 To implement changes to staffing structures subject to prior consultation with all appropriate parties affected by the decision, including any Trades Union, except where the restructure:
 - 3.12.1 Involves the loss of one or more posts not currently vacant.
 - 3.12.2 Involves re-grading of posts or the grading of new posts.
 - 3.12.3 Involves changes to existing National or Local Agreements and policies.
 - 3.12.4 Cannot be achieved within the delegated powers in respect of budgets.
- 3.13 To enter into reciprocal arrangements for the authorisation and appointment of officers to facilitate cross-border co-operation in the discharge of delegated functions with any other local authority

Land and assets

- 3.14 To manage land, premises, vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture appliances and uniforms necessary for the provision of services.
- 3.15 To administer 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.
- 3.16 To make application for planning permission and any other necessary applications for other consents required for the development of land.

Legal authorisation and enforcement

- 3.17 To authorise officers possessing such qualifications as may be required by law and where Chief Officers are satisfied that appropriate training has been undertaken, to:-
- 3.17.1 take samples, carry out inspections or surveys, enter land and premises and generally perform the functions of and/or act as a duly authorised, officer of the Council (howsoever described);
 - 3.17.2 issue certificates of authority or certify copies of documents;
 - 3.17.3 enforce the requirements of legislation and
 - 3.17.4 instruct the Monitoring Officer to consider whether or not legal proceedings to enforce the requirements of legislation are appropriate.
- 3.18 With the approval of the Monitoring Officer, to:-
- 3.18.1 authorise the issue and service of requisitions for information, any notice, order or direction;
 - 3.18.2 approve or issue any licence which may be required or authorised by or under any legislation or byelaws (not otherwise mentioned in this scheme of delegation);
 - 3.18.3 authorise the institution of legal and quasi-legal proceedings and/or other action (including debt recovery) as is considered necessary to protect the interests of the Council and
 - 3.18.4 sign certificates for contracts
- 3.19 To exercise the role of authorising officer and designated person under the Regulation of Investigatory Powers Act 2000.

Safeguarding children and vulnerable adults

- 3.20 To ensure that arrangements are in place to discharge the responsibilities of the Council within their functional responsibilities in respect of the need to safeguard and promote the welfare of children and of vulnerable adults.

4 DELEGATIONS TO THE CHIEF EXECUTIVE/HEAD OF PAID SERVICE

- 4.1 The Chief Executive is the most senior officer in the Council. It is his/her role to support the Councillors and to provide leadership for the Council.
- 4.2 The Chief Executive is empowered to operate all the services of the Council and except where powers, duties and functions are delegated to a councillor decision-making body or Cabinet member, to exercise all powers, duties and functions of the Council, including those delegated to other officers.
- 4.3 Every Council has to, by law, appoint one of its officers as the Head of Paid Service. The Chief Executive is also the Council's Head of Paid Service. His/her responsibility in this role is to make proposals to the Council about the manner in which the discharge of the Council's functions is co-ordinated and the numbers, grades and organisation of staff required and the proper management of those staff.
- 4.4 The Chief Executive is given delegated power to undertake the following roles and responsibilities and to take the following decisions subject to the terms of this Constitution:-
- 4.4.1 To be the Council's principal officer representative and to promote its good image and reputation;
 - 4.4.2 To lead and direct the strategic management of the Council;
 - 4.4.3 To appoint other officers as Proper Officers for the purposes of any specific Council service area or function
 - 4.4.4 Unless another officer is appointed as Proper Officer by the Monitoring Officer under 9.4.1. above, or by the Council itself, to act as Proper Officer for the Council for the purposes of all Council service areas and functions
 - 4.4.5 To maintain an up to date Proper Officer Register showing who is appointed to act as the Proper Officer for all Council service areas and functions
 - 4.4.6 To exercise any executive functions where the Council does not have a Leader and Deputy Leader in office;
 - 4.4.7 To discharge emergency planning and civil protection functions;
 - 4.4.8 To take such steps (including the incurring of expenditure where necessary) as may be required in the event of any national or local emergency requiring immediate action by the Council;
 - 4.4.9 To sign settlement agreements for employees/ex-employees, in consultation with the Leader of the Council and Chairman of the Staffing Committee;
 - 4.4.10 Subject to 4.4.6 above, to approve the pay, terms and conditions of service and training of any employee except where an approval would be contrary to the provisions of the annual Senior Officer Pay Policy

Statement which is reserved to full Council or where an approval falls within the responsibilities of the Staffing Committee or would be contrary to the employment policies of the Council;

- 4.4.11 To make decisions affecting the remuneration of any existing post whose remuneration is or is proposed to be or would become [£100,000 p.a.] or more in consultation with the Leader and Chairman of the Staffing Committee;
- 4.4.12 To undertake the communications, marketing and media functions of the Council with regard to policy and strategic direction (operational responsibility rests with the Chief Operating Officer).

5 DELEGATIONS TO THE EXECUTIVE DIRECTOR (PEOPLE)

- 5.1 The Executive Director (People) holds a number of statutory roles for the Council
 - 5.1.1 the Director of Children's Services (required by Section 18 of the Children Act 2004)
 - 5.1.2 the Chief Education Officer (required by Section 532 of the Education Act 1996) and
 - 5.1.3 the Director of Adult Services (required by Section 6 of the Local Authority Social Services Act 1970)
- 5.2 The Executive Director (People) is given delegated power to take any decisions in relation to the following areas of the Council's operations and services, subject to the terms of this Constitution.

- **Children and Families**

- Children's Social Care
 - Cared for Children
 - Children in Need and Child Protection
 - Children's Safeguarding
 - Children's Commissioning
- Education and 14-19 Skills
 - Education and Infrastructure and Outcomes
 - Education Participation and Pupil Support
- Children's Prevention and Support
 - Preventative Services
 - Special Education Needs and Disability
- Children's Development and Partnerships

- **Adult Social Care**

- Adult Social Care Services
- Care4CE (internal care provision)
- Mental Health and Learning Disability Services
- Professional Social Work Standards

- Social Work Support
- Deprivation of Liberty Safeguards

- **Public Health**

- Public Health Commissioning
- Health Improvement
- Public Health Protection

- **Adults Commissioning**

- **Community and Partnerships**

- Local Area Working and Partnerships
- Community Safety
- Regulatory Services and Environmental Health

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6 DELEGATIONS TO THE EXECUTIVE DIRECTOR (PLACE)

6.1 The Executive Director (Place) is given delegated power to take any decisions in relation to the following areas of the Council's operations and services, subject to the terms of this Constitution.

- **Planning and Sustainable Development**

- Spatial Planning
- Neighbourhood Planning
- Development Management
- Regulation and Protection

- **Infrastructure and Highways**

- Strategic Infrastructure
- HS2
- Highways Contract Management
- Parking Services

- **Growth and Regeneration**

- Assets and Property
- HS2 Growth Strategy
- Regeneration
- Strategic Housing
- Energy and Waste

- **Rural and Green Infrastructure**

- Tatton Park
- Public Rights of Way
- Countryside
- Visitor Economy
- Cultural Economy
- Rural Economy

- **Client Commissioning (Alternative Service Delivery Vehicles)**

- Civicance
- Skills and Growth
- Engine of the North
- Transport Service Solutions
- Tatton Park Enterprises

7 DELEGATIONS TO THE CHIEF OPERATING OFFICER

7.1 The Chief Operating Officer is given delegated power to take any decisions in relation to the following areas of the Council's operations and services, subject to the terms of this Constitution.

- **Legal and Democratic Services**

- Legal Services
- Governance and Democratic Services
- Audit and Compliance

- **Finance and Performance**

- Strategic and Corporate Finance
- Business Intelligence and Performance
- Programme Management Office

- **Professional Services**

- Facilities
- Service Finance/Accountancy Services
- Project Finance
- Procurement
- Business Solutions
- Collaboration and Shared Services

- **ICT Services**

- **Human Resources**

- Operational HR
- Schools HR Consultancy
- Organisational Development and HR Strategy
- Workforce Strategy
- Health and Safety
- Occupational Health

- **Customer Operations**

- Libraries
- Revenues
- Benefits
- Online Services
- Customer Service Centre
- Emergency Planning

- **Client Commissioning (Alternative Service Delivery Vehicles)**

- Everybody Sport and Recreation
- ANSA
- Orbitas

8 DELEGATIONS TO THE SECTION 151 OFFICER

8.1 The section 151 officer is:

- The financial adviser to the Council, the Cabinet and Officers
- The Authority's 'responsible financial officer' under all relevant legislation and
- Responsible for the proper administration of the Council's financial affairs as specified in, and undertakes 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.

8.2 The section 151 officer shall have the following delegated powers and responsibilities:-

- 8.2.1 To carry out the functions and responsibilities which are detailed in the Finance Procedure Rules;
- 8.2.2 To 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;
- 8.2.3 To take all action necessary to ensure the safeguarding of assets by maintaining and administering appropriate insurance and approving requests to postpone legal charges;
- 8.2.4 To take all necessary action in respect of the Council's role in relation to the administration and operation of the Cheshire Pension Fund;
- 8.2.5 To make recommendations to the Council on Council Tax requirements, on 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 Council in respect of the same in accordance with all governing Regulations and
- 8.2.6 To negotiate, enter into arrangements and act generally on behalf of the Council in respect of continuing financial matters arising from arrangements and obligations existing between the former Cheshire County and six District Councils.

9 DELEGATIONS TO THE MONITORING OFFICER

- 9.1 The Monitoring Officer is appointed in accordance with Section 5 of the Local Government and Housing Act 1989 and is responsible for supporting and advising the Council in relation to
- the lawfulness and fairness of the decision making of the Council
 - the Council's compliance with its legal responsibilities and requirements and
 - matters relating to the conduct of elected Councillors
- 9.2 The Monitoring Officer will provide advice to ensure that decisions are taken on proper authority, by due process, and in accordance with the budget and policy framework.
- 9.3 The Monitoring Officer shall, where necessary, and in consultation with the Head of Paid Service and the section 151 officer, report any proposal, decision or omission considered to be unlawful or to amount to maladministration to the Council or the Executive, as appropriate in accordance with Section 5 of the Local Government and Housing Act 1989.
- 9.4 The Monitoring Officer shall have the following delegated powers and responsibilities:-
- 9.4.1 To authorise the settlement of actual or potential uninsured claims or Local Government Ombudsman cases across all functions of the Council up to **£5000** (claims above this level shall be determined by the relevant Portfolio Holder)
- 9.4.2 To prosecute, defend, make application, serve any notice or appear on behalf of the Council in any Court, Tribunal or hearing on any criminal, civil or other matter (including appeals).
- 9.4.3 To institute legal proceedings for any offences under any local Byelaws or Orders in force within the Council's area
- 9.4.4 To lodge objections to any proposal affecting the Council's interests.
- 9.4.5 To determine applications for the display of the crest or logo of the Council.
- 9.4.6 To take 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.
- 9.4.7 To make discretionary payments under Land Compensation Act 1973 on the recommendation of the District Valuer

- 9.4.8 In accordance with the Council's approved policy to monitor the integrity of the operation of the Regulation of Investigatory Powers Act 2000 by:
- Ensuring compliance with all relevant legislation and with the Codes of Practice.
 - Engagement with the Inspectors from the Office of the Surveillance Commissioner when they conduct their inspections, and, where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.
 - Monitoring authorisations and conducting a quarterly review of applications, authorisations and refusals, and reviewing renewals and cancellations.
- 9.4.9 To make Orders for the Temporary Closure of Highways and Regulation of Traffic.
- 9.4.10 To attest the affixing of the Council's seal to all documents approved for sealing.
- 9.4.11 To authorise appropriate Officers to administer formal cautions in respect of criminal offences.
- 9.4.12 To determine whether a particular claim for payment under the Members Allowances Scheme is appropriate
- 9.4.13 To authorise appropriately qualified employees or persons acting on behalf of the Council:
- 9.4.14 To appear in, and conduct legal proceedings in, any Court or Tribunal on behalf of the Authority;
- 9.4.15 To prove debts owed to the Authority in bankruptcy and liquidation proceedings.
- 9.4.16 In consultation with the Chairman and Vice-Chairman of the Constitution Committee, to make such changes to the Council's Constitution as he/she deems to be necessary and which are in the Council's interests and not major in nature, including, but not limited to, changes:-
- amounting to routine revisions;
 - to provide appropriate clarity;
 - to correct typographical and other drafting errors;
 - to reflect new legislation;
 - to correct inconsistencies in drafting;
 - to reflect new officer structures and job titles, properly approved through Council processes.

10 ARRANGEMENTS FOR PROPER OFFICER FUNCTIONS

- 10.1 Many legislative provisions require the appointment of a "Proper Officer" to undertake formal responsibilities on behalf of the Council.
- 10.2 The Chief Executive/Head of Paid Service shall be the Proper Officer of the Council for the purposes of the Local Government Act 1972, the Local Government Act 2000 and for all other statutory purposes unless
- such designation is given by the Council to any other officer or
 - the Chief Executive/Head of Paid Service, exercising the powers given to him/her by this Constitution, appoints another officer of the Council to be the Proper Officer for a specific service area or function.
- 10.3 The Proper Officer shall maintain a [Proper Officer Register](#) which shall record all Proper Officer appointments.