

Cheshire East Council – New Constitution

Explanatory note of Substantive Changes

We have described 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 which were recommended for consideration by the Sub-Committee

I. Substantive changes required by law for approval

Page	Section	Comment and/or area for consideration	Recommendation of Sub-Committee ¹
61	Audit and Governance Committee TOR's	This section has been amended to make it clear that the independent member of the committee (who is not a councillor) is not entitled to vote. This is a legal requirement.	The proposal was supported.
N/A	Throughout the Procedure Rules	All references have been updated dates to ensure compliance with the latest legislation including the Accounts and Audit Regulations and Procurement Regulations.	The proposal was supported.
252	Other Chief Officers and Deputy Chief Officers	We have inserted a section relating to the executive objection process relating to the appointment and dismissal of those Chief Officers and Deputy Chief Officers who are not covered by paragraphs 4 and 5. This rectifies an omission in the current constitution.	<i>This issue was not specifically discussed at the Sub-Committee and it is now recommended to the Constitution Committee.</i>

¹ The Constitution Sub-Committee met on 3 November 2017 and 17 November 2017, and its recommendations are noted in this column. Where the recommendations have resulted in changes being required to the version of the Draft Constitution which the sub-committee was considering, this has been indicated in ***Bold Italics***.

II. Substantive changes based on best practice recommended for approval

Page	Section	Comment and/or area for consideration	Recommendation of Sub-Committee
15	Policy Framework	The following have been removed from the Policy Framework as they are no longer required by law to be included: <ul style="list-style-type: none"> • Sustainable Community Strategy; • Business Plan; and • Adult Learning Plan. 	The proposal was supported.
16	Local Choice Functions	A comment has been received that these need to be explained more clearly – the wording has been amended to try to do this but this is a specific statutory requirement for the Council to set out in its Constitution.	The proposal was supported.
18	Appointment to Outside Organisations	It has been suggested that the list of organisations could be taken out of the Constitution and linked to elsewhere. We have inserted a link which will navigate to a page on the Council's website.	It was agreed that reference to outside organisations being made by Cabinet or Portfolio Holders should more fully explain appointments to the full range of outside organisations This will be included in the hyperlink.
19	Role of the Mayor	Following feedback from Members we have re-inserted (as the first responsibility) the phrase "the Mayor is the conscience of the Council" which was missing from earlier drafts. A query was raised as to whether this should be included in the job description of all councillors. Although the sentiment of every	The proposed emphasis on the Role of the Mayor was supported.

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		Councillor needing to be the conscience of the Chair is understood, this does not seem to reflect what members collectively felt at the last working groups/sub-committee which was that it is a prime responsibility of the Chair.	
25	Responsibilities of all Cabinet Members	We have updated and strengthened this list following very helpful wording suggest by respondents.	The proposal was supported.
26	Portfolio Holder responsibilities for Leader	We note that the term "devolution" can have different meanings in different contexts. Following officer feedback we have made it clear that devolution in this context means the devolution of powers from Central Government to combined authorities and the Council, and from the Council to Town and Parish Councils.	The proposal was supported. <i>The recommendation of the Sub-Committee was noted and the amendment has been made.</i>
43	Strategic Planning Board	Members have commented that the Strategic Planning Board no longer nominates Councillors to sit on the Northern and Southern Planning Committee. Reference to this has been removed from the draft Constitution.	The proposal was supported.
50	Staffing Committee - Recruitment and Selection	Purpose and functions have been merged to avoid repetition.	The proposal was supported.
58	Constitution Committee	Following officer comments we have removed the requirement for the Constitution Committee to approve appointments to the Independent Persons Panel as this is not a requirement.	The proposal was supported.
67	Health and Wellbeing Board	We suggest changing the terminology from core/non-core members to voting/non-voting members to better reflect their respective roles. We have also added a link to the Code of Conduct for the HWB.	The proposal was supported.

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78	Introduction, paragraph 7	<p>The current constitution defines the Chief Officers as being:</p> <ul style="list-style-type: none"> • Chief Executive • Executive Director People and Deputy Chief Executive • Chief Operating Officer (Section 151 Officer) • Executive Director Place • Strategic Director of Adult Social Care and Health • Director of Legal Services (Monitoring Officer) <p>Following feedback from Members we have redefined the Chief Officers as:</p> <ul style="list-style-type: none"> • Chief Executive • Executive Director (People) • Executive Director (Place) • Chief Operating Officer • Section 151 Officer • Monitoring Officer <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>	<p>This proposal was supported, subject to Chief Executive and Head of Paid services being inserted as appropriate.</p> <p><i>The Sub-Committee's recommendation was noted and amendment has been made.</i></p>
79	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> <ul style="list-style-type: none"> • the delegation will apply to the post-holder with the relevant 	<p>This proposal was supported.</p>

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		<p>functions so the Constitution will not need updating if changes are made to job titles/roles</p> <ul style="list-style-type: none"> the delegation is not linked to named statutes/legal provisions but to areas of service responsibility. <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"> delegate decision-making to the most appropriate level with the right checks, balances and scrutiny 	
92	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>	This proposal was supported.
Committee and Sub Committee Procedure Rules			
102	Attendance of Members at	The Current Constitution allows members to attend committees of which they are not members where private and confidential or exempt	The proposal was not

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	Committees and Sub-Committees of which they are not Appointed Members	<p>business is to be conducted.</p> <p>Following feedback from the Working Group, we have suggested introducing a "need to know" basis, whereby the Member's attendance at such a meeting would have to be agreed in advance by the Monitoring Officer and the Chair of the Meeting.</p>	<p>supported. It was agreed that the existing constitutional provisions would remain in place, but that the operation of these would be reviewed in 6 months' time.</p> <p>17.11.17 – there was further discussion and agreement that the relevant paragraph be split into two paragraphs for clarity between:</p> <ul style="list-style-type: none"> • right to attend meeting and separate issue of • agreement of MO and Chair when exempt or private and confidential information on basis of "need to know". <p><i>The Sub-Committee's recommendation was noted and the amendment has been made.</i></p>
106	Attending and speaking at Cabinet Meetings	<p>The current Constitution states that questions will not be allowed which repeat or are substantially the same as questions asked at a meeting of Council or Cabinet within the preceding 3 months.</p> <p>We have changed this to 6 months (and have standardised this time scale for all other similar references throughout the Constitution).</p>	The proposal was supported.

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110	Members Access to exempt or confidential documents	We have added the words "of that body" to the end of paragraph 47 for clarity.	The proposal was supported.
116	Petitions	Proposed new procedure rule for petitions in place of the petitions scheme	The proposal was supported.
128	Councillor Call for Action	Reflected in procedure rules at Appendix 6	The proposal was supported.
Access to Information Procedure Rules			
139	Period of Forward Plan	<p>The period of the Forward Plan has been reduced from 4 months to read: <i>"Forward plans will be prepared by the Leader to cover a period of 28 clear days (longer where this is possible) beginning with the first day of any month. They will contain outstanding matters from the previous forward plan"</i></p> <p>This is to ensure that the Forward Plan is kept up to date on a shorter timeline to reflect the 2012 Regulations.</p>	<p>The proposal was supported subject to amendment of "28 clear days" to "one month"</p> <p><i>The Sub-Committee's recommendation was noted and the amendment has been made.</i></p>
139	Publication in newspapers	Recommended for removal as no longer a legal requirement	<p>The proposal was supported</p> <p><i>The Sub-Committee's recommendation was noted and the amendment has been made.</i></p>
141	Reports to Council	This section has been significantly shortened, with the procedure for the OSC requiring a report and the Cabinet's report to Council being	It was agreed that the existing constitutional provisions (16.1,

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		taken out.	16.2 and 16.3) would remain in place <i>The Sub-Committee's recommendation is noted and the previous provisions have been reinstated.</i>
142	Members access to Exempt or Confidential Documents	<p>The words in italics below have been added. This is part of a wider review of access to information, and Bevan Brittan have produced an advice note which addresses concerns about the possible risks to the Council of not taking sufficient steps to control the circulation of exempt and confidential documents.</p> <p>We recommend removal of "<i>In addition, the following categories of Member shall automatically receive copies of confidential or exempt executive reports:</i></p> <ul style="list-style-type: none"> ▪ <i>Group Leaders</i> ▪ <i>Local Ward Members for the Ward affected, in accordance with the Ward Member Protocol</i> ▪ <i>Relevant overview and scrutiny committee Chairmen and Vice-Chairmen</i> ▪ <i>Members visiting the meeting in question (with the agreement of the Monitoring Officer and Chairman of the meeting) who would receive the papers upon arrival"</i> 	<p>As per comment above - it was agreed that the existing constitutional provisions would continue to remain in place, but that the operation of these would be reviewed in 6 months' time.</p> <p><i>The Sub-Committee's recommendation was noted and the original provisions remain in place.</i></p>
143	Scheme of Delegation to Senior Officers	<p>Whilst strictly part of WP2, this is part of a wider consideration of access to information.</p> <p>The current constitution has at paragraph 1.28 of the delegation to Senior Officers the following wording:</p>	The proposal was supported.

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		<p><i>"Chief Officers shall implement and ensure compliance with the Authority's procedures relating to data protection, Environmental Information Regulations, freedom of information, human rights and surveillance activities and shall only withhold the publication of requested information with the permission of the relevant Portfolio Holder, whose refusal shall not override the Scheme of Publication"</i></p> <p>None of this provision appears in the draft constitution in this form. Bevan Brittan believes that it is covered by a general requirement to follow "any appropriate legislative, regulatory, consultation, equalities, or procedural requirements that may be required" which does appear in the Scheme of Delegation at paragraph 20.5, but if members require it to be made more explicit then this can be achieved.</p> <p>If members require the need for Portfolio Holders to permit the withholding of information then this can also be reinserted. Bevan Brittan advises that any judgement on these matters is a professional and technical one, and there are risks if members seek to take such decisions. We advise that this requirement is not re-inserted.</p>	
Contract Rules			
General	All	Following Officer feedback, references to "the Authority" are now references to "The Council" – this is consistent throughout the document.	The proposal was supported
225	Definition of Chief Officer	Following Officer feedback references to The Chief Officer are now references to the "Executive Director". This is to ensure consistency with the Finance Procedure Rules and the rest of the constitution.	The proposal was supported
226	Introduction	We understand that the Procurement Board has changed to the	The proposal was supported

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		Commissioning and Procurement Board. We have defined the board and included a hyperlink to the detailed terms of reference.	<i>A hyperlink will be included.</i>
231	Contracts Register	Following Officer feedback we have made it clear that all contracts with a value above £5,000 must be recorded in the Contracts Register. This is required by the Government's Transparency Agenda.	The proposal was supported
234	Best and Final Offer	Following Officer Feedback we have made it clearer that Legal Services must be involved in the decision to include a Best and Final Offer (BAFO) stage in procurement process.	The proposal was supported
238	Method of Opening Bids	Following Officer feedback we have amended this section to include provisions that in addition to the Procurement Manager, a Category Manager can verify bids from the EU threshold up to £1,000,000 provided that they have not been involved in the tender in question.	The proposal was supported
243	Monitoring Contracts	We have included a requirement for monitoring of insurance.	The proposal was supported
245	Waiver Process/Breach	We understand that the Procurement Board will be changing to the Commissioning and Procurement Board. We have left in reference to the Procurement Board for now.	The proposal was supported <i>All references have been amended to refer to the Commissioning and Procurement Board following the Sub-Committees consideration of the same issue in respect of p226.</i>

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Employment Rules			
N/A	Throughout	All unnecessary references which simply repeated the legal and statutory basis for the procedures and the relevant regulations have been stripped out	The proposal was supported
Codes and Protocols			
292	Whistleblowing Policy	This does not have to be in the Constitution and is up-to-date and already accessible on the Council's internet and intranet sites. It was recommended by Sub-Committee on 03.11.17 that it be referenced in the document and hyperlinked as a "Tier Two" hyperlink with ownership and responsibility for reviewing/updating passing to the Audit & Governance Committee.	The proposal was supported.
N/A	Planning Protocol of Conduct in relation to the determination of planning matters	This does not have to be in the Constitution. It was recommended by Sub-Committee on 03.11.17 that it be referenced in the document and hyperlinked as a "Tier Two" hyperlink within Section 2 of the Constitution with ownership and responsibility for reviewing/updating passing to the Strategic Planning Board.	The proposal was supported.
N/A	Protocol on Public Speaking Rights at Strategic Planning Board and Planning Committee	This does not have to be in the Constitution. It was recommended by Sub-Committee on 03.11.17 that it be referenced in the document and hyperlinked as a "Tier Two" hyperlink within Section 2 of the Constitution with ownership and responsibility for reviewing/updating passing to the Strategic Planning Board.	The proposal was supported.

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N/A	Councillor Call for Action Protocol	<p>Our current Constitution contains a Protocol which seeks to “provide Members with a means of escalating matters of ward concern to a scrutiny committee...”. The Protocol is 5 pages long.</p> <p>Our legal advisers, Bevan Brittan, query the necessity of the Protocol. They point out that “the basic right is for members to put something on the agenda of an overview and scrutiny committee, and have it discussed” (unless it is an excluded matter under legislation). They further advise that “The Protocol is very repetitive and seeks to curtail the statutory right of a member to put something on the agenda for scrutiny”.</p> <p>Bevan Brittan advise that the right of members to put items on scrutiny committee agendas could be mentioned in an appropriate procedure rule, and also that a link should be provided to the relevant Centre for Public Scrutiny guidance.</p> <p>It is therefore recommended that Bevan Brittan’s advice be followed; that the basic right of members to place something on scrutiny agendas be relied upon instead of a Protocol; that this is supported by appropriate information in procedure rules; and that an appropriate link should also be provided to the Centre for Public Scrutiny guidance.</p>	<p>The proposal was supported subject to the addition of a hyperlink and appropriate explanation about how Members go about placing a matter on a scrutiny agenda.</p>
N/A	Petitions Scheme	<p>The existing Constitution includes a lengthy document, which contains complex provisions relating to petitions. Information is included as to how individuals can submit petitions, as well as identifying five different types of petitions and how they should be dealt with. Depending upon the number of signatories to a petition, a debate at Full Council can be forced. This has only happened once in the history of the Council.</p> <p>However, a good number of petitions are submitted from time to time and are appropriately administered by officers who ensure that the relevant elected member or decision-making body is informed.</p>	<p>The proposal was supported subject to a hyperlink being inserted in an appropriate place within the new Constitution linking to the Petitions Scheme.</p> <p><i>The Sub-Committee's comments have been noted and the document has been linked from page 116.</i></p>

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		<p>Bevan Brittan state that the guidance upon which local authority petitions schemes have been prepared has now been revoked.</p> <p>The Working Group concluded that the most important issues are that individuals submitting petitions should have clear information as to how they can do this, and what will happen to the petition they submit; and that officers have a clear understanding of how petitions should be dealt with, once submitted.</p> <p>The Sub-Committee is therefore recommended to agree that the existing Petitions Scheme, based on revoked guidance, is now dispensed with and is replaced by a link in an appropriate place in the Constitution which guides members of the public and officers as to how petitions will be dealt with once submitted.</p>	

III. Substantive changes which were presented for consideration by the Sub-Committee

Page	Section	Comment and/or area for consideration	Recommendation of Sub-Committee
11	Introduction - Key Decision	It has been proposed that operational treasury management decisions (for example investment decisions relating to the Council's reserves) should be excluded from the definition of a Key Decision (which otherwise remains the same as now) whatever the financial implications.	The proposal was supported.
N/A	Chairman or Chair?	This page refers to the allocation of "chairmen" and "vice chairmen" to committees and sub-committees. These are the current terms used in the new document and the Sub-Committee is asked to consider if they support the continuation of these terms or would prefer to move to the use of the gender neutral terms "Chair" and Vice Chair" throughout the new	It was agreed that that the presumption would be in favour of the use of the term "chairman" or "vice chairman", but that the wishes of

Page	Section	Comment and/or area for consideration	Recommendation of Sub-Committee
		Constitution?	<p>individuals would be respected.</p> <p><i>The Constitution now reflects the use of the word Chairman throughout</i></p>
21	The Cabinet	A query has been raised on whether in practice the Leader does present a written record of delegations and information about executive functions as currently required (7.2). This is not a statutory requirement.	<p>It was agreed that this does not need to happen in future.</p> <p><i>The paragraph which refers to this practice has been removed.</i></p>
26	Responsibilities of Portfolio Holders	Responsibilities for the overall interface with ASDVs needs to be identified and allocated appropriately to Cabinet/Portfolio Holders	<p>The proposal was supported.</p> <p><i>There is currently a review of ASDVs Governance Arrangements underway. Any changes to decision making arising from this will need to be incorporated in the Constitution at that time.</i></p>
34	Procedure for Taking Portfolio Holder Decisions	<p>The requirement for an individual Portfolio Holder to hold a meeting to make a decision has been removed. This approach was supported at the Sub-Committee meeting of 29 September.</p> <p>It should be noted of course that, as a matter of law, Key Decisions need to be publicised in advance of being taken (under Regulation 9 of the Local Authorities (Executive Arrangements) (Meetings and Access to</p>	<p>It was agreed that the requirement for formal Portfolio Holder decision making meetings would no longer continue, and that officers would be given responsibility for designing an appropriate</p>

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		<p>Information) (England) Regulations 2012). We understand that Key Decisions will continue to be made with 28 clear days' notice and be identified in the Forward Plan.</p> <p>So if an individual Portfolio Holder is to make a decision which is a Key Decision they will have to publish the time of when they are to make it etc. (although this does not then need to be made at a "meeting").</p> <p>Members have raised concerns that removing the requirement for Portfolio Holder meetings for decisions could make it more difficult for Members to scrutinise in advance the decisions that are being made. It was suggested that an internal procedure be agreed to determine how information is circulated in advance of Portfolio Holders' decisions being taken.</p> <p>Members have suggested that they would like to have advance notice of all decisions, whether Key Decisions or not. This is an administrative procedure for the Council to determine and does not necessarily need to be recorded in the Constitution (but it may be helpful to include it). There is no legal requirement to circulate details in advance of non-key decisions being made, but the Council should decide whether it wishes to adopt such a procedure, which could include publishing details of non-key decisions in the Forward Plan.</p>	administrative process which will address the issues identified in the comments section.
35	Role of Deputy Cabinet Members	We have amended this to reflect concerns at the previous drafting which went beyond what is a legitimate role.	The proposal was supported.
37	Functions of Committees	The Council may wish to consider including the Public Rights of Way Committee functions elsewhere e.g. a sub-committee of the Planning Board or the Planning Committees.	The proposal was not supported.
38	Overview and	A query has been raised on whether it is best practice for Scrutiny	This should remain as it is in

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	Scrutiny Committees	<p>Committees to be chaired by opposition members.</p> <p>There is no legal requirement that a Chair is from an opposition party. Practice varies on this. It is correct that a number of academic studies have advocated that scrutiny chairs should be drawn from elsewhere than the majority party but practice varies across councils.</p> <p>DCLG Guidance on scrutiny says</p> <p>"Where there is a majority group, local authorities might consider it appropriate to have all or some of these committees chaired by members outside the majority group or by church or parent governor representatives. Overview and scrutiny should be constructive and not merely be there either always to oppose the executive or to rubberstamp the executive's decisions."</p> <p>But LGA guidance makes clear that the chair of the scrutiny committee can represent any political party.</p> <p>It is a matter for the Council – in our experience the effectiveness of scrutiny can be less about the party the Chair represents and more about the overall approach and culture of a council and the skills of the members on the committee (including the Chair).</p>	<p>the current constitution.</p> <p><i>The Sub-Committee's recommendation is noted and no changes have been made.</i></p>
41	Specific Responsibilities of Overview and Scrutiny Committees	New wording has been include to recognise that the Scrutiny remits mirror the remits of the Portfolio Holder so if the Leader changes the portfolios of the Cabinet, the Monitoring Officer will automatically be able to change the Scrutiny remits to mirror this.	The proposal was supported.
43	Strategic Planning Board	Following feedback from the Director of Planning and Sustainable Development we have made a number of changes:	The proposal was not supported.

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		<p>Membership of SPB reduced from 12 to 10</p> <p>Membership of North and South planning committees has been reduced from 12 to 7.</p> <p>Reference to cross party pool of Planning Substitutes has been removed, and no substitutes will be allowed. This approach was supported by the Chairs and Vice Chairs of the Planning Committees.</p> <p>Although this position has Council support, the risk of removing the ability to use substitutes needs to be recognised in relation to situations where it is not possible to find a quorum and/or where members might wish to recuse themselves from a meeting in order to represent a constituent etc.</p>	<p><i>The Sub-Committee's recommendation is noted and the original wording has been retained.</i></p>
44	Strategic Planning Board	<p>Officers have suggested that SPB will determine applications involving a significant departure from council policy only where the matter has been referred to SPB by the Planning Committees.</p> <p>The prohibition on applications to vary or remove conditions which were imposed by committee being delegated has been removed.</p>	<p>The proposal was not supported.</p> <p><i>The Sub-Committee's recommendation is noted and the original wording has been reverted to.</i></p>
44	Strategic Planning Board	<p>Suggestions have been made to the definition of Large Scale Major Development. These are noted. We propose that to ensure flexibility the definition of Large Scale Major Development be moved to a hyper linked document. The proposed substantive changes are:</p> <p>Threshold for developments being retained by the SPB to be increased from 200 dwellings to 250 dwellings and from 4 ha and above to 5ha and above.</p>	<p>The proposal was not supported.</p> <p><i>The Sub-Committee's recommendation is noted and the original wording has been reverted to.</i></p>
45	Northern and	Following Officer Feedback the threshold for developments being retained	The proposal was not

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	Southern Planning Committees	<p>by the Planning Committees to be increased: From 20-199 dwellings to 100-249 Dwellings. From 1-4ha to 3-5ha.</p> <p>The prohibition on applications to vary or remove conditions which were imposed by committee being delegated has been removed.</p>	<p>supported.</p> <p><i>The Sub-Committee's recommendation is noted and the original wording has been reverted to.</i></p>
45	Planning Committees Terms of Reference	<p>It has been noted that the use of the term "call-in" to refer to the challenge of a delegated officer planning decision is confusing. The term call-in is a specific term relating to the functions of the Overview and Scrutiny Committee.</p> <p>It was suggested that an alternative phrase be adopted. "Member Challenge", or "Referral" were proposed by members, and Bevan Brittan could suggest further alternatives. The Council should confirm the term it wishes to adopt.</p>	<p>It was agreed that the alternative term "referral" should be used.</p> <p><i>The Sub-Committee's recommendation was noted and this change has been made.</i></p>
47	Licensing	<p>We have re-written this section significantly taking into account officer comments and what we understand to be the aim. For discussion is whether the political proportionality waiver at paragraph (4) that applies to the sub-committees at paragraph (3) should also apply to the sub-committees at paragraph (2).</p> <p>All references to officer delegations have been taken out as these will be picked up in the local schemes of delegation.</p>	The proposal was supported.
50	Staffing Committee – HR Policies	We have added to paragraph 47, which concerns new posts where the remuneration exceeds £100,000, the proviso that the Staffing Committee is not required to make recommendations to Council affecting the remuneration of a new post where remuneration for that post is already included within the Council's annually approved Pay Policy Statement.	The proposal was supported.

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51	Staffing Committee – appeals	Officers are considering whether there an appropriate level below which appeals will be dealt with by officers e.g. Principal Officer grades?	The proposal was not supported. The existing arrangements to remain the same. <i>The Sub-Committee's recommendation was noted and no change has been made.</i>
52	Investigatory and Disciplinary Committee – Receiving Investigating Officer's Report, para 54.	A Councillor has raised a concern that in a previous version (April 2017) of the Constitution that a sentence had been added to the Terms of Reference to the Investigatory and Disciplinary Committee which gives the MO and the Chair of the staffing Committee the ability to "filter out and deal with allegations which are clearly unfounded, trivial or can be dealt with under some other procedure". Bevan Brittan notes that similar wording appears in the Chief Executives' National Salary Framework and Conditions of Service, dated 13.10.16 Bevan Brittan recommends that the decision is delegated to the MO, unless the complaint is against the MO, in which case the delegation should be to the chief executive. In both cases we advise that the delegation should be "in consultation with the Chair of the IDC".	It was agreed that the decision should be delegated to the MO, in consultation with the Chair of the IDC, and thereafter the matter should be reported to the IDC. <i>The Sub-Committee's recommendation is noted and a change has been made.</i>
59	Lay Members Appointment Committee	This function could be added to the Terms of Reference of the Constitution Committee.	The proposal was supported. <i>The Sub-Committee's recommendation was noted and the function has been added to the Terms of</i>

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			<i>Reference of the Constitution Committee</i>
N/A	Polling Districts and Polling Places Review Sub-Committee	The functions of the sub-committee could be delegated to officers.	<p>It was agreed that the functions of the sub-committee be delegated to the Electoral Registration Officer, or his/her Deputy. It was also agreed that the functions of the Civic Sub Committee and the Outside Organisations Sub Committee be performed, with effect from the new municipal year, by the Constitution Committee.</p> <p><i>The Sub-Committee's recommendation was noted and this committee has been removed. The Chief Operating Officer's local scheme of delegation will need to specify that these functions are further delegated to the Electoral Registration Officer or his/her deputy.</i></p> <p><i>The Civic Sub Committee and the Outside Organisations Sub Committee have been left in</i></p>

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			<i>place for now, but it is recommended that they be abolished for the next municipal year.</i>
61	Audit and Governance Committee – Functions	<p>We have taken out much of the previous detail for this committee as the detailed list of activities of the Committee is not necessary – the headline areas are sufficient for this section. We have suggested the details are hyperlinked.</p> <p>We have extracted what look to be the most important formal/statutory and listed them. Officers/member comments on this are welcome.</p> <p>If the Initial Assessment Panel and Local Resolution Panel are standing bodies, their membership and terms of reference need to be included here.</p>	<p>Agreed, subject to the approval of the Annual Governance Statement being written in.</p> <p><i>The Sub-Committee's recommendation was noted and a paragraph has been added making clear that the review and approval of the Annual Governance Statement is a function of the Audit and Governance Committee.</i></p>
70	Health and Wellbeing Board – Agenda and notice of Meetings	Should this be amended so that exempt and confidential information be circulated to all members of the Board?	<p>The proposal was supported, so that exempt and confidential information will be circulated to members of the Board.</p> <p><i>The Sub-Committee's recommendation was noted and this amendment has been made.</i></p>
73	Shared Services Joint Committee	Are there any other joint arrangements with other Councils? – if so they need to be included here.	It was agreed that, whilst no other joint arrangements could be identified, these could be added to the documentation as

Page	Section	Comment and/or area for consideration	Recommendation of Sub-Committee
			and when they arose.
Council Procedure Rules			
94	Council Procedure Rule	Five members can call a Special Council – it has been queried as to whether this number is too low. This number cannot be increased as it is specified by Paragraph 3 of Schedule 12 of the Local Government Act 1972.	It was agreed that the existing provisions of the current constitution be retained
95	Questions at Council Meetings	Clarification on how responses should be given was needed (1.18)	Additional wording has been added to clarify that the response will be given within 10 working days by written answer with a copy to all other Members (except where the response contains exempt or confidential information).
97	Notices of Motion	An issue has been raised as to whether motions should always be debated or at least should the proposer be able to explain it. At the moment the wording has been left as in the previous Constitution. Practice varies in councils as to how motions are dealt with. The risk of allowing them to be debated in detail is that (1) the Full Council may not be (and often is not) the correct decision making body to deal with the issue so the matter will have to be re-run and (2) the debate will not be informed by a report setting out the issues, implications and options. However, it is not unreasonable for consideration to be given to the proposer of the motion to be able to explain it briefly – for discussion.	It was agreed that the provisions of the current constitution be retained
120	Rules of Debate	An issue has been raised requesting that members should have the Right	It was agreed that the existing

		<p>to Speak at Council at any point, and not only as determined by the Chair</p> <p>This is not usual practice and would potentially cause an unmanageable meeting. The Constitution has not been changed in this respect.</p>	<p>arrangements should be retained</p>
124	Council Procedure Rule – Appendix 4	<p>The definition of an urgent decision, for the purposes of this section, has been widened following feedback from the Chief Operating Officer. It was previously defined as where "any delay likely to be caused by following the usual procedures would seriously prejudice the Council's or the Public's interest." It now reads:</p> <p><i>"A decision will be urgent in the case of: civil emergency; natural or man-made disaster; matter of serious public health; matters regarding safeguarding of people; or where the Council is at risk of serious reputational damage; loss or claims; or any other matters where the CE or in his/her absence the CFO has declared that an urgent decision is required"</i></p>	<p>Noted and Agreed.</p>
146	Table of Financial Limits	<p>A table of Financial Limits has been inserted into the Constitution. Its purpose is to assist users of the Constitution to be able to see at a glance where the Constitution imposes financial limits and or sets thresholds for various decisions and procedures.</p> <p>Appendix A.1 of to this Explanatory Note includes:</p> <p>A) A table which evidences the input from the Chief Operating Officer on the current financial limits and which, where appropriate, recommends that the levels are amended; and</p> <p>B) A draft table of financial limits to be inserted into the Constitution.</p>	<p><i>The Sub-Committee approved the amended levels proposed to them and the agreed table of financial limits has been inserted into the Constitution. The draft Constitution now reflects the agreed financial limits.</i></p> <p><i>Some consequential amendments to the Officer Schemes of Delegation will be required to give effect to the agreed financial limits.</i></p>

Finance Procedure Rules			
N/A	<u>General</u>	References to Authority amended to Council throughout.	The proposal was supported.
N/A	<u>General</u>	References to Cabinet Member for Finance and Assets amended to Cabinet Member for Finance and Communications throughout.	The proposal was supported.
159	<u>Foreword – Paragraph 1</u>	Decision makers required to check that they have authority to incur financial consequences arising from any decisions they may make.	The proposal was supported.
159	Foreword Paragraph 2 –	A requirement to maintain a written record of delegated decision making has been added – covered in detail at A24 and A26 to A27.	The proposal was supported.
159	Foreword Paragraph 4 –	Responsibility of COO to report breaches of FCPRs amended from Cabinet and Council to Audit & Governance Committee.	The proposal was supported.
159	Foreword Paragraph 6 –	Amended to remove reference to role of internal audit and Corporate Governance and Audit Manager (covered in detail under internal audit and risk management section of FPRs)	The proposal was supported.
160	Foreword Paragraph 7 –	Clarifies that advice should be sought from COO before decisions are taken where the interpretation of the FPRs is unclear.	The proposal was supported.
162	Section A – Financial Management – (para 8)	Additional wording to clarify that when making decisions Members must check they have authority to incur financial consequences arising from their decisions.	The proposal was supported.
163	Section A – Financial Management – (para 10)	Clarifies that A&G Committee has right of access to information required for the effective discharge of its responsibilities.	The proposal was supported.

164	Section A – Financial Management – (para 20)	Expanded commentary on actions that may be considered contrary to budget	The proposal was supported.
166	Section A – Financial Management – (para 25)	Designated Deputy s151 Officer amended from Finance Manager to Head of Finance & Performance	The proposal was supported.
167	Section A – Financial Management – (para 28)	Members of Corporate Leadership Team updated	The proposal was supported.
167	Section A – Financial Management – (Section A, para 31)	Expanded commentary on objectives of Schemes of Financial Delegation	The proposal was supported.
169	Section A – Financial Management – (para 37.6)	Additional bullet point clarifying that administrative virements do not require Member approval.	The proposal was supported.
171	Section A – Financial Management – (para 39, 43)	Supplementary Estimates section split into revenue and capital	The proposal was supported.
171	Section A – Financial Management – (para 41)	New table added with separate approval limits for SREs funded from earmarked reserves and contingencies	The proposal was supported.
171	Section A – Financial Management –	Clarifies that SREs funded wholly or in part from general reserves or general purpose funding require Council approval regardless of value.	Noted and agreed subject to the addition of “regardless of value” as per A38.

	(para 42)		<i>The Sub-Committee's recommendation was noted and this amendment has been made</i>
172	Section A – Financial Management – (para 43)	Clarifies that Supplementary Capital Estimates funded wholly or in part from additional Council resources such as capital reserves, borrowing and capital receipts, regardless of value, must be approved by Council. Council approval also required where there are significant revenue implications for future year's budgets.	The proposal was supported.
173	Section A – Financial Management – (para 49)	Clarifies that requests for carry forward of underspends should not be submitted where directorate budgets as a whole are overspent.	The proposal was supported.
179	Section B – Financial Planning – (para 16)	Clarifies that Council should not amend revenue or capital budgets without first having considered advice of Cabinet and COO on financial implications arising.	The proposal was supported.
180	Section B – Financial Planning – (para 18)	Reinforces responsibility of CLT to alert the COO in a timely manner to any potential overspending.	The proposal was supported.
183	Section B – Financial Planning – (para 27)	Removes reference to lower limit of £10,000 for capital expenditure	The proposal was supported.
185	Section B – Financial Planning – (para 36)	Reference to Portfolio Holder for Corporate Policy and Legal Services needs to be checked for accuracy.	The proposal was supported.
186	Section B – Financial	Amended wording to clarify that Council will decide how capital receipts should be used when setting the annual revenue budget and capital	The proposal was supported.

	Planning —(para 43)	programme and remove reference to repayment of debt.	
189	<u>Section C – Risk Management and Control of Resources – (para 3) and throughout</u>	Reference to Corporate Manager Governance and Audit needs to be updated to reflect current management arrangements	The proposal was supported.
193	<u>Section C – Risk Management and Control of Resources – (para 29)</u>	Clarifies internal audit rights of access apply equally to Council ASDVs and these rights should be documented in management agreements.	The proposal was supported.
193	<u>Section C – Risk Management and Control of Resources – (para 31)</u>	Additional paragraph citing statutory basis of external audit.	The proposal was supported.
193	<u>Section C – Risk Management and Control of Resources – (para 32)</u>	Updated to reference new arrangements for appointment of external auditors under Local Accountability and Audit Act 2014.	The proposal was supported.
196	<u>Section C – Risk Management and Control of Resources –</u>	Additional wording to make clear that cash held on Council premises should not exceed insurance limits.	The proposal was supported.

	<u>(para 51)</u>		
198	<u>Section C – Risk Management and Control of Resources – Para 65)</u>	Additional wording to clarify that relevant Director (or Chief Exec) should approval all requests for early retirement or severance.	The proposal was supported.
N/A	<u>Section D – Financial Systems and Procedures</u>	Requirement for trading accounts where turnover exceeds £1m deleted.	The proposal was supported.
208	<u>Section D – Financial Systems and Procedures – (para 56)</u>	This section on ASDVs will need to be updated in light of the ongoing ASDV review.	The proposal was supported.
209	<u>Section E – Partnerships and Jointly Funded Projects (para 3)</u>	Clarifies that the Cabinet Member for Finance & Communities will periodically set out policy on approach to be taken to the allocation of grants, donations and other contributions to outside bodies, in consultation with the Chief Operating Officer and Head of Legal Services.	The proposal was supported.
Codes and Protocols			
N/A	Throughout	The Member Code (and associated documents) is being changed to address issues that have arisen with its operation since it was introduced, presumably in 2012. Most of these points have arisen dealing with complaints against town and parish councillors, who tend to adopt the council code, but will be of equal assistance to CEC councillors.	The proposal was supported.
260, 263	Appendix to the current Code. New sections as	Our code currently only defines disclosable pecuniary interests as a class of declarable/registerable interests. The standards regime and legislation envisages council's defining other classes of interests and issuing	The proposal was supported.

	per the headings in the proposed new code.	<p>guidance about declaring those interests and what action to take once those interests have been declared, but Cheshire East has never done that. That is problematic, because there are a whole range of interests that should be declared to ensure transparency and openness, but which don't amount to disclosable pecuniary interests. The lack of definition/guidance has caused confusion, led to inadvertent breaches of the code and so needless standards complaints. It has also caused needless friction between councillors and undermined public confidence in the democratic process.</p> <p>The code is proposed to be amended to set out a definition for personal interests (where a declaration should be made for transparency but participation in the debate and vote is still permitted) and a prejudicial interest (where one can speak as a member of the public but not otherwise and not vote). This is in line with the old standards regime which most members will be familiar with and seem to be following in practice in any event.</p>	
258	Currently dealt with in the "notes" section on the top of page 3 of the existing code. Proposed to have its own dedicated section under the "information" heading in the new code	Operational practice has shown that the code needs to be clearer in its provisions on how Members should and should not deal with information. We address that to re-emphasise the gravity of confidentiality obligations, particularly in light of GDPR where personal accountability and significant fines begin to bite.	The proposal was supported.
259	Gifts and Hospitality	Currently the declaration limit for Members is £100 and for officers £5. That is a stark differential for which it is difficult to see any objective reasonable justification. Compared to other authorities, the Member limit is high and the officer limit very low. Members are asked to consider a unified	Agreed that the limit for Member and Officer declarations be equalised at £100.

		limit for officers and Members.	
N/A	Paragraph 2 of the proposed new code	We have inserted a requirement not to deliberately mislead, after feedback that our code contains no express provisions in that regard. Our view is that this would be covered in any event under the integrity and honesty headings, and to be “truthful” is a requirement of the Nolan principles in any event, but there has been a request to include it so it is for Members to decide whether and how it goes in.	It was agreed that this requirement will not be included. <i>The Sub-Committee's recommendation has been noted and the text has been removed.</i>
257	Paragraph 4.6 of the proposed new code	We have included the word “appropriate” before the bit which says Members are subject to scrutiny by local residents. There have been numerous instances where complaints have been brought which have been founded in an unreasonable expectation of what the right to scrutinise Members entails. In some cases, this has bordered upon the harassment of members.	The proposal was supported.
258	Paragraph 8(a)(iv) of the proposed new code (second “(a)”)	We have added a bit in the “respect for others” section designed to make clear that interference or attempted interference with another party in the standards complaints process is itself a breach of the code. Experience has shown that clarification is necessary.	The proposal was supported.
262	Part 4 of the new code	We make reference in the code to a Monitoring Officer Protocol which the Monitoring Officer will produce and update from time to time. The purpose of that protocol is to alert members to the sorts of issues that have been arising and give an indication of how they will be dealt with under the code. That is almost a running “FAQs” intended to guide Member conduct on common or emerging themes. The purpose of the reference to it in the Code is to give the Monitoring Officer Protocol the status of guidance to be considered when determining matters under the Code.	The proposal was supported.

259	Sensitive Interests	This section has been clarified.	The proposal was supported.
261	Pre-determination and bias	This section has been added based on wording in the existing Planning Protocol. This was previously overlooked in the Code and is an issue all Members need to be alert to.	The proposal was supported.
260	Paragraph 16 of the proposed new code	A section has been added where the Audit & Governance Committee can add membership of prescribed bodies as a personal interest. This flows from the debate at A&GC of a Notice of Motion requesting that all members be required to declare membership of the freemasons as an interest. The debate at A&GC queried why just the freemasons and not any other organisation. The resolution at A&GC was to deal with this in the constitution review process. This proposed addition to the Code enables A&GC to add that and any other body as being bodies that membership of which requires a declaration, as the A&GC sees fit.	The proposal was supported.
App A	Arrangements for Dealing with Standards Complaints. This is a separate document that sits outside of the code. The existing document was approved by Council. There	<p>There is a legal requirement to have this document. The code references and links to it. There has been a substantial redraft to clarify issues that have cropped up in practice, and to make the process clearer. The document has been combined with an existing “overview of process” document at Appendix A to this Explanatory Note. The main changes are:-</p> <ul style="list-style-type: none"> • Providing more scope for the M.O. with the statutorily appointed Independent Person (IP) to reject complaints without first putting them to the subject member. We get a considerable amount of complaints which are not appropriate for the process (usually trivial, unfounded or tit for tat with no public interest element) but currently have to put those to a subject member and convene formal 	The proposal was supported.

	is considered a need to update that document as explained in the column to the right. It is opportune to do that as part of this process.	<p>meetings of the IP (both requiring considerable administrative resource and delay) to consider them before invariably dismissing them on very clear grounds. That is an unsustainable drain on resource. The new procedure enables the MO to reject complaints on set criteria consulting the IP as appropriate. Reasons are given and the subject member is given a precis of the complaint when being told it has been received and rejected.</p> <p>Other aspects have been clarified by greater explanation/detail on matters which have caused confusion in practice.</p>	
279	Member/Officer Relations Protocol	A proposed new officer/member protocol is attached. This is substantively the same as the current document, although provides more detail and narrative on areas where difficulties and tensions most often arise. There is a proposal to include further narrative by way of hyper linked appendices on particular areas, if Members would find that useful, such as protocols on involvement in procurement processes and on access to and the use of information.	The proposal was supported.
N/A	Local Ward Member Protocol	<p>The Local Ward Member Protocol currently forms part of the Constitution. It is repetitive in places, complicated to follow, and is not well drafted. The Working Group concluded that the key issues which needed to be addressed in the replacement Protocol were to: simplify the document so as to make it easier to follow; to strike the right balance in respect of keeping local members informed of local issues; and to agree the right approach to hyperlinking.</p> <p>The following substantive matters are identified for agreement by the Sub-Committee:</p> <ol style="list-style-type: none"> 1. The Working Group has therefore agreed to utilise a shorter version of the Protocol, which used plain English, and which focusses the minds of its readers upon what is really important to local members. The Sub-Committee's approval is sought in respect of the newly 	The proposal was supported.

		<p>drafted document at Appendix B.</p> <p>2. The Working Group concluded that there was no need for the Protocol to be contained within the Constitution, so long as it was accessible to those reading the Constitution via a hyperlink (on page 142).</p> <ul style="list-style-type: none"> ▪ It is therefore proposed to hyperlink the document so as to make it available to anyone reading the Constitution. ▪ It is further proposed that the document should have the status of a “Tier Two” hyperlink, with the responsibility for reviewing and updating the document resting with the Constitution Committee. <p>3. Keeping Ward Members informed: the previous Protocol stated that “Quite Simply, members should be the first to know of events and issues affecting their wards”. This obligation upon officers was not well expressed, and introduced an element of uncertainty as to circumstances where there might be grounds to preserve confidentiality. Sections 2 & 3 of the Protocol therefore seek to strike the right balance.</p>	
N/A	Mayoralty Code of Practice	<p>The Constitution currently includes this Code, which is 6 pages long, is repetitious and poorly drafted. Essentially, it is a document which seeks to set out important and helpful guidance and protocols of behaviour in respect of the Mayor. Bevan Brittan advise that it does not need to be part of the Constitution, and could therefore be hyperlinked.</p> <p>The document has been appropriately re-drafted so as to include the important elements of the document. The Sub-Committee’s approval is sought in respect of the newly drafted document at Appendix C, but the Sub-Committee is asked to express a view upon the following issue which was raised by the Working Group.</p>	<p>The proposal was supported subject to it being made explicit that all Groups can put forward nominations.</p>

		<p>Whereas the existing arrangement for the nomination of Deputy Mayor rests with the ruling Group, and that in reaching a decision, it may choose to invite nominations from other Groups, the Working Group asked for consideration to be given to granting all Groups the right to put forward nominations for the Deputy Mayoralty to the Ruling Group. This would replace the existing arrangement.</p> <p>The Sub-Committee is asked to make an appropriate recommendation to the Constitution Committee.</p>	
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APPENDIX A.1 – Tables of Financial Limits as approved by Constitution Sub-Committee on 17 November 2017

Review of financial levels within Cheshire East Council's Constitution

Overall we would recommend that the financial levels be streamlined and made more consistent across the whole Council to make decision-making clearer and more consistent – there are too many different delegations that are not all consistent.

No	Reference	Issue	Financial Limit	BB Initial Comment	Feedback from s.151 Officer
	Part 2, Chapter 12 Decision Making				
1.	Chapter 12, para 4,	Threshold for an executive decision being likely to be a "key decision"	£1m	This compares well. Most Unitary/Met Councils are £250-500k and larger Councils e.g. Birmingham £1m £1m provides consistency with virement level to seek further Council approval and portfolio holder spend	This level is about right, and can remain at £1m.
	Part 3 Executive Functions				
2.	Executive Functions – Scope of, and limitations to, Portfolio holder Decision Making	Individual Portfolio Holders are empowered to make all executive decision in respect of their own portfolio area of responsibility except decisions involving spending over £1m	£1m	This is a reasonable level (although could be higher). £1m provides consistency with virement level to seek further Council approval & key decisions	This level can remain the same.
	Part 3 Staffing Committee TOR's				
3.	Staffing Committee Terms of Reference, para 5.3	Staffing Committee to make recommendations to Council in relation to decisions affecting remuneration of any new post whose remuneration is or is proposed to be or would become more than £100,000	£100,000 pa	There is no legal requirement to do this, but DCLG statutory guidance in February 2013 recommends it for transparency reasons – and only necessary when the remuneration changes from what is stated in the approved Pay Policy Statement	This limit should remain at £100,000 but the restriction should only apply where the remuneration departs from the approved Pay Policy Statement.

No	Reference	Issue	Financial Limit	BB Initial Comment	Feedback from s.151 Officer
4.	Staffing Committee Terms of Reference, para 5.4	Staffing Committee to make decision in relation to proposed severance packages with a value of £100,000 or more	£100,000 or more	The same guidance suggests that severance payments in excess of this level (including pension strain etc) should be considered and approved by members at full Council, however, where there are good reasons e.g. personal circumstances, confidentiality, speed the Council may consider that a report to Council is not appropriate having considered the guidance.	No change from current arrangements - Staffing Committee to make decision in relation to proposed severance packages with a value of £100,000 or above.
	Part 3, Officer of Delegation	NB Revised delegations may not reflect all of these functions and are likely to be more general in scope			
5.	Scheme of Delegation to senior Officers, paragraph 1.21	The making of grants to voluntary and community to be approved by (a) Portfolio Holders and (b) Cabinet	(a) £0-50,000 (b) £50,000+	This in effect doesn't delegate any powers. A grant of £1 would need Portfolio Holder's approval. There may be political sensitivity around grants. This could be staggered with small grants made by Officers; Portfolio Holders up to a higher level; and Cabinet above. Limits to be discussed but could be up to £50k; up to £100k; £100k+ This would be more consistent with the £50k limit in point 44 below	Suggested approach: Within approved grant policy: (a) Grants of up to £50,000 can be made by officers in consultation with relevant portfolio holders; (b) Grants of between £50,000 and £100,000 require Portfolio Holder(s) Approval; (c) Grants in excess of £100,000 require Cabinet Approval. All grants which do not fall within existing approved grant policy require Cabinet Approval.
6.	Scheme of Delegation, Chief Executive, para 2.14	Chief Executive can 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	£100,000	Appropriate in light of guidance above – will need full Council approval if changes are outside the agreed Pay Policy Statement for the time being.	This level can stay the same.
7.	Scheme of	COO to authorise improvements to roads,	£30,000	How does this sit with other	Take this line out. If the spending is

No	Reference	Issue	Financial Limit	BB Initial Comment	Feedback from s.151 Officer
	Delegation, Chief Officer, para 3.11	including grass verges, street furniture etc not exceeding £30,000 for which provision has been made in the budget and capital programme.		delegations and limits in the Contract Procedure rules? Suggest an increase (£50 or £100k?)	within budget then it should not require further approval.
8.	Scheme of Delegation, Chief Officer, para 3.17	COO on the advice of the Assets Manager or District Valuer to settle claims for borehole damage up to £1,500.	£1,500	Suggest an increase to at least £5k to be consistent with lowest level of Ombudsman claims	Take this out. It can be dealt with under a delegation to Director of Legal to settle claims.
9.	Scheme of Delegation, Chief Officer, para 3.24	COO To accept land for road improvements by dedication subject to the total consideration not exceeding £30,000	£30,000	This should not be politically controversial and should be higher e.g. £100k	Seems reasonable
10.	Scheme of Delegation, Chief Officer, para 3.71	COO is not authorised to write off debt. Approval must be sought from the Portfolio Holder or Cabinet.	£0	This is very unusual. It also doesn't fit with Financial Planning, C47 below - £5k	Suggest that up to £5,000 should be the CFO, £5,000-£25,000 should be CFO in consultation with Portfolio Holder, £25,000+ should be Portfolio Holder.
11.	Scheme of Delegation, Chief Officer, para 3.84	Level of salary below which COO can apply early retirement/redundancy scheme without agreement of the relevant Portfolio Holder	£48,000	Inconsistent with 2.14 above – should be up to £100k (including pension strain etc) – could be in consultation with the Leader and/or portfolio holder in any event for CO's Deputy CO's but otherwise no requirement for consultation as members should not be seen to influence decisions below DCO? Apply to HPS and Executive Director level (ED)	This level should be £100,000
12.	Scheme of Delegation, Chief Officer, para 4.6	ED Place can accept any tender in consultation with the COO and after having notified the Portfolio Holder up to £200,000	£200,000	How does this sit with Contract Procedure Rules? Above/Below threshold? – Consider limits in CPR	Take this line out.
13.	Scheme of Delegation, Chief Officer, para 4.6	ED Place can accept any tender in consultation with the COO and with the approval of the Portfolio Holder between £200,000 and £500,000	£200,000-£500,000	Ditto	Take this line out.

No	Reference	Issue	Financial Limit	BB Initial Comment	Feedback from s.151 Officer
14.	Scheme of Delegation, Chief Operating Officer, para 4.7	ED Place to authorise the acquisition of an interest in Land in consultation with the COO and after having notified the Portfolio Holder up to £200,000	£200,000	This is low for an acquisition – suggest £500k above which it goes to Cabinet – will depend on budget provision in any event?	£500,000
15.	Scheme of Delegation, Chief Operating Officer, para 4.7	ED Place to authorise the acquisition of an interest in Land in consultation with the COO and with the approval of the Portfolio Holder between £200,000 and £500,000	£200,000-£500,000	£500k - £1m?	£500k - £1m
16.	Scheme of Delegation, Chief Operating Officer, para 4.18	To manage the Farms estate, serve all statutory notices, to negotiate and approve all matters and grant all consents required in order to do so provided that investment in improvements to farms will not exceed £20,000	£20,000	Not very high these days – increase?	£50,000
17.	Scheme of Delegation – Director of Adult Social Care and Independent Living – Para 6.21(d)	DASCIL can only write-off debt where it is felt that the individual would be at risk in consultation with the portfolio holder.	No cap.	Consultation with Portfolio Holder is required. Inconsistent with other limits for debt write off.	Should be in consultation with Portfolio Holder for ASC and Portfolio Holder for Finance. There should be a limit of £5k.
18.	Scheme of Delegation, MO, para 9.6	Authorise settlement of up to £5,000 in respect of potential uninsured claims or Local Government Ombudsman cases (which after settlement shall be reported to Cabinet)	£5,000	Relatively low – if these develop into legal claims then covered by below	£25,000, and would include boreholes.
19.	Scheme of Delegation, MO, para 9.6	Authorise settlement in respect of potential uninsured claims or Local Government Ombudsman cases above £5000 and below £50,000 in consultation with the Portfolio Holder and the Chief Operating Officer, (which after settlement shall be reported to Cabinet)	£5,000 to £50,000	Reasonable - £100k would be more consistent with other officer delegations – what is uninsured level?	£25,000-£100,000 in consultation with the Portfolio Holder and the Chief Operating Officer
20.	Scheme of Delegation, MO, para 9.6	Claims in respect of potential uninsured claims or Local Government Ombudsman cases in excess of £50,000 require Cabinet approval	£50,000	£100k flows from above	£100,000+

No	Reference	Issue	Financial Limit	BB Initial Comment	Feedback from s.151 Officer
	Council Procedure Rules				
21.	Procedure Rules, General Provisions – Appendix 4, Urgent Decisions taken outside of meetings	For the purposes of this urgency provision, the limit placed on the decision-making powers of individual Portfolio Holders in relation to decisions involving expenditure or savings of £1M or more would not apply	No cap on emergency decision making powers for Portfolio Holders.	Correct, unless Council needs to approve more funds because outside of the budget or policy framework	This should set out the circumstances under which it would apply: "...in the case of: civil emergency; natural or man-made disaster; matter of serious public health; matters regarding safeguarding of people; or where the Council is at risk of serious reputational damage; loss or claims; or any other matters where the CE in his/her access the CFO has declared that an urgent decision is required".
22.	Access to Information Procedure Rules	Threshold for an executive decision being likely to be a "key decision"	£1m		
	Finance Procedure Rules				
23.	Financial Management A32	Approval Limits for Virements: Head of Service	Up to £100,000 or 10% of their net Service budget, whichever is the lowest. (Revenue)	For certainty and consistency suggest £100k rather than % of net budget	Up to £100,000 (Revenue)
24.	Financial Management A32	Approval Limits for Virements: Corporate Leadership Team	Greater than 10% of a net Service budget but less than £100,000 (Revenue) Up to £100,000 between net Service budgets (Revenue) within their area of responsibility.	CLT should be higher – if there is to be any distinction – e.g. CLT up to £250k? If not subsume first one into above. Again an amount may be better than a % Capital limits should be higher than revenue - compare how this would fit with capital spend proposed above on land	£100,000 - £500,000 – Relevant Executive Director (Revenue) £100,000-£1,000,000 – Relevant Executive Director (Capital)

No	Reference	Issue	Financial Limit	BB Initial Comment	Feedback from s.151 Officer
			Up to £100,000 funded from underspends within the approved Service budget (Capital)	NB Most Councils do not require any further approval to spend capital where any amount has been approved against designated projects as part of the annual budget process <ul style="list-style-type: none"> - Member approval may still be required to acquire a particular piece of land or to commence a procurement process etc. 	
25.	Financial Management A32	Approval Limits for Virements: Corporate Approval Limits for Virements: Leadership Team in consultation with Finance & Assets Portfolio Holder	£100,000 and up to £250,000 (Revenue/Capital)	Again capital expectations would be higher than revenue £250k - £500k CLT	Executive Directors in consultation with Finance and Assets Portfolio Holder and relevant Portfolio Holder: <ul style="list-style-type: none"> • £500,000 - £1m (Revenue) • £1m - £5m (Capital)
26.	Financial Management A32	Approval Limits for Virements: Portfolio Holders and Corporate Leadership Team in consultation with Portfolio Holder for Finance and Assets	£250,000 and up to £500,000 (Revenue/Capital)	Ditto – suggest covered by above - delete	Delete if above agreed
27.	Financial Management A32	Approval Limits for Virements: Cabinet	£500,000 and up to £1,000,000 (Revenue/Capital)	Consistent with above	Cabinet: <ul style="list-style-type: none"> • £1m+ (Revenue) • £5m+ (Capital)
28.	Financial Management A32	Approval Limits for Virements: Council	£1,000,000 or more; and/or significant ongoing financial implications; and/or significant policy change. (Revenue/Capital) “Significant” to be defined by the Chief Operating Officer or their	Suggest definite limit of £1m	As above if outside budget and policy framework

No	Reference	Issue	Financial Limit	BB Initial Comment	Feedback from s.151 Officer
			representative.		
29.	Financial Management A36	Approval limits for supplementary capital and revenue estimates: Corporate Leadership Team	Up to £100,000	£250k or £500k would be consistent with recommendations above	Executive Director up to £500,000
30.	Financial Management A36	Approval limits for supplementary capital and revenue estimates: Management Group Board in consultation with the Portfolio Holder for Finance and Assets	£100,000 and up to £250,000	Delete	Executive Director in consultation with Portfolio Holder for Finance and Assets £500,000 - £1m.
31.	Financial Management A36	Approval limits for supplementary capital and revenue estimates: Portfolio Holders and Corporate Leadership Team in consultation Portfolio Holder for Finance and Assets	Between £250,000 and up to £500,000	Delete, subject to above	Delete
32.	Financial Management A36	Approval limits for supplementary capital and revenue estimates: Cabinet	Between £500,000 and up to £1,000,000	OK?	Delete
33.	Financial Management A36	Approval limits for supplementary capital and revenue estimates: Council with recommendation from Cabinet	£1,000,000 and over	OK – consistent with above	Keep
34.	Financial Planning B26	Amount below which expenditure is not treated as capital expenditure	£10,000	CFO to advise	Alex to check CIPFA guidance as to whether there is a limit. Suggested delete 30/10/17 – no need for a limit in the constitution
35.	Financial Planning B27	Block provisions will be approved within the Capital Programme for individual schemes costing less than £250,000	£250,000	Could be higher £500k?	Take this line out
36.	Financial Planning B38	In respect of highways improvements, heads of Service may approve capital expenditure in respect of other rechargeable reinstatement work costing £10,000 and above	£10,000	Who approves below £10k No upper level?	Take this line out - Will be covered by general delegations
37.	Financial Planning C47	CLT, Heads of Service and officers specified in a Scheme of Financial Delegation may authorise the write off of losses up to £5,000, or disposals, of obsolete or surplus equipment, materials, vehicles or stores up to a disposal value	£5,000	Increase to be consistent with general write-offs	CFO should authorise all write offs up to £5,000.

No	Reference	Issue	Financial Limit	BB Initial Comment	Feedback from s.151 Officer
		of £5,000. If this threshold is exceeded, approval must be sought from the Finance Portfolio Holder.			
38.	Financial Planning D24	If a requisition for the purchase of goods or services exceeds £5,000 in value Contract Procedure rules Part 2.1 apply (these relate to competition law and the number of bids which should be sought etc)	£5,000	Review	£10,000, and needs to be in line with the revised Contract Procedure Rules.
39.	Financial Planning D50	Separate Trading Accounts are required when services are provided to either internal or external clients, on a basis other than a straightforward recharge of full cost. These accounts are also required where there is a minimum turnover of £1,000,000	£1,000,000	This is inconsistent with legislation – e.g. a separate account needs to be kept for all Goods and Services Act 1970 trading irrespective of value?	Remove. The law requires all G+S to be recorded separately, so there is no need to deviate from this position.
40.	Financial Planning E18	Approving partnership proposals: Chief Officers	Up to and including £100,000	Why are these decisions different from other decisions above?	Remove
41.	Financial Planning E18	Approving partnership proposals: Chief Officer In consultation with Cabinet Member	Over £100,000 and up to £500,000	Ditto	Remove
42.	Financial Planning E18	Approving partnership proposals: Cabinet	Over £500,000 and up to and including £1,000,000 or if the Authority is undertaking an accountable body role;	Ditto	Remove
43.	Financial Planning E18	Approving partnership proposals: Council	£1,000,000 or more.	This is an example of Council taking the "big" decisions – not appropriate if an Executive function and there is budget provision	Remove
44.	Financial Planning	Approval levels for the paying of grants,	Up to and over	Suggest this level should be	This should be cross referenced to

No	Reference	Issue	Financial Limit	BB Initial Comment	Feedback from s.151 Officer
	E25	donations and contributions: Cabinet Member	£50,000	delegated to officers	the grant approval levels in Line 5.
45.	Financial Planning E25	Approval levels for the paying of grants, donations and contributions: Cabinet	Over £50,000	Or could be portfolio holder	Cross reference to line 5.
	Contract Procedure Rule				
46.	Definitions	Request for Quotations	£10,000 to EU Threshold	EU Threshold changes – now defined. There is a link to the Europa Website at 1.1.8 but if this approach is continued, it should be more clearly signposted. If a link is preferred, it should be to: https://www.ojeu.eu/thresholds.aspx as the current link in the Constitution doesn't work. We recommend including the Thresholds in a table. They are updated once every two years, in January. The next update is January 2018.	Agreed
47.	Part 2 – Below EU Threshold 2.1.1	3 quotes are advisable but not mandatory (local firms being preferable)	Up to £5,000	Many local authorities would have a higher threshold of £10k, but require 3 quotes	Advisable to obtain 3 quotes up to £10,000.
48.	Part 2 – Below EU Threshold 2.2.1	Minimum of three quotes shall be obtained, subject to a procurement risk assessment being carried out. All quotations should be sent to Procurement to ensure compliance with the Government Transparency Code.	£5,000 to £25,000	reasonable	£10,000 to £25,000
49.	Part 2 – Below EU Threshold 2.2.1	Minimum of three quotations sought via e-tendering portal. Procurement must carry out a procurement risk assessment and will determine the route to market.		It is not clear if this is £25k to EU threshold.	£25,000 to EU Threshold
50.	Part 4 – Invitations to Quote <£25k	Invitations to Quote below £25,000 will follow any guidance issued from the CPU and will be assessed based on their own	Up to £25,000	Merge with above	

No	Reference	Issue	Financial Limit	BB Initial Comment	Feedback from s.151 Officer
		risk.			
51.	Part 4 – Invitations to Quote >£25k 4.1.1	All invitations to Quote/Tender over £25,000 shall include the following: 1. All quotes to be issued and received via the e-tendering portal; 2. Bidders must sign the Form of Tender which includes non-collusion provisions; 3. Responses are restricted to access by the Verifying Officer; 4. Invitations must have sufficient detail for a competitive tender and must contain T&Cs of the contract; 5. Must contain a description of the award criteria. 6. Bidders told that preparation of tenders is at their risk and expense; 7. Bidders told that they must not amend the contract documents.			Amend so that all invitations to Quote/Tender
52.	Part 4 – Invitations to Quote >£25k 4.3.1	Tenders above £1,000,000 will be verified by Legal Services.	£1,000,000		Merge with line below.
53.	Part 4 – Invitations to Quote >£25k 4.3.1	Tenders from the 'EU Threshold' up to £1,000,000 will be verified by the Procurement Manager or a Procurement Category Manager that has not been involved in the tender in question.	EU Threshold to £1,000,000		Tenders above the EU Threshold will be verified by the Procurement Manager or a Procurement Category Manager that has not been involved in the tender in question.
54.	Part 4 – Invitations to Quote <£25k 4.3.1	Tenders/Quotations below the 'EU Threshold' will be verified by a Procurement Officer that has not been involved in the tender in question.	Tenders below EU Threshold	Should the lower limit for this be £25,000 so that it sits with the line below?	Tenders from £25,000 to EU Threshold.
55.	Part 4 – Invitations to Quote >£25k 4.3.1	Quotations from £5,000 to £25,000 will be opened in accordance with any guidance issued by CPU from time to time.	Tenders £5,000 to £25,000.		Tenders £10,000 to £25,000.

No	Reference	Issue	Financial Limit	BB Initial Comment	Feedback from s.151 Officer
56.	Part 5 – Contracts and Competition Requirements 5.1.2 Post	Contracts can be executed by a duly authorised officer in accordance with the local scheme of delegation.	Up to £1,000,000		Take this line out
57.	Part 5 – Contracts and Competition Requirements 5.1.3 Post	Contracts must be executed under seal.	Where the contract exceeds £1,000,000.	MO to advise	
58.	Part 5 – Contracts and Competition Requirements 5.2.1 Post	Waiver of the Contract Procedure Rules. Currently all waivers must be approved by the Chief Operating Officer and Director Legal Services	All waivers	We recommend that below £25,000 a waiver can be signed approved by the Head of Procurement.	Above £25k approval by CFO and DoLS,

Additional points raised on the call:

1. Reference to COO in this table should be to the CFO. The roles can be performed by different people.