



Working for a brighter future together

Constitution Committee

Date of Meeting: 19 March 2020

Report Title: Proposed Change to the Council's Governance Arrangements - Formal Resolution to Move to a Committee System Form of Governance

Senior Officer: Jan Bakewell – Director of Governance and Compliance

1. Report Summary

1.1 Council at its annual meeting held on 22 May 2019 agreed that the following Notice of Motion be referred to the Constitution Committee:

‘This Council is committed to implementing a change in decision-making governance arrangements, comprising the cessation of the current Leader and Cabinet model of governance, and the implementation of a full Committee model of governance; this to be developed during 2019/20 with a view to the new arrangements taking effect from the beginning of the 2020/21 Municipal Year, subject to a legally and constitutionally robust process, led by the Council's Constitution Committee, and agreed by Council’.

1.2 The Constitution Committee subsequently set up a Governance Working Group to progress the Notice of Motion.

1.3 At a meeting held on 21 November 2019, the Constitution Committee decided not to make a recommendation to Council at that stage. The Committee asked officers to produce further detailed work on certain matters with a view to reporting back to the Governance Working Group. Further details on those matters are now set out in this report.

2. Recommendations

1. That the Constitution Committee recommend to full Council that:

the Council resolves to cease operating the existing Leader and Cabinet model of governance and implement a committee system model of governance, to take effect from the Annual Council meeting in May 2021;

2. The Constitution Committee agree proposals to recommend to Council the following:
 - a. the structure of the committees (Appendix B, C and D);
 - b. Roles of Leader and Deputy Leader (Appendix E);
 - c. Decision Review Committee (Appendix F);
 - d. Urgency Provisions (Appendix G);
 - e. Role and powers of Committee and Sub-Committee Chairs (Appendix H).
3. The Council's Director of Governance and Compliance be authorised, in consultation with the Constitution Committee, to prepare such draft constitutional provisions as she considers necessary to give effect to the wishes of the Committee, which will be submitted to the Constitution Committee in phases during 2020/21 for recommendation to Council; and
4. That the Director of Governance and Compliance be authorised to recommend such constitutional provisions as reflect the developing nature of the progression to a committee system form of governance and best practice.

3. Background

- 3.1 As part of its work so far, the Governance Working Group has given consideration to:

- Design Principles
- Consultation/Engagement options
- Committee structure, functions and Terms of Reference
- Committee Procedure Rules
- Portfolio Holder decisions and levels of decision making
- Referral
- Urgent Decisions
- Role of Leader and Deputy Leader
- Role and Powers of Committee and Sub Committee Chairs

- 3.2 The Working Group has also considered a desktop evaluation of the governance arrangements of other authorities, and visits to two authorities that have moved to a committee system. Learning from these visits formed part of the Working Group's findings and recommendations.

- 3.3 Three Members' Engagement workshops were held across the borough on 1st, 7th and 12th November 2019. Feedback from these engagement sessions has been considered by the Working Group.
- 3.4 At a meeting held on 21 November 2019, the Constitution Committee asked officers to produce further detailed work on certain matters, which would facilitate the introduction of a committee system in May 2020. Since then, it has been agreed by Group Leaders in a jointly signed letter on 23 January 2020 that the new governance arrangements will be implemented in May 2021 to allow more time to prepare.
- 3.5 It is proposed that the Council meeting in July 2020 be asked to formally resolve to move to the new arrangements with effect from the Annual Council Meeting in May 2021 and, therefore, preparations must move at pace in order to achieve this.

4. Design Principles

- 4.1 The Working Group acknowledged that it is important to ensure a new form of governance model meets the aspirations of the agreed Notice of Motion. Therefore, the following set of design principles to guide the development of the new Committee system model were agreed:

- Openness
- Quick and effective decision-making
- Legal Requirements
- A modern Committee system

A copy of the agreed Design Principles is attached at Appendix A.

- 4.2 It is important to emphasise the need for a new governance model to reflect modern best practice. It is proposed that the Council's new working arrangements maximise the use of information technology to ensure streamlined, efficient and quick decision-making can continue. It is not intended to replicate a traditional committee system that used to operate prior to 2000, but to provide a modern committee system that meets the contemporary needs of the Council. It is essential that the Council's day-to-day business can continue to deliver the priorities and vision of the Council in a timely manner.
- 4.3 It is proposed to retain desirable elements of the Council's existing arrangements such as public speaking arrangements and a form of the forward plan and petition scheme (although this is no longer a legal requirement).
- 4.4 The Design Principles can be referred to in the future and used to assess whether or not the desired outcomes have been achieved or whether any necessary

further amendments to the arrangements and the constitution might be required.

5. Proposed Committee Structure

5.1 The proposed committee structure, functions and terms of reference for six service committees and a Finance Sub-Committee are attached at Appendices B, C and D, and were agreed by the Governance Working Group at its last meeting on 6 March 2020.

5.2 The Constitution Committee is now asked to agree the proposals in Appendices B, C and D and make that recommendation to Council.

6. Roles of Leader and Deputy Leader

6.1 The role of the Leader (and in a joint administration also the Deputy Leader) in a Committee system of governance is different from that under the executive system.

6.2 One of the key factors defining the roles of Leader and Deputy Leader is that of section 101 of the Local Government Act 1972 which enables local authorities to delegate powers to Committees, sub-Committees and officers. Section 101 does not permit the delegation of powers to individual councillors, and case law has, for many years, shown that it is unlawful to do so. It follows that care must be taken that any allocation of roles to the Leader and Deputy Leader should not exceed the limitation imposed by section 101 of the Local Government Act 1972.

6.3 Given the wording of section 101 of the Local Government Act 1972, it is important that in allocating roles to the Leader and Deputy Leader that the clear restrictions on delegation are not exceeded.

6.4 Nevertheless there is some scope for enhancing the role of the Leader and Deputy Leader by adding the following attributes, without breaching the requirements:

- An activity in relation to the development of policy could be established as follows:
“to establish the policy direction and priorities of the Council”
- In terms of the outward facing aspects of the role the following might be considered:
“to be the principal ambassadors for the Borough and the Council” and “to represent the Council on any external body”.

6.5 The proposed roles of the Leader and Deputy Leader are attached at Appendix E, which were agreed by the Governance Working Group at its last meeting.

- 6.6 The Constitution Committee is now asked to agree the proposed wording in Appendix E and make that recommendation to Council.

7 Decision Review Committee

- 7.1 It will be recalled that one of the design principles established in relation to the introduction of a Committee system is that of 'quick decision making'. A system of delegated decision making to Committees, sub-Committees and officers should foster an environment of quick decision making because the decision of the decision maker (be it Committee, sub-Committee) should be 'final' in the sense that it requires no further endorsement.
- 7.2 It may therefore be considered that there should be no mechanism for referral of decisions to Council or other "call in" provision. Some authorities operate in this way and once the decision is made by a Committee, the decision is final and must be adhered to.
- 7.3 However in circumstances where an issue does have a significant profile, and it is considered that the wrong decision has been made by a Committee, provision can be made for decisions to be referred up to another body. This would have the effect of halting the decision pending referral to another body.
- 7.4 A Decision Review Committee, as detailed in Appendix F, was proposed to the Governance Working Group. However, the Working Group took the view that decisions should be referred straight to Council only, particularly in view of the limited number of call-in requests in recent years. They also considered a dedicated Decision Review Committee created an additional unnecessary layer in the decision making process.
- 7.5 The Constitution Committee is now asked to consider the proposals in Appendix F and make a recommendation to Council.

8. Urgency Provisions

- 8.1 The Council's current Constitution defines an "urgent" decision. That definition sets out a series of factors which enable a determination to be made as to whether a matter is 'urgent'. It is suggested that this definition is comprehensive and would not benefit from further reformulation.
- 8.2 As is currently the case, urgent decisions would be taken by the Chief Executive (or deputy). Cheshire East's existing arrangements (under the Leader/Executive model) allow the Chief Executive (or deputy) to make a decision which would normally be taken by full Council in circumstances of urgency, subject to compliance with procedural requirements, including consultation with the relevant Chair or Vice Chair prior to the decision being made. This approach would also apply to decisions made by Committees and Sub-Committees in

addition to those normally made by full Council. The urgency provisions are attached at Appendix G which were agreed by the Governance Working Group.

8.3 The Constitution Committee is now asked to agree the proposed wording in Appendix G and make that recommendation to Council.

9. Role and Powers of Committee and Sub Committee Chairs

9.1 The responsibility of a Chair for the proper conduct of meetings is formally recognised in law. There are provisions in the Local Government Act 1972 which apply to the holding and chairing of meetings, but much of the detail is supplied in the Council's Procedure Rules, which are standing orders made under powers in the 1972 Act. Appendix H addresses the above, and set out the expectations of Council, outlining the way Chairs are expected to fulfil their roles. This includes the need for positions to be filled based on skills and experience and also to attend the necessary training, as and when required.

9.2 The Working Group agreed Appendix H, acknowledging the roles of Chairs and Vice Chairs outside of meetings may be further developed and brought back to the Working Group for consideration.

9.3 The Constitution Committee is now asked to agree the proposed wording in Appendix H and make that recommendation to Council.

10. Next Steps

10.1 The legislation provides that, as soon as practicable after the Council has passed a resolution to change the form of its governance arrangements, it must:-

- a. secure that copies of the document setting out the provisions that are to have effect following the resolution are available at its principal office for inspection by members of the public.
- b. publish in one or more newspaper circulating in its area, a notice which:-
 - states that the authority has resolved to make a change in its governance arrangements;
 - states the date on which the change is to have effect;
 - describes the main features of the change;
 - states that copies of a document setting out the provisions of the arrangements that are to have effect following the resolution are available at the authority's principal office for inspection by members of the public; and
 - specifies the address of the authority's principal office.

- c. the legislation provides that the earliest date by which a change in governance form may be implemented is from the following Annual Council Meeting (in this case for the municipal year beginning in May 2021) or a later Annual Council Meeting specified in the resolution.

11. Implications of the Recommendations

11.1 Legal Implications

11.1.1 The ability for the Council to change from one of the permissible forms of governance arrangements of a local authority to another is provided for by Chapter 4 of the Local Government Act 2000 (as amended by the Localism Act 2011). Section 9KC of the Act straightforwardly states that a “resolution of a local authority” (a simple majority) is required in order for the council to make such a change in governance arrangements.

11.1.2 It should be noted, however, that a local authority may not then pass another resolution that makes a change from one to another of the permissible forms of governance arrangements ‘before the end of the period of 5 years’ beginning with the date the first resolution is passed, unless that change is by way of referendum.

11.1.3 A resolution passed by the Authority to change from one of the permissible forms of governance arrangements to another will then be implemented only during-

- a. the first annual meeting of the local authority to be held after the resolution to make the change in governance arrangements is passed, or
- b. a later annual meeting of the local authority specified in that resolution.

11.2 Finance Implications

11.2.1 There are direct costs associated with making the change from one form of governance to another. These costs are associated with redrafting the constitution. There will also be associated costs with the training of members and officers.

11.2.2 Member allowances will require further consideration and a separate report with recommendations from the Independent Remuneration Panel will be considered in due course.

11.2.3 It is acknowledged that once implemented, one form of governance need not cost more than another.

11.2.4 By using every available opportunity to streamline decision-making; use available technology and optimise the officer support arrangements it is intended where possible to contain the cost of running the new system to a minimum with no net increase in resources.

11.3 Policy Implications

11.3.1 Any relevant policies will need to be amended to reflect a committee system form of governance.

11.4 Equality Implications

11.4.1 The Council's governance arrangements must enable all groups to engage in the decision making process. No equality implications are identified at this stage.

11.5 Human Resources Implications

11.5.1 There are significant human resource implications in relation to training and development. Any staffing issues as a result of moving to a Committee system will continue to be considered as the proposals are developed further.

11.6 Risk Management Implications

11.6.1 A change to a committee system will introduce a system of decision making that is new to members, officers and partners. Training and briefing will be required to ensure that the transition is smooth and that there is not a delay in decision making.

11.7 Rural Communities Implications

11.7.1 There are no direct implications for rural communities.

11.8 Implications for Children & Young People/Cared for Children

11.8.1 There are no direct implications for children and young people/cared for children.

11.9 Public Health Implications

11.9.1 There are no direct implications for public health.

11.10 Climate Change Implications

11.10.1 There are no direct climate change implications.

11.11 Ward Members Affected

11.11.1 All wards are equally affected.

11.12 Consultation & Engagement

11.12.1 There is no legal requirement to consult the public on a proposed change to the Council's governance model. Notwithstanding this, the Governance Working Group considered a report at its meeting on 14 October 2019 in relation to consultation and engagement options. The Working Group agreed they did not wish to consult on the proposals. Due to the fact that the Notice

of Motion had already been agreed by Council, they did not consider there was any benefit in undertaking public consultation at that stage. Members were keen to ensure that residents and staff were kept updated about the proposals. To this end, an article was published in the November edition of 'The Voice' along with various updates on the centranet for staff.

11.12.2 Three Member Engagement Workshops have taken place to inform the development of these proposals. The feedback from these sessions has been considered by the Working Group.

11.12.3 As soon as practicable after full Council has passed a resolution to change its form of governance arrangements, a public notice of the Council's resolution must appear in one or more newspapers, as detailed in paragraph 10.1.

12. Access to Information

Previous reports to the Constitution Committee provide the background to the governance review which are available on the Council's website.

13. Appendices

Appendix A – Agreed Design Principles

Appendix B – Proposed Committee Structure Chart

Appendix C – Proposed Committee Functions

Appendix D - Draft Terms of Reference

Appendix E – Roles of Leader and Deputy Leader

Appendix F – Decision Review Process

Appendix G – Urgent Decisions

Appendix H - Role and Powers of Committee and Sub-Committee Chairs

14. Contact Information

Any questions relating to this report should be directed to the following officer:

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Appendix A

Design Principles

Openness

The new form of governance (committee system) will be easy to understand and will include arrangements that enable people to easily find out about how decisions are made.

Committee meetings will be held in public by cross party (politically proportionate) committees. However, as is the case in all local government decision-making there will be rare occasions upon which a particular report is private or confidential. In these instances the decision will need to be made in private and members of the public will not be able to be present during the meeting.

There will be the opportunity for Councillors and Members of the public to ask questions at committee meetings and it will be clear how complaints can be made about services and Members behaviour.

Quick Decision Making

The new arrangements will ensure that decisions are made quickly, to meet the needs of the council and local community. The number of committees and number of meetings will be kept to a minimum, and technology will be used to provide instant access to information and avoid unnecessary paperwork.

There will be a process to deal with urgent decisions, which will be clear and, in most cases, open to the public. The need to make urgent decisions is, however, rare.

Affordability

Through the use of technology and a quick, streamlined decision making process, the cost of a committee system will be kept to a minimum.

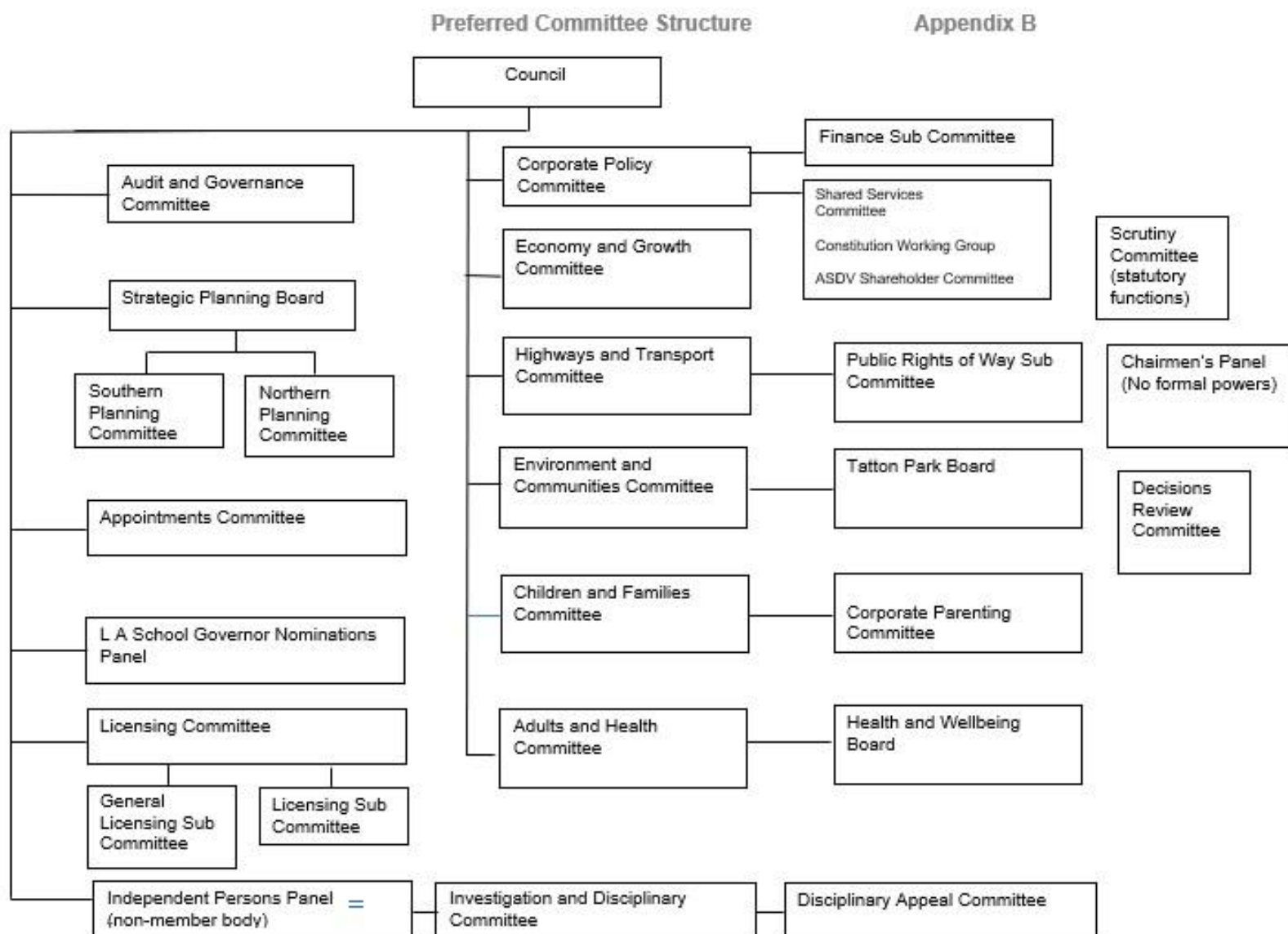
Legal Requirements

The council must comply with all legal requirements and relevant legislation. Where required, legal advice will be available to all meetings, to make sure that legal requirements are met. The council will also follow best practice

A Modern Committee System

The Committee system will be modern, open and transparent. Public participation will be encouraged. There will be the opportunity for public speaking and petitions. There will also be a work programme outlining what decisions will be made and by which Committee. There will be a separate Scrutiny Committee to look at health partners, crime and disorder and flood risk management. The Scrutiny Committee will be able to look at future proposed decisions in these areas, and seek to influence them.

APPENDIX B



Appendix C

Committee	Function	Membership
Corporate Policy	<p>This Committee is responsible for:</p> <ul style="list-style-type: none"> • Overall responsibility of the Council's budget and resources • All Corporate Services functions including: • Democratic Services and Governance • Internal Audit, Risk and Compliance • Legal • Customer Services • Finance and Procurement • Transformation • Business Change • Human Resources • ICT • Strategic Partnerships • Governance of shared services with CWAC • Governance of ASDVs • overarching committee for cross cutting issues 	13
Finance Sub Committee	<ul style="list-style-type: none"> • Developing the MTFS and the Capital Programme • Budget and financial management and monitoring • Grants awards • Estates and property transactions • Investment Strategy 	8
Economy and Growth	<p>This Committee is responsible for:</p> <ul style="list-style-type: none"> • Housing • Regeneration • Economic development • Rural and cultural economy 	13

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Highways and Transport	<p>This Committee is responsible for:</p> <ul style="list-style-type: none"> • Strategic transport • All transport and accessibility • Car parking • Highways • Infrastructure • HS2 	13
Environment and Communities	<p>This Committee is responsible for:</p> <ul style="list-style-type: none"> • Development management • Strategic planning • Environmental services (waste, recycling and bereavement) • Leisure • Licensing • Libraries • Regulatory Services • Contaminated land • Air quality 	13
Children and Families	<p>This Committee is responsible for:</p> <ul style="list-style-type: none"> • Children's mental health • Corporate Parenting – Annual Report • Prevention Services • Special needs and disabilities • Development and Partnerships • Education • Cared for children • Care leavers • Children in need • Child protection • Safeguarding • Children's Trust and Board 	13

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Health and Adults	This Committee is responsible for: <ul style="list-style-type: none"> • Public Health • Lifelong learning 	
	<ul style="list-style-type: none"> • Health Improvement and intelligence • Community strategy • Adult safeguarding • Mental health • Learning difficulties • Adult social care operations • Care4CE • Domestic Violence • Commissioning 	13

Appendix D

COMPOSITION AND TERMS OF REFERENCE OF COMMITTEES

Full Council is responsible for the exercise of all the functions that are the responsibility of the local authority. Certain matters have been expressly reserved to be taken by a meeting of the full Council. To enable it to operate more effectively as a local authority, the Council has arranged for the discharge of all its other functions to be carried out by a Committee, sub-Committee or an officer of the Council or, in certain cases, by another local authority or public body.

This Article of the Constitution deals with the allocation of responsibility for carrying out those functions of the Council that are not reserved to the full Council. In some cases the law requires the Council to establish a Committee and also determines the

way in which the Committee is to operate. In most cases, however, the Council may decide on the size, terms of reference and membership of its Committees.

Article X of the Constitution lists the Committees of Council. Each Committee has a different set of functions allocated to it as set out below. For the more efficient exercise of functions Council may establish one or more sub-Committees of each Committee with terms of reference specified by Council.

This Article of the Constitution describes the Committees that the Council has established in greater detail and describes their membership.

1. CORPORATE POLICY COMMITTEE

Composition

The Corporate Policy Committee shall comprise 13 members of the Council appointed in accordance with the statutory rules in relation to proportionality.

The Leader of the Council shall be the Chair of the Committee and the Deputy Leader of the Council may be the Vice Chair.

Terms of Reference

The Corporate Policy Committee shall provide strategic direction to the operation of the Council by making decisions on policies and the co-ordination of expenditure where such decisions are not reserved to full Council. The

Committee shall also maintain a strategic overview of outcomes, performance, risk management and budgets.

Full Council has delegated to the Committee responsibility for:

- The formulation, co-ordination and implementation of the Corporate Plan and corporate policies and strategies, alongside the medium term financial plan (budget) which is the responsibility of the Finance SubCommittee. In the discharge of those responsibilities the Committee shall determine such matters to the extent that they are not reserved to full Council.
- The determination of key cross-cutting policies and key plans that impact on more than one service committee.
- The determination of policy matters not otherwise allocated to any other committee.
- The determination of any matter of dispute or difference between committees.
- The provision of a co-ordinating role across all other committees and to exercise a corporate view of performance, budget monitoring and risk management.
- The determination of any matter that has a major impact on a number of Council services or the Council as a whole.
- The oversight and scrutiny of the Corporate Services Directorate, including the following functions: Governance and Compliance, Finance and Customer Services, and Transformation; together with Strategic Partnerships and shared services.
- The oversight and monitoring of the Members' Allowance budget and keeping under review the scheme for the payment of allowances to Members through the appointment of an Independent Remuneration Panel (IRP) to advise full Council on the adoption of such scheme and any proposed amendments to such scheme.
- The review of the Council's Constitution and the recommendation of any changes to the Council.

- The making of recommendations to Council on civic issues including, but not limited to, the Mayoralty and honorary Freeman and Aldermen.
- The appointment of persons to fill vacancies on Parish Councils where such Councils are unable to act.
- The consideration of the recommendations and Annual Report of the ASDV Shareholder Committee.

2. FINANCE SUB COMMITTEE

Composition

The Finance Sub Committee shall comprise 8 members of the Council appointed in accordance with the statutory rules in relation to proportionality.

The Chair shall be a Member of the Corporate Policy Committee.

Terms of Reference.

The Finance Committee shall provide direction to the operation of the Council by co-ordinating the management and oversight of the Council's finance, performance and corporate risk management arrangements. The Committee shall make recommendations to the Corporate Policy Committee regarding the development of the Medium Term Financial Strategy and the setting and monitoring of the Capital and Revenue Budgets in accordance with the Corporate Plan.

Full Council has delegated to the Committee responsibility for:

- The determination of finance issues, including but not limited to Treasury Management, Insurance, Procurement, grant awards for sums in excess of £50,000, debt write off, settlement payments and virements in line with the constitution.
- The establishment of a Procurement Forward Plan.
- Investment Strategy
- Grant Awards
- Estates and Property Transactions

3. **ENVIRONMENT AND COMMUNITIES COMMITTEE**

Composition.

The Environment and Communities Committee shall comprise 13 members of the Council in accordance with statutory rules in relation to proportionality.

Terms of Reference

The Environment and Communities Committee shall be responsible for developing policies and making decisions on matters relating to delivering inclusive and sustainable economic growth, improving the quality of the environment and delivering improvement in key front line services.

Full Council has delegated to the Committee responsibility for:

- The development and delivery of the Council's strategic objectives for Environmental Management, sustainability and climate change.
- The development and delivery of Strategic Planning policies.
- The development and delivery of the Council's estates, land and physical assets policies.
- The determination of policies and making of decisions in relation to waste collection and disposal, recycling, leisure, culture, libraries, bereavement services, trading standards, environmental health, contaminated land and air quality.
- The determination of policies and making of decisions in relation to flooding and accessibility in co-ordination with the Scrutiny Committee.

4. **ECONOMY AND GROWTH**

Composition

The Economy and Growth Committee shall comprise 13 members of the Council in accordance with statutory rules in relation to proportionality.

Terms of Reference

The Economy and Growth Committee shall be responsible for developing policies and making decisions on matters relating to delivering inclusive and sustainable economic growth

- The determination of policies and making of decisions in relation to housing management and delivery.
- The determination of policies and making of decisions in relation to economic development and growth.
- The determination of policies and making decisions in relation to the rural and cultural economy

5. **HIGHWAYS AND TRANSPORT COMMITTEE**

Composition

The Highways and Transport Committee shall comprise 13 members of the Council in accordance with statutory rules in relation to proportionality.

Terms of Reference

The Highways and Transport Committee shall be responsible for developing policies and making decisions on matters relating to highways and transport as they affect the area of the Council taking into account regional and national influences.

Full Council has delegated to the Committee responsibility for;

- The formulation, co-ordination and implementation of corporate policies and strategies in connection with all car parking, transport and accessibility matters.
- The determination of any matter affecting the Council's interests in relation to national infrastructure matters, for example HS2, Northern Powerhouse Rail and the National Road Network.
- The discharge of the Council's responsibilities as Highway Authority, including, but not limited to, highway adoption, highway maintenance, road safety, network management and street lighting.

6. **CHILDREN AND FAMILIES COMMITTEE**

Composition

The Children and Families Committee shall comprise 13 members of the Council in accordance with statutory rules in relation to proportionality

The Chair of the Committee shall be the statutory Lead Member for Children's Services

Terms of Reference

The Children and Families Committee shall be responsible for those services which help keep children and young people safe and enable them to achieve their full potential. The responsibility incorporates matters in relation to schools and attainment, early help and family support and social care for children and families. The Committee shall have a particular focus on those children who are looked after and for whom the Council has corporate parenting responsibility.

Full Council has delegated to the Committee responsibility for:

- The determination of policies and making decisions in relation to the delivery of services to children and young people in relation to their care, well-being, education and health.
- The discharge of the Council's functions in relation to children in need and child protection including safeguarding and youth justice.
- The discharge of the Council's functions and powers in relation to the provision of education.
- The development and maintenance of relationships with schools in relation to the raising of standards of attainment.
- The co-ordination of the Council's role as Corporate Parent with a focus on fostering and adoption.
- The discharge of the Council's functions in relation to Special Education Needs and Disability (SEND).

- The discharge of the Council's functions in relation to early help and family support.

7. HEALTH AND ADULTS COMMITTEE

Composition

The Health and Adults Committee shall comprise 13 members of the Council in accordance with statutory rules in relation to proportionality.

Terms of Reference.

The Health and Adults Committee shall be responsible for the Council's communities, public health and adult social care services with a view to enabling all people to live fulfilling lives and to retain their independence. The Committee shall also be responsible for the promotion of the health and wellbeing of people living in the Council's area. In the discharge of its responsibilities the Committee shall recognise the necessity of promoting choice and independence.

Full Council has delegated to the Committee responsibility for:

- The determination of policies and making decisions in relation to people aged 18 and over (some young people up to the age of 25 may still be within Children's services as care leavers or with a Special Educational Needs and Disability) with eligible social care needs and their carers including, but not limited to, adult safeguarding, adult mental health, physical health, older people and learning disabilities.
- Lifelong learning
- The determination of policies and making of decisions in relation to Public Health in co-ordination with Health and Wellbeing Board and the Scrutiny Committee.
- The oversight of the Communities Strategy.
- The provision and commissioning of domestic violence services and quality assurance.

In addition to the six named Committees there is a necessity for arrangements to be made so that the Council complies with statutory requirements in relation to the scrutiny of certain public services.

SCRUTINY COMMITTEE

Composition

The Scrutiny Committee shall comprise 13 members of the Council in accordance with statutory rules in relation to proportionality.

Terms of Reference

The purpose of the Scrutiny Committee is to undertake reviews and make recommendations on services or activities carried out by other organisations and which affect residents, businesses as well as the Council and its Committees.

Full Council has delegated to the Committee responsibility for;

- The discharge of the Council's responsibilities set out in section 19 of the Police and Justice Act 2006, section 244 of the Health and Social Care Act 2006 and section 9FH of the Local Government Act 2000 in relation to flood risk management.

Appendix E

Leadership

Article XX - Role and Powers of the Leader and Deputy Leader of the Council

Appointment and General Role

The Annual Meeting of the Council will appoint the Leader and the Deputy Leader of the Council for the forthcoming municipal year.

The Councillors appointed will hold these offices until:

- (a) The next Annual Meeting of the Council; or
- (b) The Leader or the Deputy Leader resigns from the office; or
- (c) The Leader or the Deputy Leader is no longer a Councillor; or
- (d) The Leader or the Deputy Leader is removed from the office by resolution of the Council requiring a simple majority, in respect of which the motion has been fully set out in the agenda for the meeting.

A notice of motion must be submitted to a Council meeting, if it is proposed to remove the Leader or Deputy Leader from this office and must be submitted 7 clear working days before the meeting;

If the Council meeting resolves to remove the Leader/Deputy from office but fails to appoint a successor, then an item to appoint a new Leader/Deputy must be included on the next and successive Council agendas until a replacement Leader has been appointed.

Where there is a vacancy in the office of Leader, the Deputy Leader will assume the responsibilities of the Leader until the next meeting of the Council.

Where both the Leader and Deputy Leader cease to hold office at the same time, the Council's Mayor shall call a meeting of the Full Council as soon as possible, to appoint a new Leader.

The role of the Leader/Deputy is not a formal legal role, but he or she is in practice the political head of the Council, and the Member with greatest responsibility for driving forward the broad policies of the Council.

Fulfilling the Role of Leader

The Council expects that the Leader will:

- be the political (rather than ceremonial) leader of the Council, for the benefit of all the Borough's communities - its citizens, taxpayers, businesses, public bodies and other public authorities;
- lead and work with the Council, particularly the Chairs of its Committees and Sub-Committees, in the development of the Council's vision for the future, policy framework, budgets and strategies;
- lead and work with the Council, particularly the Chairs of its Committees and Sub-Committees, in overseeing service delivery and the implementation of policies approved by the Council;
- represent and pursue the interests of the Council in the community and at international, national and regional levels;
- act as Chair of the Corporate Committee, fulfil the role of Leader at full Council meetings and carry out as necessary the other functions mentioned at paragraph xx below;
- lead in providing policy direction and guidance to the Chief Executive and Chief Officers;

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- meet regularly to progress the Council's objectives with Committee Chairs, the Chief Executive and Chief Officers, Leaders of other political groups on the Council, partner organisations, stakeholders, community representatives, government representatives, local Members of Parliament etc.

The Leader shall be recognised in the following ways: -

- Chairing Corporate Policy Committee: the Leader shall be appointed at the Council's Annual Meeting as Chair of the Council's Corporate Committee.
- Right to attend and speak at any meeting of a Committee or SubCommittee of the Council, provided that he or she will only be entitled to vote if appointed as a voting member of that Committee or Sub-Committee.
- Reserve Power to call extraordinary Council Meetings: permit the Leader, if neither the Mayor nor the Deputy Mayor is available, to call extraordinary meetings of the full Council.
- Duty to be available for Questions: permit any Member of the Council to ask questions of the Leader and Deputy Leader at full Council meetings.
- The establishment of policy direction and the Council's priorities and the facilitation of discussion thereon.
- To be principal ambassador for the Borough and the Council (recognising the role of the Mayor).
- To represent the Council on any external body, as considered appropriate, and to make decisions and vote on behalf of the Council at meetings of such bodies.
- Involvement in Major Emergencies: the Leader and Deputy Leader must be informed if an emergency is likely or has been declared under the Council's emergency planning or business continuity procedures.
- To promote and uphold high standards of ethical conduct by Members and the Council's equalities policies.

Legal Powers and Duties

As the Council operates a Committee system, the Leader/Deputy has no formal legal powers and duties vested in him or her under the Local Government Act 1972 or the Local Government Act 2000.

However, in practice, all local authorities need to appoint a Leader and each Leader will hold the most significant elected Member role within the Council. The Council's Leader will be the political/elected head, the focus for policy direction and community development and the chief advocate and ambassador for the Borough.

Deputy Leader

The Annual Meeting of the Council will appoint a Councillor to be the Deputy Leader of the Council for that municipal year.

The Deputy Leader may be appointed as the Vice Chairman of the Corporate Policy Committee of the Council.

The Deputy Leader is empowered to act in place of the Leader.

The Deputy Leader is empowered to represent the Council on any external body, as agreed with the Leader, and to make decisions and vote on behalf of the Council at meetings of such bodies.

Note

In the case of a joint administration, the Council will expect the Leader and Deputy Leader to share responsibilities between them and determine how the matters listed in paragraph XX are divided between them.

Appendix F

Decision Review Process

Decisions made by one of the Services Committees, or an officer acting under delegated authority from one of those committees, are published, normally within a period of three working days after the relevant meeting. Unless the decision is urgent, the decision will not be implemented for a period of five working days from the date of publication, during which time any 9 Members from two or more political Groups of the Council may call-in the decision for review, subject to meeting the criteria set out below and being validated by the Monitoring Officer:

- Decision is outside the policy/budgetary framework
- Inadequate consultation relating to the decision
- Relevant information not considered
- Viable alternatives not considered

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- Justification for the decision open to challenge on the basis of the evidence considered

If validated by the Monitoring Officer the decision will then be referred to a meeting of the Decision Review Committee for review, together with a statement of the reasons for the review request. Implementation of the decision shall be held in abeyance pending the conclusion of the process.

The Decision Review Committee is to consider the decision called in for review as soon as possible, and, normally within 15 working days. In doing so it shall provide an opportunity for a representative of the signatories to the call in the opportunity to address the meeting on the subject. The Decision Review Committee may either:

- ✦ uphold the original decision, in which case it has immediate effect, or
- ✦ refer it back to the decision-making Committee, Corporate Policy Committee or exceptionally, a meeting of the Full Council
- ✦ with or without recommendations for change. This is the only function of the Committee.

A decision may only be subject to review once.

Appendix G

Urgent Decisions Taken Outside of Meetings

Definition of an urgent decision

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 Chief Executive or in his/her absence the Deputy Chief Executive has declared that an urgent decision is required. If a decision is deemed an urgent decision caused by a failure to plan appropriately or work without due regard to timeliness, the circumstances giving rise to the need for the decision should be reported to the Audit and Governance Committee.

Urgent Decisions: Council (Paragraph XX)

If a decision would normally be required to be made by full Council the decision may be made by the Chief Executive or in his/her absence the Deputy Chief Executive (or in their absence their nominee) in consultation with Group Leaders and the Mayor (or in his/her absence the Deputy Mayor) subject to the following requirements being met:

- ✦ The decision-maker is satisfied that the matter is urgent and cannot await the next meeting of the Council, or an urgently convened Council meeting.
- ✦ The decision is reported for information to the next available meeting of the Council.
- ✦ The provisions of legislation are complied with.
- ✦ Advice has been taken from the Chief Executive, Council's Monitoring Officer and Section 151 Officer.
- ✦ All Members of the Council are notified of the decision taken by electronic means.

Urgent Decisions: Committees (Paragraph XX)

The Chief Executive or in his/her absence the Deputy Chief Executive (or in their absence their nominee) in consultation with the Chairman and/or Vice-Chairman of the relevant committee or subcommittee has delegated authority to take decision subject to the following requirements being met:

- ✦ The decision-maker is satisfied that the matter is urgent and cannot await the next meeting of the decision-making body, or an urgently convened meeting.
- ✦ The decision is reported for information to the next available meeting of the decision-making body.
- ✦ The Leaders of all Opposition Groups have been notified of the matter and have been invited to make representations.
- ✦ The provisions of legislation are complied with.
- ✦ Advice has been taken from the Council's Monitoring Officer and Section 151 Officer.
- ✦ All Members of the Council are notified of the decision taken by electronic means.

In addition the following provisions shall apply:

- ✦ Rules paragraphs XX to XX of the Access to Information Procedure Rules shall be adhered to, relating to the content of the Forward Plan, general exceptions to the requirement to list decisions on the Forward Plan, and circumstances of special urgency
- ✦ Paragraphs XX to XX, relating to the Forward Plan and Key Decisions shall be adhered to
- ✦ Rules in relation to Call-in (paragraphs XX to XX) shall not apply to urgent decisions taken under this procedure (see paragraph XX)

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- ✦ Paragraphs XX to XX of the Budget and Policy Framework Procedure Rules shall be adhered to in relation to urgent executive decisions taken under this procedure

Appendix H

ARTICLE XX – ROLE AND POWERS OF COMMITTEE AND SUB-COMMITTEE CHAIRS

Appointment and general role

- (a) The Council's Procedure Rules (xx) permit it to appoint, from amongst its voting Members, Chairs of Committees and Sub-Committees. Chairs are normally appointed annually, at the Council's Annual General Meeting in May. If the Council does not appoint a Chair in any particular case, the

Chair is elected by the Committee or Sub-Committee. The Procedure Rules (xx) preclude any Member of the Council from being Chair of more than one Committee without the permission of the Council.

- (b) Usually the annual appointments made by the Council include Vice Chairs for each Committee and Sub-Committee, which are generally able to exercise the powers vested in their Chairs if the Chairs are unavailable.
- (c) Appointments will be based on relevant skills, knowledge, experience and suitability.
- (d) As further explained in paragraphs xx and xx below, the role of Chair has some aspects which are formally recognised by law and relate to the conduct of meetings. Paragraph xx outlines the way Chairs are expected to fulfil their roles.

Fulfilling the Role of Chair

The Council expects that its Chairs will:

- have a working knowledge of the functions, policies, practices, procedures, services and budgets of the Committee or Sub-Committee which they chair;
- attend all training sessions as required;
- lead in the development of the work of the Committee or Sub-Committee which they chair. This should take into account the wider vision, such as corporate, cross-service and partnership issues; lead in service delivery and the implementation of policies approved by the Council where these relate to the Committee or Sub-Committee which they chair;
- be the spokesperson for the Committee or Sub-Committee in relation to external affairs and communications;
- progress the Committee's or Sub-Committee's objectives with officers and Members, and as appropriate other people, groups and organisations;
- represent and pursue the interests of the Committee or Sub-Committee which they chair in the community and if appropriate at regional and wider levels;
- To promote and uphold high standards of ethical conduct by Members and the Council's equalities policies;
- in accordance with the Council's Constitution and the provisions summarised at paragraphs xx and xx below, ensure that:
 - (1) the meetings of the Committee or Sub-Committee which they chair are properly conducted and
 - (2) reports of proceedings are forwarded on as necessary, for example to full Council;
- support the performance of the Council's overview and scrutiny functions and participate in overview and scrutiny reviews as appropriate;
- maintain professional working relationships and establish mutual respect with all Members and officers;

Legal powers and Duties

- (a) The responsibility of a Chair for the proper conduct of meetings is formally recognised in law. There are provisions in the Local Government Act 1972 which apply to the holding and chairing of meetings, but much of the detail is supplied in the Council's Procedure Rules, which are standing orders made under powers in the 1972 Act. For any eventuality not covered in the legislation or the Procedure Rules, it may be possible to turn to the body of common law which the Courts have developed in relation to meetings.
- (b) The following are specific functions which a Chair has under the Local Government Act 1972:
- a power to exercise a second (casting) vote in the event of an equality of votes on any matter;
 - a duty to sign the minutes of the previous meeting;
 - a power to agree the addition of a late item of business to the agenda, if the Chair is of the opinion that it should be considered at the meeting as a matter of urgency.
- (c) To help the Committee or Sub-Committee which they chair make effective decisions, Chairs will not only ensure that the procedural rules applying to their Committee or Sub-Committee are observed, but also that any decisions made are sound in law. With assistance from officers as necessary, Chairs will ensure that the Committee or Sub-Committee:
- (1) observes any particular legal duties relevant to a proposed decision and
- (2) has regard as necessary to any general duties such as:
- compliance with the Human Rights Act 1998; ○ equalities; ○ the general fiduciary duties to its Council Taxpayers to act with financial prudence.
- (d) Finally, the Chair will ensure that the Committee or Sub-Committee reaches its decisions rationally, taking into account relevant factors and disregarding those which are irrelevant, including advice taken from the Monitoring Officer and Section 151 Officer.

Powers and Duties under the Council's Constitution

Under the Council's constitution, the role and powers of Chairs and, in their absence, Vice Chairs, are recognised in a number of ways, including the following:-

- (a) Appointment as Chair: Under the Council's Procedure Rules (XX), Chairs will normally be appointed at the Council's annual general meeting.
- (b) Setting the Agenda: Under the Council's Procedure Rules (XX), Chairs have power to direct that items of business be placed on the agenda of their Committee or Sub-Committee (in consultation with Group Spokespersons) and the order in which business is arranged on the agenda.

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- (c) Conducting the meeting: Under the Procedure Rules (in particular XX), the Chair controls the proper conduct of meetings of his or her Committee or Sub-Committee. The Chair has discretion to depart from the formality of the Rules of Debate applicable to full Council meetings and such discretion is regularly exercised.
- (d) Reserve Power to call special Meetings: The Council's Procedure Rules (XX) permit a Chair to call a special meeting of his or her Committee or Sub-Committee at any time.
- (e) Reporting to full Council: It usually falls to Chairs to present any reports which need approval of full Council, under the Council's Procedure Rules (XX).
- (f) Duty to be available for Questions: The Council's Procedure Rules (XX) permit any Member of the Council to ask questions of any Chair at full Council meetings. Also a Chair can be questioned about any report which he or she is putting before the Council.
- (g) Right to be consulted: Under the Council's Scheme of Delegations to Officers, a number of delegated powers can only be exercised by officers after consultation with the relevant Chair.
- (h) Special Responsibility Allowance: In recognition of the role played by Chairs, Schedule 1 of the Council's Members Allowances Scheme allocates differing levels of special responsibility allowance payment to Chairs, the levels of payment being based on the levels responsibility.